

# SPECIAL LAWS

OF

## MINNESOTA,

PASSED AND APPROVED AT THE TWENTY-THIRD SESSION OF THE LEGISLATURE, COMMENCING JANUARY SECOND, ONE THOUSAND EIGHT HUNDRED AND EIGHTY-THREE, AND TERMINATING MARCH SECOND, ONE THOUSAND EIGHT HUNDRED AND EIGHTY-THREE.

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### CHAPTER 1.

AN ACT TO AMEND AND CONSOLIDATE THE CHARTER OF THE CITY OF FERGUS FALLS.

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

**SECTION 1.** The act entitled "An act to reduce the law incorporating the city of Fergus Falls, in the county of Otter Tail and state of Minnesota, and the several acts amendatory thereof into one act, and to amend the same," approved March third (3d), A. D. one thousand eight hundred and eighty-one (1881), and all acts of the legislature amending the same subsequently passed, are hereby amended and consolidated so that the same shall constitute the charter of the city of Fergus Falls, which shall read as follows:

### CHAPTER I.

#### CITY AND WARD BOUNDARIES—CREATION OF CORPORATION.

**SECTION 1.** All that district of country in the county of Otter Tail contained within the limits and boundaries hereinafter described, shall be a city by the name of Fergus Falls, and all the people now inhabiting and those who shall hereafter inhabit the same district, shall be a municipal corporation by the name of the city of Fergus Falls, and by that name may sue and be sued, plead and be impleaded, in any court: make and use a common seal, and alter it at pleasure; take and hold, lease and convey all such real, personal and mixed property as the purposes of the corporation may require, or the transaction or exigencies of the business may render convenient, within or without the limits of such district; shall be capable of contracting and being con-

tracted with, and shall have all the general powers possessed by municipal corporations at common law, and in addition thereto, shall possess all powers hereinafter specifically granted; and all the authorities thereof shall have perpetual succession.

#### CITY BOUNDARY LINES.

SEC. 2. The territory included within the following boundaries and limits shall constitute the city of Fergus Falls, viz: The whole of sections two (2), three (3), four (4) and north one-half ( $\frac{1}{2}$ ) of sections nine (9), ten (10) and eleven (11) in township numbered one hundred and thirty-two (132) north of range forty-three (43) west, and south-west quarter ( $\frac{1}{4}$ ) of section twenty-five (25); and south half ( $\frac{1}{2}$ ) of sections twenty-six (26) and twenty-seven (27), and south-east quarter ( $\frac{1}{4}$ ) of section twenty-eight (28), and east half ( $\frac{1}{2}$ ) of section thirty-three (33), and all of sections thirty-four (34) and thirty-five (35), and west half ( $\frac{1}{2}$ ) of section thirty-six (36), in township numbered one hundred and thirty-three (133) north of range forty-three (43) west, in said county of Otter Tail.

#### WARD BOUNDARIES.

SEC. 3. Said city shall comprise and is hereby divided into three (3) wards, as follows: The first (1st) ward shall comprise all the territory within said limits south of the Red river. The second (2d) ward shall comprise all the territory within said limits north of [said] Red river and east of a line described as follows: commencing at a point on Red river directly south of the center line of Mill street, thence northerly on the center line of said Mill street to the south shore of Lake Alice, thence westerly along the south shore of said Lake Alice to the east line of the west one-half ( $\frac{1}{2}$ ) of the east one-half ( $\frac{1}{2}$ ) of section thirty-four (34), township number one hundred and thirty-three (133), north of range number forty-three (43) west fifth (5th) P. M., thence northerly on the forty (40) line to the north-east corner of the north-west one-quarter ( $\frac{1}{4}$ ) of the south-east one quarter ( $\frac{1}{4}$ ) of section number twenty-seven (27) of same town and range. The third (3d) ward shall comprise all the territory within said limits north of said Red river and west of the west line of the second (2d) ward.

## CHAPTER II.

#### OFFICERS AND ELECTIONS—OFFICERS OF THE CITY AND TERMS OF OFFICE.

SECTION 1. The elective officers of said city shall be a mayor and a treasurer, and two (2) justices of the peace who shall be styled city justices, all of whom shall be residents and qualified voters of said city, and shall hold office for the term of one (1) year, except said city justices who shall hold office for the term of two (2) years, and give bonds to be approved by the city council. Each ward shall elect one (1) alderman each year, who shall be a resident freeholder and a qualified voter of the ward for which he shall be elected, and hold his office for the term of two (2) years.

The term of office of every officer elected under this act shall commence on the second (2d) Tuesday of April of the year for which he shall be elected, and shall continue until a successor is elected and

qualified. All other officers necessary for the proper management of the affairs of the city shall be appointed by the city council unless otherwise provided. The appointment of such officers shall be determined by ballot, and it shall require the concurrence of a majority of all the members of the city council to appoint such officers. All appointed officers shall continue in office until their successors are appointed and qualified, except as otherwise provided in this chapter. All persons now holding office in said city shall continue in office to the expiration of the term for which they shall have been elected or appointed, and until their successors shall have been designated and qualified.

#### TIME OF ELECTION AND NOTICE.

SEC. 2. The election for city officers and the aldermen of said city shall be held on the first (1st) Tuesday of April in every year. Whenever a vacancy shall occur in the office of mayor or alderman, such vacancy shall be filled by a special election which shall be ordered and held within ten (10) days after such vacancy shall occur. The city clerk shall give ten (10) days notice of the time and place of holding all general elections, and reasonable notice of all special elections, and said notices shall also designate the officer to be elected at such general or special elections, but no defect in such notices, or failure to give them, shall invalidate any election. All elections by the people shall be by ballot, and each ballot shall contain the names of the persons voted for, with a proper designation of the office written or printed thereon. The person receiving the highest number of votes for any office shall be declared elected to such office. When two (2) or more candidates for any elective city office shall receive an equal number of votes, the election shall be determined by casting of lots in the presence of the city council, at such time and in such manner as said council shall direct.

#### MODE OF CONDUCTING ELECTIONS.

SEC. 3. The mode of conducting elections shall be the same as provided by the general laws of this state governing elections, except as otherwise provided herein. All special provisions herein contained, shall apply as well to all state and county elections within said city, except that the returns of all elections for aldermen or city officers shall be made to the city clerk, as hereinafter provided, and the returns of state and county elections shall be made to the auditor of the county of Otter Tail as provided by law.

#### QUALIFICATIONS OF VOTERS.

SEC. 4. All persons entitled to vote for state and county officers, who shall have resided for ten (10) days next preceding the election in the precinct where they offer to vote, shall be entitled to vote for any officer to be elected at said election.

#### ELECTION PRECINCTS AND PLACES OF HOLDING ELECTIONS.

SEC. 5. Each ward of said city shall constitute an election precinct. The city council shall, at least twenty (20) days previous to the general election for city officers, to be held on the first (1st) Tuesday of

April, annually, and the general election for state and county officers, to be held on the first (1st) Tuesday after the first (1st) Monday of November of each year, designate the place of holding elections in each precinct, and such place so designated shall not be subject to change by the voters present at the commencement of such election. In case said city council shall neglect or refuse to provide such places of election previous to general elections, as therein provided, and in all cases of special election, the places of holding elections shall continue to be the same as at the general election next preceding such election.

#### JUDGES AND CLERKS OF ELECTION.

SEC. 6. The city council shall, at least twenty (20) days before any general election, appoint such number of judges and clerks of election as may be necessary to constitute a full board for each election precinct, as provided by general law.

#### SPECIAL ELECTIONS—HOW CONDUCTED.

SEC. 7. It shall not be necessary to appoint judges or to make new registers of voters for special elections, but the judges of election at the last general election in any precinct shall continue to be judges of election for such special election, and vacancies of judges may be filled the same as in case of general elections, and such judges shall have the right to take from the office of the city clerk and use at such special election the register used at the general election next preceding such special election.

#### ELECTION RETURNS.

SEC. 8. When an election for aldermen or city officers shall be closed, the judges of election shall make return thereof to the city clerk within two (2) days of such election in like manner as provided by law for the return of state and county elections to the county auditor. Within four (4) days after any city election the city council shall meet and canvass the returns thereof and declare the result thereof as it may appear from such returns, and the city clerk shall forthwith give notice to the officers elected of their respective elections.

#### VACANCIES IN OFFICE—HOW CREATED AND FILLED.

SEC. 9. Any officer removing from the city or ward for which he was elected or appointed, or any officer who shall refuse or neglect for ten (10) 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 any officer having entered upon the duties of his office, may resign the same by consent of the city council. All vacancies, except as hereinbefore provided, shall be filled by the city council.

#### OATHS AND BONDS OF OFFICERS.

SEC. 10. Every person elected or appointed under this act, shall, before he enters upon the duties of his office, take and subscribe an oath of office and file the same with the clerk of the city.

The city treasurer, clerk, street commissioner and such other officers as the city council shall require, shall severally, before they enter upon the duties of their respective offices, execute to the city of Fergus Falls, bonds in such amounts and upon such conditions as the city council may prescribe; and in the absence of special provisions, such officers shall give bonds in the amounts and upon the conditions of the bonds of their predecessors in office. The bond of the treasurer shall be executed by at least four (4) sureties, who shall justify to an aggregate amount of at least double the penal sum of such bond, and shall be approved by the city council.

The bonds of the other city officers shall be such as shall be approved by the city council or any committee thereof.

### CHAPTER III.

#### POWERS AND DUTIES OF OFFICERS.

SECTION 1. The mayor shall, when present, preside over the meetings of the city council, and in case of a tie vote, shall decide the same by his vote. He shall take care that the laws of the state and the ordinances of the city are duly enforced and observed within the city. He shall take care that all other officers in the city discharge their respective duties, and to that end may maintain an action of mandamus or other appropriate action against any delinquent city officer. He shall from time to time give the city 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 approve thereof he shall sign the same, and such as he shall not sign he shall return to the city council with his objections thereto, by depositing the same with the city clerk to be presented to the city council at their next meeting thereafter. Upon the return of any ordinance or resolution by the mayor, the vote by which the same was passed shall be deemed to have been reconsidered, and the question shall be again put upon the passage of the same notwithstanding the objections of the mayor, and if upon such vote the city council shall pass the same by a vote of two-thirds ( $\frac{2}{3}$ ) of the members of the council, it shall have the same effect as if approved by the mayor. If any ordinance or resolution shall not be returned by the mayor within five (5) days, Sundays excepted, after it shall be presented to him, the same shall have the same force and effect as if approved by the mayor.

In case the mayor shall be guilty of willful 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 (\$500), 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.

#### ACTING MAYOR.

SEC. 2. At the first meeting of the city council in each year, they shall proceed to elect by ballot from their number, an acting mayor, who shall preside over the meetings of the council during the absence of the mayor from the city, or his inability from any cause to dis-

charge the duties of the office, and who shall exercise all the powers and discharge all the duties of the mayor, and acts performed by him when acting as mayor as aforesaid, shall have the same force and validity as if performed by the mayor.

#### CITY CLERK.

SEC. 3. There shall be a clerk of said city styled the city clerk, who shall be elected by the city council. The city clerk shall hold his office for the term of one (1) year from and after the second (2d) Tuesday of April of the year of his said election, and all other appointed officers (except when otherwise provided for) for the term of one (1) year from the said second (2d) Tuesday of April. The city clerk shall keep the corporate seal, and all the papers and records of the city, and keep a record of the proceedings of the city council, at whose meetings it shall be his duty to attend. He shall draw and countersign all orders on the treasury, in pursuance of any order or resolution of the city council, and keep a full and accurate account thereof, in books provided for that purpose, and make an accurate and full record of all the by-laws, rules and ordinances made or passed by the city council.

The city clerk shall have power to take acknowledgments, and administer oaths and affirmations, and copies of all papers filed in his office and transcripts of any records in his office certified to by him under the corporate seal, shall be evidence in all courts in like manner as if the original were produced. He shall perform all other services by law required of the clerk of cities or townships, within said city, but when services are required of him by public law for which compensation is provided, such services shall not be regarded as services for said city, and he may retain such compensation in addition to the salary paid by said city.

He shall report annually on or about the first (1st) day of May to the city council, an estimate of the expenses of the city for the current year, and the revenue necessary to be raised therefor, and the fiscal year of the city shall commence on the first (1st) of May. He shall countersign all contracts made in behalf of the city, in connection with the mayor. The clerk, upon order of the council, may from time to time borrow, for and in behalf of said city, such sums of money as may be necessary for temporary purposes, and to anticipate the current revenue only; such loans to be subject to the approval of the city council. He shall examine the reports, books, papers, vouchers and accounts of the treasurer, and shall perform such other duties from time to time as the council may direct.

He shall not be directly or indirectly interested in any contract or jobs to which the city is a party, or in any loan negotiated by the city.

He shall at the end of each fiscal year make out and cause to be published in the official paper of the city, a condensed statement showing the financial condition of the city, the amount of moneys received for the year and from what sources, and also the amount disbursed and for what purpose.

Aside from the salary allowed the city clerk by the city council, said clerk shall be allowed the sum of one dollar (\$1) for each license issued by them under the provisions of this charter or the ordinances of said city (except dog licenses), to be paid by the person to whom such license is granted.

## DEPUTY CLERK.

SEC. 4. The city council shall, whenever it is deemed necessary, have the power to appoint upon the nomination of the clerk, a deputy clerk, at such time and for such period as may be deemed necessary. Whenever the clerk and deputy clerk are absent or are for any reason unable to act, the council may appoint a clerk *pro tempore*, and said clerk so appointed, as well as the deputy clerk when acting as city clerk, shall have the same powers, and be subject to the same restrictions and liabilities as the city clerk.

## CITY ATTORNEY.

SEC. 5. The city council shall have power to elect an attorney for the city, who shall hold said office for the term of one (1) year, and who shall perform all professional services incident to the office, and when required shall furnish written opinions upon any subject submitted to him by the city council or its committees. He shall also advise with and counsel all city officers in respect to their official duties, and attend the regular meetings of the city council and of such committees as shall require his assistance. He shall receive such compensation as the services rendered by him are reasonably worth.

## CITY PHYSICIAN.

SEC. 6. The city council may also appoint a city physician, who shall be a physician of regular practice and of good standing in his profession, and a graduate of some college of medicine. He shall attend and furnish medicine to all such poor of the city as may be required of him by the proper authorities. It shall be the duty of the city physician to make regular inspection of the city as to matters affecting the health of its citizens. He shall make reports to the State Board of Health of such facts as may be required by said State Board. He shall be ex-officio president and executive officer of any board of health established by said city, and perform all duties required of him by any ordinance of the city. Such city physician may be removed at the pleasure of the city council.

## BOARD OF HEALTH.

SEC. 7. The city council may also appoint a board of health, consisting of three (3) members, including the city physician, who shall have the same authority as police officers in enforcing the ordinances of said city, for the security of public health.

## CITY ENGINEER.

SEC. 8. There shall be appointed by the city council a city engineer, who shall be a practical surveyor and engineer. He may, by and with the consent of the city council, employ such assistants as may be necessary.

He shall keep his office at some convenient place in said city, and the city council shall prescribe his duties and fix his compensation, and the compensation of all assistants employed by him.

## SPECIAL LAWS

### SURVEYS AND PLATS TO BE CITY PROPERTY.

SEC. 9. All surveys, profiles, plans and estimates made by him or any of his assistants, for the city shall be the property of said city, and shall be carefully preserved in the office of the city clerk or such other place as the council may designate, open to the inspection of parties interested, and the same, together with all the books and papers appertaining to said office, shall be delivered over by the city engineer at the expiration of his term of office, to his successor or to the city council.

### DUTIES OF CITY TREASURER.

SEC. 10. The city treasurer shall receive all moneys belonging to the city, including license money and fines, and keep an accurate and detailed account thereof in such manner as the city council shall from time to time direct. Said treasurer shall, as soon as may be, after the close of each fiscal year and at least fifteen (15) days before the annual election for city officers, exhibit to the city council a full and detailed account of all receipts and expenditures for the last fiscal year, and also of the state of the city treasury, which account shall be filed with the clerk and a copy of the same shall be published in the official paper of the city. Said treasurer shall perform such other duties as are hereinafter provided.

### JURISDICTION OF CITY JUSTICES.

SEC. 11. The justices of the peace for the city, styled the city justices, shall possess all the authority, power and rights of a justice of the peace, for the county of Otter Tail, under the laws of this state, and shall in addition thereto have jurisdiction to hear and try all complaints for violation of any provision or provisions of the charter, and any ordinance, by-law, rule or regulation made or adopted; or by virtue thereof and of all cases cognizable before a justice of the peace in which the city is a party and of all writs, prosecutions and proceedings in the recovery of any fine or forfeiture or penalty under any by-law, ordinance or regulation of the said city or its charter, and in all cases of offenses committed against the same; and the said city justice shall have jurisdiction in cases of larceny, and may hear and try the same, when the amount claimed to have been stolen does not exceed the sum of twenty (\$20) dollars.

In all prosecutions for assaults, batteries and affrays and for all other offenses not indictable, and in all civil suits or proceedings before said city justice, the same forms and proceedings shall be had and used when not otherwise directed, as are established and required to be had and used in similar proceedings by the laws of this state, before justices of the peace, and appeals from the judgment and decisions of said city justices, shall be allowed as now provided by law for appeals from judgments rendered by justices of the peace. In all cases of convictions for assaults, batteries and affrays within said city, and in all cases of conviction under any ordinance of the city for the breach of the peace, disorderly conduct, keeping house of ill fame, or frequenting the same, and of keeping and maintaining ill-governed and disorderly houses, the said justice shall have power in addition to the fines and



penalties imposed, to require such offender to give security for their good behavior for a period not exceeding six months, and in a sum not exceeding five hundred dollars. Said justices shall also have power in all criminal actions within its jurisdiction to try and determine when the punishment is by imprisonment or by imprisonment in default of payment of fine, to sentence any offender to hard labor in any work-house established by the city for that purpose; or in case of male offenders to sentence them to labor upon any public work or improvement in said city as hereinafter provided; in cases of offenses against city ordinances, the said justices shall have the same power in cases of contempt as justices of the peace, under the laws of this state now in force.

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

Said city justices shall, as often as required, report to the city council all proceedings instituted before them in behalf of said city and the disposition of the same, and shall at the same time account for and pay over to said city all fines, penalties and costs collected by him, belonging to said city; and such justices shall be entitled to receive from the city of Fergus Falls such fees in criminal cases as are allowed by statute to justice of the peace for similar services.

Whenever vacancy shall occur in the office of city justice, the city council shall have power to fill such vacancy by appointment of some person thereto, for the unexpired term thereof.

#### CITY OFFICERS TO TURN OVER CITY PROPERTY.

SEC. 12. Any person having been an officer in said city, shall, within ten (10) days after notification and request to deliver to his successor in office, all property, papers, books and effects of every description in his possession belonging to said city, or pertaining to the office he may have held. If he fails so to do after such notification and request, he shall forfeit and pay to the use of the city, five hundred (\$500) dollars, besides all damages caused by his negligence 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.

#### NO ALDERMAN TO BE INTERESTED IN ANY CONTRACT.

SEC. 13. No alderman shall be a party to, or interested in any job or contract with the city, and any contract in which any alderman shall be so interested, shall be null and void, and in case any money shall have been paid on any such contract, the city council may sue for and recover the amount so paid from the parties to such contract, and the alderman interested in the same.

#### OTHER DUTIES MAY BE REQUIRED AND OTHER OFFICERS APPOINTED BY THE CITY COUNCIL.

SEC. 14. The city council shall have power at any time to require other and further duties to be performed by any other officer whose duties are herein prescribed, not inconsistent with this act, 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 fix their compensation unless herein otherwise provided for.

#### SALARY OF OFFICERS.

Sec. 15. The mayor and city council shall receive no salary or compensation for any duties performed by them as such officers of said city; but this shall not prevent the members of the board of equalization of taxes, or aldermen acting as judges of election from receiving special compensation for such services as provided by general law.

The city clerk shall receive a salary not to exceed six hundred (\$600) dollars per year.

The city treasurer shall receive a salary not to exceed one hundred (\$100) per year.

#### EXEMPTION FROM JURY DUTY.

Sec. 16. The mayor, aldermen, all city officers and the men employed in the several departments of said city, while holding such office or engaged in the service of the city, shall be exempt from serving as jurors in any court.

#### CITY COUNCIL TO FIX SALARIES.

Sec. 17. The city council shall have power, unless herein otherwise provided, to fix the compensation of all officers elected or appointed under this act; such compensation shall be fixed by resolution, at the time the office is created, or at the commencement of the year, and shall not be increased or diminished during the term for which such officer shall have been elected or appointed; *provided, however,* that the city council, in case of insufficiency of revenue to meet the current expenses of the city for the fiscal year, may reduce the compensation of all officers and employees of the city for the balance of such fiscal year by an equal per centage, not exceeding twenty (20) per cent. on the compensation of all such officers and employees, in which case any such officer or employee shall have the right to resign such office or employment.

#### OFFICERS TO MAKE RETURNS OF PROPERTY.

Sec. 18. All officers of the city having charge of any city property, shall, at the close of each fiscal year, make and return to the city council, a full inventory of all public property in their hands or control respectively. Such inventories shall be presented and filed by the city clerk, and kept open to inspection of all parties interested, but need not be printed in the proceedings unless the [city] council shall so specially direct.

### CHAPTER FOUR.

#### THE CITY COUNCIL—ITS GENERAL POWERS AND DUTIES—QUORUM AND PRESIDING OFFICER.

SECTION 1. The aldermen shall constitute the city council. A majority of the aldermen shall constitute a quorum. The mayor or

acting mayor shall, when present, preside at all meetings. In their absence the council may elect a chairman *pro tem.*, who shall, for such meeting, have the same power as the mayor.

#### STATED AND SPECIAL MEETINGS OF COUNCIL.

SEC. 2. The city counsel shall hold stated meetings, and the mayor or acting mayor, or any three of the aldermen may call special meetings, by notice to each of the members to be delivered personally or left at their usual places of abode. At such special meeting no other business shall be transacted than such as is designated in the call.

In case of the attendance of less than a quorum at any stated meeting, the members present may adjourn to any special time they may designate, and all business transacted at such adjourned meeting shall have the same validity as if done at a stated meeting. If at any special meeting a quorum of the aldermen shall be present they shall be authorized to transact the business for which the meeting was called.

#### CITY COUNCIL JUDGE OF ELECTION OF ITS MEMBERS—RULES OF PROCEDURE

SEC. 3. The city council shall be the judge of the election of its own members, and in such case shall have the power to send for persons and papers. It shall determine the rules of its own proceedings, and have power to compel the attendance of absent members and may provide for the punishment of such absent members.

#### POWER TO REMOVE OFFICERS AND HOW EXERCISED.

SEC. 4. The city council shall have power to remove from office any officer of said city, whether appointed by the city council or elected by the people, except as otherwise provided in this charter, but no officer elected by the people shall be removed except for cause, nor unless first furnished with a copy of the charges, nor until such person shall have had reasonable opportunity to be heard in person or by counsel in his own defense.

Continued absence from the meetings of the council, in case of alderman, for six regular consecutive meetings, and neglect of duty in case of other officers, unless for good reasons, shall be deemed a good cause of removal.

The city council shall fix a time and place for the trial of such officer, of which not less than ten (10) days notice shall be given, and the mayor or acting mayor for the purpose of the trial is authorized to administer oaths, and the council shall have power to compel the attendance of witnesses and the production of papers, and to hear and determine the case, and if such officer shall refuse or neglect to appear and answer such charge, the city council may declare the office vacant.

#### POWER TO ENACT ORDINANCES AND THEIR FORCE.

SEC. 5. The city council shall have full power and authority to make, ordain, publish, enforce, alter, amend or repeal all such ordinances for the government and good order of the city, for the suppression of vice and intemperance, and for the prevention of crime, as they shall deem expedient, and in and by the same to declare and impose

penalties and punishments, and enforce the same against any person or persons who may violate the provisions of any ordinance passed and ordained by them, and all such ordinances are hereby declared to be and to have the force of law, *provided*, that they be not repugnant to the laws of the United States or of this state, and for these purposes the said city council shall have authority by such ordinances:

*First.* To license and regulate the exhibition of common showmen and shows of all kinds, and the exhibitions of caravans, menageries, circuses, concerts and theatrical performances; also to license and regulate all auctioneers, pawnbrokers, billiard tables, pigeon hole tables, nine or ten pin alleys, bowling saloons, shooting galleries, taverns victualing houses, and all persons vending, dealing in or disposing of spirituous, vinous, fermented or malt liquors.

*Second.* To restrain 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 gambling in said city, and to restrain any person from vending, giving or dealing in spirituous, fermented or vinous liquors, unless duly licensed by the city council; *provided*, that no liquor license shall be granted for less than three hundred (\$300) dollars, nor for any fractional part of a year for a sum less than the amount charged for a license for one (1) year, and all liquor licenses shall expire on the first (1st) day of May in each year. *And provided further*, That any person over the age of twenty-one (21) years and of good moral character, who shall furnish the requisite bond and pay the license fee fixed by said city council, may be entitled to a license to sell spirituous, vinous, fermented or malt liquor within said city. Nothing contained in these articles of incorporation shall be so construed as to prevent the legal voters of said city from deciding for themselves whether or not license shall be granted to any person or persons in said city, to sell spirituous, vinous, fermented or malt liquors; and the city clerk is hereby required, upon the petition of twenty (20) or more legal voters of said city, at any time not less than ten (10) days before any annual city election, to give notice that the question of license will be submitted at said election, and notice thereof shall be given by said city clerk at the same time and in the same manner that notice of annual city elections is given, and said question of license shall be determined by ballot, containing the words "in favor of license" or "against license" (as the case may be) which vote shall be canvassed and returned, as is by law prescribed for canvassing election returns; and if such returns show that a majority of the legal votes cast at such election shall be against license, then and in that case the city council of said city, shall grant no license to sell spirituous, vinous, fermented or malt liquors in said city, except to persons legitimately and bona fide engaged in the business or occupation of druggist, and then only for medicinal and mechanical purposes; and if any person after said voters have thus decided the question of no license, shall within the limits of said city, sell, or in any way dispose of any spirituous, vinous, fermented or malt liquors, he shall be deemed guilty of a misdemeanor, and upon conviction thereof in any court having jurisdiction, be fined in a sum not less than fifty (\$50) dollars, nor more than one hundred dollars (\$100), or imprisonment in the county or city jail not less than twenty (20) nor more than ninety

(90) days, or both such fine and imprisonment, as the court may direct.

Previous to the granting of any such license a bond shall be executed to the city council, and filed with the city clerk, with at least two (2) sureties to be approved by said council with the same conditions and like penal sum as required by the general law of the state, relating to the sale of intoxicating liquors; and any person selling or in any manner disposing of any spirituous, vinous, fermented or malt liquors in a less quantity than five (5) gallons within the limits of said city, without having first obtained a license from the city council, shall be guilty of a misdemeanor, and may be proceeded against, tried convicted and punished as provided in chapter sixteen (16), general statutes of Minnesota, for selling such liquors without a license, and the person so licensed with the sureties on his bond shall be liable to the same extent on said bond, as such persons are liable under the provisions of said chapter sixteen (16) general statutes of Minnesota and may be proceeded against in like manner as provided in said chapter (16). *And provided further*, that said city council may grant license to druggists and apothecaries to sell spirituous liquors within said city for medicinal and mechanical purposes only, for a sum not less than fifty (§50) dollars.

*Third.* To prevent any riots, noise, disturbance and 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 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.

*Fourth.* To compel the owner or occupant of any cellar, tallow chandler shop, soap factory, tannery, barn, stable, 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 necessary for the health, comfort and convenience of the inhabitants of said city.

*Fifth.* To direct the location and management of stockyards, slaughter houses, blacksmith shops, markets, breweries, and distilleries, and to establish rates for and license vendors of gunpowder, and regulate the storage, keeping and conveying of gunpowder or other combustible materials.

*Sixth.* To prevent the encumbering of streets, sidewalks, alleys, lanes, public grounds or wharves, with carriages, carts, wagons, sleighs, boxes, lumber, firewood, posts, suspended or swinging signs, awnings, or any other materials or substances whatever.

*Seventh.* To regulate the movement and speed of railroad locomotives and cars, and to prevent and punish 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 city limits.

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

*Ninth.* To prevent the running at large of dogs, and to impose a tax on the same, and to authorize the destruction of the same in a

summary manner 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.

*Eleventh.* To make and establish public pounds, pumps, wells, cisterns, hydrants and reservoirs; to regulate and license hacks, carts, omnibuses, and the charges of hackmen, draymen, carmen and omnibus drivers in the city, and to erect lamps and to provide for the lighting of the city, and to contract for the erection of gas works for lighting the streets and public grounds and public buildings, and to create, alter and extend lamp districts, and to provide for sprinkling the streets.

*Twelfth.* To establish and regulate boards of health; provide hospitals and hospital grounds; the registration of births and deaths, and the return of the bills of mortality, and regulate or prevent the burial of the dead within the city limits.

*Thirteenth.* To regulate the size and weight of bread and to provide for the seizure and forfeiture of bread baked contrary thereto.

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

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

*Sixteenth.* To prevent open or notorious drunkenness and obscenity in the streets or public places of said city, and to provide for the arrest and punishment of all such persons who shall be guilty of the same.

*Seventeenth.* To restrain and regulate porters, hackmen, and also runners, agents and solicitors for boats, vessels, stages, cars, public houses or other establishments.

*Eighteenth.* To establish public markets and other public buildings, and make rules and regulations for the government of the same; to appoint suitable officers for overseeing and regulating such markets, and to restrain all persons from interrupting or interfering with the due observance of such rules and regulations.

*Nineteenth.* To license and regulate butcher's stalls, shops and stands for the sale of game, poultry, butcher's meat, butter, fish and other provisions, and also to license and regulate all peddlers doing business within said city.

*Twentieth.* To regulate the place and manner of weighing hay and straw and selling the same, and the measuring and selling of firewood, coal and lime, and to appoint suitable persons to superintend and conduct the same.

*Twenty-first.* To compel the owner or occupant of buildings or grounds to remove snow, dirt or rubbish from the sidewalk, street or alley opposite thereto, and compel such occupant or owner 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.

*Twenty-second.* To restrain the throwing, depositing or emptying of any sawdust, shavings, slabs or other refuse of whatever nature into the Red river, lakes or ponds within the city, and provide by ordinance for the punishment of the same.

*Twenty-third.* To regulate the numbering of houses and lots, and to compel the owners of houses and other buildings to have the numbers of such houses or buildings designated thereon.

*Twenty-fourth.* To restrain and regulate the cutting of ice in the lakes, ponds or river with the limits of said city.

*Twenty-fifth.* To regulate for the erection and construction of telegraph, telephone and electric light poles and wires, and to order the same put under ground whenever the public safety or necessities requires the same.

*Twenty-sixth.* To regulate and order the erection and maintenance of fire escapes on all public and other buildings.

*Twenty-seventh.* To have full control of the territory and waters of the Red river within the said city limits.

*Thirty-eight.* To regulate the time, manner and place of holding public auctions or vendues, and to prohibit the same.

*Twenty-ninth.* To provide for watchmen, and to prescribe their number and duties and 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.

*Thirtieth.* To provide by ordinance for a standard of weights and measures, for the appointment of city sealer, and to require all weights and measures to be sealed by the city sealer, and to provide for the punishment of the use of false weights and measures.

*Thirty-first.* To regulate the inspection of flour, pork, beef, fish, salt, whiskey and other liquors and provisions.

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

*Thirty-third.* To direct and regulate the planting and preservation of ornamental trees in the streets, alleys, public grounds and highways of the city, and to appoint a forester, whose duty it shall be to inspect all trees offered for sale for the purposes named, and to superintend the planting and culture of the same, and to perform such other duties as the city council may prescribe.

*Thirty-fourth.* To remove and abate any nuisance, injurious to the public health, and to provide for the punishment of all persons who shall cause or maintain such nuisance.

*Thirty-fifth.* To remove and abate any nuisance, obstruction or encroachment upon the streets, alleys, public grounds and highways of the city.

*Thirty-sixth.* To do all acts and make all regulations which may be necessary and expedient for the preservation of health and suppression of disease, and to make regulations to prevent the introduction of contagious diseases into the city, and to make quarantine laws, and to enforce the same within the said city.

*Thirty-seventh.* To restrain and punish vagrants, mendicants, street

beggars and prostitutes, and provide punishment for the same.

*Thirty-eighth.* To license and regulate hackmen, draymen and all other persons engaged in carrying passengers, baggage or freight; to prescribe standing places or stations within the streets, where such hacks, drays or other vehicles used for such carriage may stand or remain while waiting for business or orders, and to designate such standing or waiting places in the license to such draymen, hackmen or other persons, and to prohibit them from standing or waiting at any other place within such streets, and to regulate and prescribe standing places for all vehicles going to or waiting at any railroad depot or station in said city, and to authorize the mayor or chief of police of said city to regulate and direct the location of vehicles at such railroad depots or stations.

*Thirty-ninth.* To regulate the construction of buildings, to prescribe the depth of cellars, the material and method of construction of foundations and foundation walls, the manner of construction and location of drains and sewer pipes, the thickness, material and construction of party walls, partitions and outside walls, the size and material of floor beams, girders, piers, columns, roofs, chimneys, flues and heating apparatus, to apportion and adjust such regulations to the height and size of the buildings to be erected, to regulate the construction and location of privies and vaults in such buildings, and to prohibit the construction of buildings not conforming to such prescribed standard either in the whole city or within such building limits as it may prescribe, to establish, alter or enlarge such building limits from time to time, to appoint an inspector or inspectors of buildings or to devolve the duties of such inspector on any city officer, to give such inspectors or other officer authority to enter upon, examine and inspect all buildings in process of construction in said city, or within such building limits, and to direct the suspension of any such building operation as shall not conform to such regulations. *Provided, however,* That neither said city council nor any inspector or officer of said city, shall have control or regulation of any building erected by the United States or the state of Minnesota.

*Fortieth.* To provide for and regulate the erection of hitching posts or rings for fastening horses, or to prohibit them in any portion of the city in its discretion.

*Forty-first.* To regulate the opening of hatchways and compel proper guards about the same.

*Forty-second.* To change and regulate the names of streets in said city.

*Forty-third.* To compel railroad companies to grade the crossings the full width of the streets and alleys and length of right of way in said streets or alleys where the railroads cross the same in said city, and to keep the same in repair, and to build and maintain suitable walks across the rights of way in said streets for the accommodation of foot passengers, and to build and maintain bridges, culverts, drains and sewers in said city when the same shall be deemed necessary by the city council of said city.

*Forty-fourth.* The city council may at any time by resolution carried by a two-thirds ( $\frac{2}{3}$ ) vote of the council elect, call a special election for any purpose, said resolution to contain the object or proposition



for which such special election is called. Notice of such special election to be given the same as at the general election, and to be governed by laws applicable to the general election.

*Forty-fifth.* To contract with any person, persons or corporations for the lighting of such streets or parts of streets and public places as the city council shall deem proper, for the convenience and safety of the inhabitants, and also for supplying the city with water.

*Forty-sixth.* The city council may permit the laying of gas pipes in any and all streets and alleys, highways and public grounds of the city, but in all cases the city council shall regulate the laying of the same, so that said gas pipes may not at any time interfere with the construction of common sewers, or the lateral branches thereof, or with the proper and convenient location of water mains and pipes, and may at any time require the location of any gas pipe to be changed if the same shall be found to interfere with the proper and convenient location of common sewers, or water pipes and mains.

*Forty-seventh.* The city council may permit any parties or corporation to lay water mains and pipes in any and all streets and alleys, highways and public grounds of the city, and shall regulate the position of the same, so that they shall not obstruct or interfere with the common sewers or with the proper drainage of the city.

*Forty-eighth.* The city council may permit the laying of street railway tracks in the streets of said city, and authorize and regulate the operation of street cars thereon.

*Forty-ninth.* The city council shall issue warrants to the street commissioner containing the whole amount of highway labor and taxes assessed and levied in the respective wards of said city, which said warrants shall be returned by said commissioner to the clerk of said city. The laws of the state shall apply to warning, suing for and collecting highway taxes, and to returning delinquent taxes.

*Fiftieth.* The city council shall perform the duties imposed by law upon the supervisors of towns in levying highway taxes, and shall be restricted in the amount so levied to a sum not to exceed twenty-five (25) cents on one hundred dollars (\$100) of the assessed value of the real and personal property in said city, to be levied at the first regular meeting of the city council elect in each and every year, or as soon thereafter as may be; said highway taxes shall be placed to the credit of the respective ward funds, which shall be denominated as ward funds, and shall be expended in the wards in which said taxes are levied.

#### PUNISHMENTS FOR BREACH OF ORDINANCE.

**SEC. 6.** The city council may impose punishment for the breach of any ordinance of the city, to the extent of a fine not exceeding one hundred dollars (\$100), and imprisonment in the city prison or county jail not exceeding ninety (90) days, or both, and may provide that the offenders during such imprisonment, be fed on bread and water, at the discretion of the city justice before whom the same may be tried; and offenders against such ordinances may be required to give security to keep the peace, and for good behavior, for a period not exceeding six (6) months, and in a sum not exceeding five hundred dollars (\$500).

#### OFFENDERS MAY BE PUT TO LABOR.

**SEC. 7.** The city council may also provide by ordinance that any one convicted of an offense before a city justice subjecting such offen-

der to imprisonment under the charter and ordinances of said city, may be kept at hard labor in any workhouse established for that purpose, or in case of a male offender, may be kept at hard labor during his term of punishment in such workhouse, or upon the public improvements of said city, or both; and may also provide by ordinance that any one convicted of an offense before such city justice, and committed upon non-payment of fine imposed, may be kept at hard labor in any workhouse of said city aforesaid, or in case of a male offender, may be kept at hard labor either in such workhouse or upon the public improvements, or both, until such persons shall work out the amount of such fine at such rate of compensation as such council may prescribe, for a time not exceeding said commitments, and the city council shall have full power to establish by ordinance all needful regulations for the security of such persons thus employed, and to prevent escape, and to secure proper discipline, and shall have power to establish a proper workhouse in said city for the purpose aforesaid, and under such regulations as said city council may prescribe. *Provided*, That in case that the city prison is for any reason unavailable for the purpose of containing or punishing offenders, the county jail of Otter Tail county may be used for that purpose. When said jail is so used the prisoners therein shall be under the control and custody of the sheriff of Otter Tail county. *Provided further*, That the police of said city are authorized to take any person from said jail who has been sentenced to work upon any of the public works or improvements of said city for the purpose of carrying said sentence into effect.

PROCEEDINGS WHERE SAME OFFENSE IS PROHIBITED BY STATE LAW.

SEC. 8. In case any offense against any of the ordinances of the city as aforesaid, shall also be prohibited by the laws of the state, and be subjected to a greater or different punishment, the court before which any person shall be arraigned for the violation of such ordinance, may in its discretion dismiss the prosecution under such ordinance, and if the evidence shall warrant such result either convict, and punish the offender for the violation of the state law, or hold him for indictment and trial before the district court, as the case may be; but in all cases when any person shall be tried for violation of any city ordinance, such trial and a conviction or acquittal [thereupon] shall be a bar to all further or other prosecution for the same offense in any other court.

STYLE OF ORDINANCE—SUBJECT TO BE STATED IN TITLE.

SEC. 9. The style of all ordinances shall be "The city council of the city of Fergus Falls do ordain." The subject of every ordinance shall be expressed in its title.

ORDINANCES AND RESOLUTIONS—HOW PASSED AND PUBLISHED.

SEC. 10. All ordinances and resolutions of the city council shall be passed by an affirmative vote of a majority of the members of the city council present, by ayes and nays, which shall be entered in the records of the council. No ordinance shall be passed at the same meeting of the council at which it shall have been presented, except by the unanimous consent of all the members present, which shall be

noted in the record, but this shall not preclude the passage of ordinances reported by any committee of the council to whom the subject of such ordinance shall have been referred at any previous meeting; when approved, they shall be recorded by the city clerk in books provided for that purpose, and before they shall be in force they shall be published in the official paper of the city.

ORDINANCES AND RESOLUTIONS, HOW AUTHENTICATED—MUNICIPAL COURT TO TAKE JUDICIAL NOTICE OF ORDINANCES.

SEC. 11. A copy of the record of any ordinance or resolution heretofore passed and recorded, or that may hereafter be passed, certified by the clerk and verified by the seal of the city, any copy thereof published in the official paper of the city, or printed in the books containing the official proceedings of the city council, or published in any compilation of ordinances made under direction of the city council, shall be *prima facie* evidence of the contents of such ordinances and of the regularity and legality of all proceedings relating to the adoption and approval thereof, and shall be admitted as evidence in any court in this state without further proof. In all actions, prosecutions and proceedings of every kind before the city justices of the city of Fergus Falls, such city justice shall take judicial notice of all ordinances of the said city, and it shall not be necessary to plead or prove such ordinances before said city justice.

MAJORITY OF WHOLE COUNCIL REQUIRED TO MAKE APPROPRIATIONS.

SEC. 12. No appropriation shall be made without a vote of a majority of all the members of the city council in its favor, which shall be taken by ayes and nays, and entered among the proceedings of the council.

ABATEMENT OF NUISANCE BY SUIT NOT PREVENTED.

SEC. 13. The powers conferred upon the city council to provide for the abatement or removal of nuisance shall not bar or hinder suits, prosecutions or proceedings according to law.

CITY COUNCIL TO ADJUST ACCOUNTS OF CITY OFFICERS.

SEC. 14. The city council shall examine, audit and adjust the accounts of the city clerk, treasurer, street commissioners and all other officers and agents of the city at such times as they deem proper, and also at the end of each year, and before the term for which the officers of said city were elected or appointed shall have expired; and the city council shall require each and every such officer and agent to exhibit his books, accounts and vouchers for such examination and settlement, and if any such officer or agent shall refuse to comply with the orders of said council in the discharge of his said duties in pursuance of this section, or shall neglect or refuse to render his accounts or present his books or vouchers to said council or a committee thereof, it shall be the duty of the city council to declare the office of such persons vacant, and the city council shall order suits and proceedings at law against any officer and agent of said city who may be found delinquent or defaulting in his accounts, or the

discharge of his official duties, and shall make a full record of all such settlements and adjustments.

#### COUNCIL TO HAVE CHARGE OF FINANCES AND PROPERTY OF THE CITY.

SEC. 15. The city council shall have the management and control of the finances and all property of the city, and may provide for the sale of any such property, in such manner as it shall consider for the interest of the city.

#### POWER TO CONDEMN PRIVATE PROPERTY AND AWARD DAMAGES.

SEC. 16. The city council shall have the power to acquire by purchase or condemnation, such private property as may be necessary for *sits for public buildings for the use of the city, and all departments* thereof, for all structures connected with any department of the city, and for all streets, alleys and public squares and public wharves and levees in the city, and to ascertain and determine the value of all such private property taken for such uses, and the amount of all damages occasioned to any private property by reason of any public works or structures, and for that purpose may appoint commissioners to appraise such values or damages, or acquire information thereof in any other manner it shall deem advisable.

#### THE COUNCIL MAY APPOINT PURCHASING COMMITTEE.

SEC. 17. The city council shall have the power to designate such of its own members as may be selected for that purpose, as a purchasing committee, and after the appointment of such committee no material or supplies for any of the departments of the city shall be purchased in behalf of the city without the approval of such committee, and no bill for any such purchase shall be allowed by the council until approved by such committee.

### CHAPTER V.

#### ASSESSMENT OF TAXES AND FINANCES—APPOINTMENT OF ASSESSORS.

SECTION 1. The city council shall, in the year one thousand eight hundred and eighty-three (1883), and every year thereafter, appoint a city assessor who shall hold office for the term of one (1) year and shall have power to appoint a deputy, with the consent of the city council. Said assessors shall be allowed from the first (1st) day of May to the second (2nd) Monday of July of each year to make out the assessments of the said city.

#### DUTIES OF ASSESSORS.

SEC. 2. In all respects not herein expressly provided for, said assessors shall in making assessments be governed by the rules, both in respect to the property to be listed and assessed, and the manner of listing and assessing the same, which are or may be prescribed by the general laws of the state for the government of assessors in other parts of the state.     •

## BOARD OF EQUALIZATION AND DUTIES.

SEC. 3. The standing committee on taxes of the city council shall constitute a board of equalization, who shall be sworn according to law as such board, and meet at the city council room in said city on the second (2nd) Monday of July of every year and revise, amend and equalize the assessments on the roll of said assessors. It shall be the duties of the assessors to be present at all meetings of the said board of equalization, to present before the board all facts relating to the assessment. Such board of equalization is vested with all the powers which are or may be vested in county boards of equalization under the General Laws of the state, so far applicable, but shall not be restricted by any limitation in respect to reducing aggregate sums of real or personal property as returned by the assessors.

## FURTHER DUTIES OF BOARD OF EQUALIZATION AND CITY ATTORNEY.

SEC. 4. Such board of equalization may sit from day to day or adjourn from time to time, as it shall deem proper, until it shall have completed the equalization of such assessments. It shall complete such equalization on or before the first (1st) day of August of every year, and shall have power to employ such clerk or clerks as shall be necessary to complete the revision of such assessment rolls within said time. Every person aggrieved by any assessment shall have the right to appear before such board and present his grievance for its consideration. It shall be the duty of the city attorney to attend the hearing of such grievances before such board and whenever it appears upon the hearing of such grievances that any property is listed or assessed at less than its true value, to call the attention of this board to such under valuation, and to make application in behalf of the city for the correction of such under valuation.

## ASSESSMENT ROLLS TO BE CONFIRMED BY COUNCIL, AND RETURNED TO COUNTY AUDITOR.

SEC. 5. When the assessment rolls shall have been revised by the board of equalization, they shall be returned to the city council, who may confirm the same or return the same to said board for further revision, to be again reported to the city council. When the city council shall have confirmed the assessment, the city clerk shall enclose therein a memorandum of such confirmation, and such rolls shall then be returned to the county auditor, as other assessment rolls. In case said council shall neglect to take final action on such rolls, on or before the first (1st) Thursday of August of every year, it shall be the duty of the city clerk to return them to the county auditor, with a certificate of the fact, and in such case the assessment rolls, as revised or equalized by such board, shall have the same validity as if confirmed by said city council.

## COMPENSATION OF ASSESSORS, CLERKS AND BOARD OF EQUALIZATION.

SEC. 6. The assessors shall be paid a stated annual salary to be fixed by resolution of the city council. All deputy assessors, clerks of assessors and of the board, and members of such board of equalization shall be paid such reasonable compensation upon accounts of time, as shall be determined by the city council.

## ESTIMATES OF RECEIPTS AND EXPENSES.

SEC. 7. The city treasurer shall, on or before the tenth (10th) day of September of each year, report to the city council the amount of all revenues received by the city for the year ending on the first (1st) day of September, from other sources than taxation.

The chairman of the finance committee, and the city clerk shall as soon as may be after the state board of equalization shall have completed its adjustment of the assessment of the taxable property in said city, report to the city council a computation of a rate of tax-levy, which, with the amount of revenue received by the city, for the last year, reported as aforesaid and applicable to the current expenses of the city, shall be sufficient to defray the current expenses of the city, for the next fiscal year, according to the estimate of the city clerk, hereinbefore provided for.

## LEVY OF TAX FOR CURRENT EXPENSES.

SEC. 8. After the making of the reports provided for in section seven (7) hereof, the city council shall levy such tax on all the taxable property in said city, as it shall deem necessary, in addition to the other revenue of the city, applicable thereto, to defray the current expenses of the city for the next fiscal year, but no such taxes for such current expenses shall in any one year amount to more than seven-tenths (7-10) of one (1) per cent. of the assessed valuation.

Every male inhabitant between the age of twenty-one (21) and fifty (50) years, in said city shall annually pay a capitation or poll tax of two (2) days work upon the streets, highways or other improvements within the ward of the said city of which said inhabitant is a resident. All persons liable to pay such capitation or poll tax, may in lieu of work pay to the city treasurer one dollar (\$1.00) per day, and all moneys so received by the city treasurer shall be expended upon the streets, highways or other improvements within the ward where the person paying the same may reside. *Provided*, That the same shall be levied by the city council, and collected by the street commissioner in the manner provided by the laws of this state for the collection of highway labor taxes in towns, by overseers of highways, except the payment of money in lieu of work, as hereinbefore provided.

## THE CITY CLERK TO REPORT EXPENSES OF FIRST QUARTER OF FISCAL YEAR

## —DUTY OF COUNCIL TO REDUCE EXPENSES.

SEC. 9. The city clerk shall, as soon as may be, after the first (1st) day of August of each year, make report to the city council of the actual expenses of the city for the first quarter of the then current fiscal year, the amount of taxes collected and outstanding, and of the revenues received from other sources; and if upon the making of such reports it shall appear that the current expenses for such quarter have exceeded the estimates upon which the tax levy therefor was based, or that the revenues of said city are likely to fall short of their estimated amount at the time of making such tax levy, the city council shall forthwith proceed to reduce the current expenses of said city, in such manner as may be deemed advisable; and for that purpose may diminish the amount of service for lighting the streets, reduce the force or number of men employed in the several departments of the city, but in discharg

of such employes said city council shall so far as may be provide that such discharge shall be operative only during the summer months of the year, and when necessary for the proper reduction of such expenses, may reduce the salaries or compensation of all officers and persons employed by said city, by a uniform rate not exceeding twenty (20) per cent. of such salaries or stated compensation. In all future contracts for lighting streets, the right of the city to reduce the amount of the service on account of deficiency of revenues shall be reserved.

#### LEVY OF TAXES TO PAY INTEREST AND PRINCIPAL OF CITY DEBT.

SEC. 10. The city council shall also at the same time, levy upon all the taxable property in said city, such taxes as shall be sufficient to pay the interest to become due during such next fiscal year upon all the bonds or debt of said city, and an additional tax of one (1) mill on the dollar of the assessed valuation of all such taxable property to provide for the principal of said bonds or debt when the same shall become due, and the amounts collected pursuant to this section, shall not be applied to any other purpose than herein named, but this restriction shall not prohibit the investment of the sinking fund hereinafter provided for.

#### PROVIDING FOR MAINTENANCE OF SINKING FUND.

SEC. 11. In order to provide for the certain payment of the bonds and debts of the city, the city council is authorized to maintain a sinking fund. The mayor, the treasurer and the chairman of the finance committee of said city council, shall constitute and be denominated the commissioners of the interest and sinking fund of the city of Fergus Falls. The city council shall, by ordinance or resolution, define such duties of said board as are not herein enumerated.

SEC. 12. Any two (2) of the officers above named are hereby authorized and required to discharge the trusts and duties vested in the succeeding sections of this chapter, but shall not be entitled to receive any additional salary or compensation for such services.

SEC. 13. The said commissioners shall, from time to time, invest the moneys which shall constitute the sinking fund for the redemption of the city debt or any surplus of interest to the credit of the interest fund, or as much as they can, in the purchase of bonds issued by said city, or the school bonds of the Fergus Falls city school district, at the market price, not exceeding the par value thereof, and the said commissioners shall be authorized to invest the said moneys or such part thereof as they shall see fit, either in the purchase of said bonds or in the bonds of the state of Minnesota, or in United States bonds, notwithstanding the said state or United States bonds may be above the par value thereof, or deposit the same in a designated depository, as hereinafter provided. *Provided*, That they shall at all times give the preference to the purchase of city bonds if the same can be procured at reasonable rates, and in the purchase of such city bonds preference is to be given to the bonds of said city if at falling due.

SEC. 14. In case said city bonds cannot be purchased at par value, and said commissioners shall deem it desirable, they may deposit a part or all of said sinking and interest fund in one or more designated national banks, saving banks, state or private bank or banks, in the

name of the city of Fergus Falls; such bank, banks or banker shall be designated by the said commissioners after advertising in one (1) or more newspapers published in the city of Fergus Falls for at least one (1) week for proposals, which proposals shall state that security will be given to the said city for such funds as deposited, and what interest will be paid on the amounts so deposited; and said funds with the accrued interest, shall be held subject to draft, and payment from and after a time to be designated by said commissioners at the time of depositing said funds

SEC. 15. Before any national, state, private or savings bank or bankers shall be designated as such depository, such bank or bankers shall deposit with the city treasurer of the said city a bond payable to the said city of Fergus Falls, and signed by not less than six (6) freeholders of the city in which the bank so designated may be located as sureties, which bond shall be approved by the city council of said city, and shall be in such an amount as said council shall direct, which amount shall be at least double the amount of funds to be deposited with such bank or bankers.

SEC. 16. Whenever the said commissioners shall have invested any part of said funds in the purchase of the bonds of the state or of the United States, and shall at any time thereafter be enabled to purchase any of the bonds at such prices as they may deem best for the public interest, they shall forthwith sell and dispose of the said state or United States bonds and invest the proceeds thereof in city bonds if in their opinion such disposition would be beneficial to the public interests, and the said commissioners may at any time they deem it best for the public interest withdraw said funds deposited in the designated depositories, and invest the same in the bonds of said city or in state or United States bonds. *Provided, however,* That when said funds are deposited in said designated depository for a stipulated length of time, not to exceed two years, said commissioners shall not withdraw said funds until said time shall have expired.

SEC. 17. Whenever said commissioners shall have invested any part of the said fund in the purchase of city bonds, and shall at any time thereafter be enabled to purchase any of the city bonds, which shall by the terms thereof be redeemable at an earlier date, they may forthwith sell the same and invest the proceeds in other city bonds, if in their opinion such exchange shall be desirable and beneficial to the public interest; provided said commissioners shall not sell the bonds of said city at less than par value.

SEC. 18. Whenever any of the moneys constituting the sinking fund for the redemption of the city debt shall be required for any such purchase, investment, deposit, or for the redemption of city bonds at their maturity, the amount of money so required shall be paid by the city treasurer upon the warrant of said commissioners or any two of them, the mayor being one; the city clerk shall also attest said warrant and affix the seal of the city thereto.

SEC. 19. Whenever any of the moneys constituting said sinking fund is on deposit in a designated depository the same shall be paid by said depository upon the warrant of said commissioners, or any two of them, the mayor being one; the city clerk shall also attest said warrant and affix the seal of the city thereto.

SEC. 20. All moneys constituting the fund for the payment of the



bonds of the city, whenever required to meet such bonds, shall be drawn from the treasury or designated depository in the manner provided in the foregoing sections

SEC. 21. It shall be the duty of the city clerk to attend all of the meetings of said commissioners, and to keep a correct journal of all their proceedings, which said journal shall be verified by at least two (2) of said commissioners and attested by said clerk, and once in each year and oftener if required by the city council, said commissioners shall render to the said city council a full and detailed report of the proceedings of said commissioners, and all investments or other acts of said commissioners shall be based on resolutions duly entered in said journal.

SEC. 22. In the event of a vacancy in office or inability of any of said commissioners to attend to the trust hereby imposed, it shall be the duty of the city council to designate one (1) or more of their number to supply the place of such commissioner for the time being by resolution. The said commissioners shall meet upon the call of the mayor, or any one of their number. The mayor shall preside at such meetings.

SEC. 23. All bonds and securities purchased by said commissioners shall be held in safe keeping by the city treasurer. Whenever city bonds are paid by the warrants of said commissioners, a record thereof shall be made in the books of said commissioners, and the said bonds shall be carefully canceled and burned by said commissioners in the presence of the city council.

SEC. 24. It shall be the duty of said commissioners to protect the credit of the city, and direct and superintend the remission of funds for the payment of interest and the bonded indebtedness of the city to the cities of New York, St. Paul, or wherever said bonds or interest may be payable, and if at any time said commissioners shall find that the interest fund for the payment of the interest upon the bonded indebtedness of said city shall not be sufficient to meet and pay such interest, the commissioners may by resolution to be entered upon their records and signed by any two (2) of said commissioners, recommend to the city council that any surplus balance to the credit of the sinking fund, or so much thereof as may be necessary to meet and pay said interest, may be transferred to the credit of said interest fund, or in case of a surplus of the interest fund for any one (1) year, they may recommend in like manner that said surplus be transferred to the credit of the sinking fund. *Provided*, That before said resolution and recommendation shall become operative, the same shall be reported to the city council and shall be approved by resolution thereof, and the said resolution shall be certified by the city clerk to the commissioners and entered upon the records of said commissioners, and the same shall authorize said commissioners to make said transfers; *Provided further*, That this section shall not be so construed as to permit the transfer of funds from the interest and sinking fund to the credit of any other funds of said city, and that any other transfer of said funds is hereby forbidden.

**MAY REFUND DEBT NOT PAID BY SINKING FUND—NO OTHER BONDS TO BE ISSUED, OR DEBT CONTRACTED.**

SEC. 25. Whenever the sinking fund provided for in section ten (10) hereof, shall be insufficient to pay all the bonds or debts of the city that may at any time become due, the city council may issue the bonds of the city to run not to exceed thirty (30) years, on such terms as to place of payment and rate of interest as may be deemed advisable, to such amount as may be necessary to meet such deficiency, but neither said city council, nor any officer or officers of said city, shall otherwise, without special authority of law, have authority to issue any bonds or create any debt or any liability against said city in excess of the amount of revenue actually levied and applicable to the payment of such liabilities.

**PERMANENT IMPROVEMENT FUND—HOW ESTABLISHED AND MAINTAINED.**

SEC. 26. The city council is hereby authorized to issue the bonds of said city to an amount not exceeding forty thousand dollars (\$40,000), for such time, not exceeding thirty (30) years, and on such terms as to rate of interest and place and manner of payment as may be deemed advisable, and to put the avails thereof into the treasury of said city, and designated as the permanent improvement fund.

The city council may provide for the payment out of said fund of the expenses of any such improvement as may be assessed in whole or in part upon any special property to be benefitted by such improvement, and in advance of the collection of such assessments; but this shall not be construed to prohibit the payment out of said fund of the expenses of making any permanent improvement when the cost of the same is wholly chargeable to said city. From said fund shall also be paid all such portions of the expenses of such assessable improvement as shall devolve on said city, and also the expense of all bridges, buildings, water works and other permanent improvements not otherwise specially provided for by law. All sums collected upon special assessments, whose costs shall have been advanced out of such fund, shall be returned to said fund.

The city council shall annually at the time of making the other tax levies of said city, levy a tax sufficient to replace all expenditures made from said fund not provided for by such special assessments, and may by tax levy provide for the increase of such fund to such amount as may be deemed necessary, provided that the whole amount of tax levied in any year on account of such fund shall not exceed one-fourth ( $\frac{1}{4}$ ) of one (1) per cent. of the assessed valuation of the taxable property in said city. Whenever special authority shall be given for the issue of bonds of said city for the construction of any specific improvement and the avails of such bonds are more than sufficient for the purpose specified, the excess of such avails shall be paid into such fund.

**CITY CLERK TO REPORT DEFICIENCIES, AND WHEN NOT TO COUNTERSIGN CONTRACTS.**

SEC. 27. Whenever the amount contracted or appropriated to be expended out of such permanent improvement fund shall be greater than the amount of such fund actually on hand, and one-third ( $\frac{1}{3}$ ) of

the amount of uncollected tax for the current fiscal year as aforesaid, and applicable to such fund, or when the amount called for by any proposed contract shall, together with the amounts previously appropriated or contracted for, exceed the amount of such fund on hand, and such one-third ( $\frac{1}{3}$ ) of the uncollected taxes, the city clerk shall forthwith notify the city council of such fact, and he shall not countersign any contract payable out of such fund until the amount of such fund on hand, with one-third ( $\frac{1}{3}$ ) of the amount of uncollected taxes aforesaid shall be sufficient to meet the liabilities created by such contract in addition to all liabilities previously contracted for. He shall countersign no order upon the treasury until there shall be money in the treasury belonging to said fund wherewith to pay the same, and all orders countersigned in the order in which the claims are allowed.

#### HOW TAXES LEVIED.

SEC. 28. All taxes shall be levied by resolution of the city council, and no taxes shall be invalid by reason of any informality in the manner of levying the same, nor because the amount levied shall exceed the amount required to be raised for the special purpose for which the same is levied, but in case the surplus shall go into the fund to which such tax belongs and may be applied to the further uses of such fund.

#### STATEMENT OF TAXES LEVIED TO BE RETURNED TO THE COUNTY AUDITOR.

SEC. 29. The city council shall cause to be transmitted to the county auditor of Otter Tail county, on or before the tenth (10th) day of October of every year, a statement of all taxes by it levied, and such taxes shall be collected and the payment thereof be enforced with and in like manner as state and county taxes are paid and the payment thereof enforced.

#### AVAILS OF TAXES TO BE PAID TO CITY TREASURER.

SEC. 30. The county treasurer of said Otter Tail county shall pay over such taxes together with all interest and penalties which shall be collected on account of the same when collected, to the treasurer of said city, and in the several settlements of the funds to be paid over as provided for by general law, said county treasurer shall account for and pay over to the city treasurer such portions of the interest paid by bankers with whom funds of said county are deposited, as have accrued upon funds arising from city taxes and assessments so deposited, with such county funds or as parts thereof. Whenever, previous to any of the settlements provided for by law, there shall be a lack of funds in the city treasury for any purpose, and there shall be funds in the county treasury which shall have been collected on account of city taxes or assessments, the county treasurer shall, on the application of the city treasurer, advance and pay over such sums as shall be estimated to be the amount collected on account of such city taxes or assessments, and such advances shall be accounted for and adjusted at the next regular settlement of said city. The city treasurer shall also forthwith, after such settlements, adjust and apportion the funds so advanced among the several city funds in his hands.

**NO MONEY TO BE PAID OUT OF CITY TREASURY EXCEPT ON ORDERS.**

SEC. 31. No money shall be paid out of the city treasury, except for principal or interest on bonds, unless such payment shall be authorized by a vote of the city council, and shall then be drawn out only upon orders signed by the mayor and countersigned by the city clerk, which orders shall specify the purpose for which they were drawn, and the fund out of which they are payable, and the name of the person in whose favor they may be drawn, and may be made payable to the order of such person.

**ORDERS TO BE CANCELED.**

SEC. 32. Whenever any such order shall have been paid to or received by the treasurer, it shall not again be issued, but he shall immediately cancel the same and file the same away in his office, keeping the orders drawn upon each fund separate.

**EXAMINATION AND DESTRUCTION OF CANCELED ORDERS.**

SEC. 33. The city council may provide for the examination from time to time, of such canceled orders, and also of canceled bonds or other obligation in the hands of the treasurer, and for their destruction, preserving such record or vouchers thereof as the city council or any committee thereof may deem proper.

**BANKS TO GIVE BONDS FOR DEPOSIT OF CITY FUNDS.**

SEC. 34. Any bank in Otter Tail county with a capital stock equal to or exceeding fifty thousand dollars (\$50,000), which desires to receive on deposit as provided in this act, a portion of the funds in the hands of the city treasurer of said city shall, prior to the first (1st) Monday in May, A. D. one thousand eight hundred and eighty-three (1883), file with the city clerk of said city an application for said deposit, stating that they will furnish good and sufficient bonds payable to the city of Fergus Falls for double the amount of money likely to be received, and conditioned for the safe keeping and payment of the funds so deposited and interest thereon; and that they will pay interest on such deposits as provided in this act. The application so filed shall be presented to the city council, who shall determine upon the amount of bonds which will be required of each bank, and the city clerk shall notify the banks thereof. The banks shall then execute such bonds with three (3) or more sureties, and present them to the city council for approval; and all of such banks which shall furnish bonds which shall be approved by the city council shall be designated by the city council as depositories for funds in the city treasury.

**CITY FUNDS TO BE DEPOSITED.**

SEC. 35. After such designation shall have been made, all the funds then in the hands of the city treasurer, or thereafter received by him, shall be deposited in the banks designated, in the name of the city of Fergus Falls, and subject to the order of the city treasurer, and the funds so deposited shall be distributed as near as may be in equal proportion.

## INTEREST TO BE PAID ON DEPOSITS.

SEC. 36. If the city treasurer shall at any time, receive or have in bank, funds which will probably remain on deposit three (3) months or longer, instead of leaving such funds deposited in open account, he shall take therefor certificates of deposit, payable to his order on demand, and bearing interest from date at a rate not less than four (4) per cent. per annum, and at such higher rate as he may be able to negotiate for; *Provided further*, That the total amount deposited in any bank (both on open account and on certificates of deposit) shall not at any time exceed one half ( $\frac{1}{2}$ ) the amount of the bonds of said bank to the city, unless otherwise provided by the city council.

## CITY TREASURER TO MAKE BI-MONTHLY STATEMENTS OF DEPOSITS.

SEC. 37. The city treasurer shall make bi-monthly statements of the amount of moneys deposited, as hereinbefore provided, giving the amount deposited in open account, and in interest-bearing certificates, in each bank separately, and file such statement with the city clerk, who shall present the same to the city council at its next regular meeting thereafter.

## CITY TREASURER NOT LIABLE FOR LOSS OF DEPOSITS.

SEC. 38. When the funds in the hands of the city treasurer shall be deposited as hereinbefore provided, such treasurer and his bondsmen shall be exempt from all liability therefor by reason of the loss of any such deposited funds from the failure, bankruptcy or any other acts of any such bank or bankers, to the extent and amount of such funds in the hands of such bank or bankers at the time of such failure or bankruptcy.

## TREASURER TO NEGOTIATE WITH BANKS OUTSIDE OF OTTER TAIL COUNTY IN CERTAIN CASES.

SEC. 39. If all the banks in Otter Tail county shall decline to give bonds and receive deposits as provided in this act, or if the bonds offered shall not be of sufficient in amount to cover and make secure the deposits to be made, then the city treasurer, with a committee of the city council, shall negotiate for such deposit or such part thereof as they deem necessary, with any bank or banker outside of Otter Tail county, which will give bonds, with sureties approved by the city council; and in case such negotiations be made and bonds accepted, then the city treasurer is hereby authorized to deposit the funds of said city in such bank, in the same manner as in banks mentioned in section thirty-five (35) of this chapter. *Provided*, That no bank outside of Otter Tail county shall be so selected unless it shall have a paid up capital of not less than fifty thousand dollars (\$50,000).

## CITY COUNCIL MAY REQUIRE ADDITIONAL BONDS.

SEC. 40. Whenever, from the change in the financial ability of sureties, or from other causes, the city council shall deem the bonds of any bank insufficient security for the funds therein deposited or liable to be deposited by the city treasurer, the city council shall require a new bond with sureties to be approved by the city council, to be

given by such bank, and if such bank shall fail to promptly execute and present such new bond, the city treasurer shall at once withdraw all deposits from such bank, and such bank shall cease to be a depository of city funds until it shall be reinstated as such by vote of the city council upon the execution of bonds, which shall be approved by the city council.

#### BONDS TO CONTINUE IN FORCE AND BE RECORDED.

SEC. 41. All bonds given by banks as provided in this chapter, shall continue in force so long as funds of the city or of which the city treasurer is the custodian in any way deposited in such bank, shall be unpaid by the banks giving such bonds. And the city council at its regular session in the month of April in each year, shall examine all the bonds in the hands of the city treasurer, and if any are deemed insufficient, they shall require new bonds to be executed, and the city council may make such examination and orders at any other time. All of such bonds given by banks under the provisions of this chapter shall, upon being approved by the city council, be recorded by the city clerk and then deposited with the city treasurer for safe keeping; and the record of such bonds so kept by the city clerk or copies thereof certified by that officer, shall be competent and *prima facie* evidence of the contents and tenor of such bonds.

#### LEVY OF TAXES FOR PAYMENT OF JUDGMENT.

SEC. 42. No limitation or restriction shall be construed to prohibit the levying of taxes to pay any judgment that may at any time be recovered against said city, but in case of such judgment the city council shall at the time of making the last annual tax levy after the rendition of such judgment, levy and assess a special tax upon all the property in the city sufficient to pay such judgment. In case of failure to collect taxes or other cause such levy shall prove insufficient, new taxes shall be levied until the whole of such judgment is paid. Any excess of the amount so levied and collected over the payment of such judgment, shall be credited to the current expense fund of the city. In case the city council shall neglect or refuse to levy taxes to pay any such judgment, the court before which the same shall be rendered shall have jurisdiction and authority to appoint a special referee to levy such tax and make return thereof to the county auditor, and taxes so levied shall have the same validity and shall be collected in the same manner as if levied by the city council.

In case of neglect of the proper officers to extend and to collect such tax, such court may in like manner appoint a special referee to collect the same, and such special referee shall have all the power for such purpose as the regular county officer, and have access to and inspection of all tax lists and records necessary to accomplish the purpose of his appointment.

### CHAPTER VI.

#### POLICE DEPARTMENT—MAYOR TO HAVE CONTROL—APPOINTMENTS AND REMOVALS FROM OFFICE.

SECTION 1. The mayor shall have control and supervision of the police of the city and shall appoint all police officers and watchmen,

including the chief of police, but the appointing power herein conferred shall not be exercised to remove by implication any policeman of said city serving at the time when such appointment be made, but such officers shall hold their offices until removed therefrom by a two-thirds ( $\frac{2}{3}$ ) vote of all the members elected to the city council of said city. *Provided*, the appointment of all police officers including the chief of police, shall be subject to the confirmation of the city council; *and provided further*, that the mayor shall have the power to suspend any police officer from duty for official misconduct until the next meeting of the city council thereafter, when he shall report such suspension, with his reasons therefor, to the city council, to be then dealt with as the city council may in the premises deem proper.

#### POLICEMEN FOR LIMITED DISTRICTS.

SEC. 2. The mayor may likewise at the request of any person, firm, society or organization, appoint policemen or watchmen, who shall serve without expense to the city, and have police powers to preserve the peace and protect property within such limits and at such places as may be designated in such appointment, but such limited policemen or watchmen shall not exercise any authority nor wear any badge of office outside the limits named in such appointment.

#### SPECIAL POLICE.

SEC. 3. The mayor may in case of riot, large public gatherings or other disturbances, may appoint such number of special or temporary police officers as he may deem necessary, but such special or temporary appointments shall not continue more than one (1) week without the consent of the city council.

#### OFFICERS OF THE POLICE AND THEIR RANK TO BE DESIGNATED BY THE MAYOR.

SEC. 4. The mayor shall in his appointment designate one officer to be chief of police, and such other officers for the performance of special duties, and with such control over other officers or watchmen as may be deemed necessary, and may designate the rank of such police officers by such proper title as he shall select.

#### POLICE POWERS.

SEC. 5. All police officers and watchmen of the city shall possess the powers of constables at common law, or by the laws of the state, and in addition thereto shall have the power, and it shall be their duty, to execute and serve all warrants, process, commitments and all writs whatsoever issued by the city justices of the city; and they shall have the power to pursue and arrest any person fleeing from justice in any part of the state. They shall also have power, and it shall be their duty, to serve all summons or subpoenas in behalf of said city, within their jurisdiction. When such officers perform the duties of constables for private parties, the city shall be entitled to like fees for their services, to be taxed and collected in like manner.

## POLICE REGULATIONS.

SEC. 6. The mayor shall, with the consent and approval of the city council, from time to time make such regulations for the control of the police force, and the powers and duties of the several officers thereof, as he may deem necessary, and in like manner alter the same. Such regulations may designate the uniforms, badges, arms, discipline, drill and exercise of the police force, as well as the conduct of the officers and men of said force when on or off duty, and all other matters deemed necessary to promote the efficiency of the force.

## OFFICERS OF THE PEACE.

SEC. 7. The mayor or acting mayor, chief of police, the officers of the police next in rank to the chief, the sheriff of Otter Tail county and his deputies, the coroner, the city justices and all police officers and watchmen, shall be officers of the peace, and may command the peace, suppress in a summary manner all rioting or disorderly behavior within the city limits, and for such purposes may command the assistance of all by-standers, and if need be, of all citizens and military companies; and in case when the civil authorities may be required to suppress riot or disorderly behavior, the superior or senior officer present in the order mentioned in this section, shall direct the proceedings.

## PENALTIES FOR REFUSING TO AID IN KEEPING THE PEACE.

SEC. 8. If any person, bystander, military officer or private shall refuse to aid in preserving the peace when thereto required as designated in the foregoing section, every such person shall forfeit and pay a fine of fifty dollars (\$50), to be recovered by prosecution before a city justice.

## PENALTY FOR ASSUMING TO ACT AS A POLICEMAN WITHOUT AUTHORITY.

SEC. 9. If any person shall without authority, assume to act as policeman, or pretend to have such power or wear the badge of policeman within said city, he shall be deemed guilty of a misdemeanor, and upon conviction thereof before a city justice, he shall be fined or imprisoned in the discretion of said court.

## CHAPTER VII.

## FIRE DEPARTMENT—POWER TO ESTABLISH FIRE LIMITS.

SECTION 1. The city council, for the purpose of guarding against the calamities of fire, shall have power to prescribe the limits within which wooden buildings or buildings of all other materials that shall not be considered fire proof, shall not be erected, placed or repaired, and to direct that all and any buildings within the limits prescribed, shall be made and constructed of fire proof materials, or of such materials and with such precaution against fire as the city council shall by ordinance prescribe, and to prohibit the repairing or rebuilding of wooden buildings within the fire limits, and to prescribe the manner



of obtaining the consent of the city council to make repairs in such fire limits.

#### POWER OF CITY COUNCIL TO PREVENT FIRE.

SEC. 2. The city council shall have power to prescribe in what manner and of what materials chimneys shall be constructed and to prevent the dangerous construction and condition of chimneys, fire places, hearths, stoves, stove pipes, ovens, boilers and apparatus used in and about any building, and to cause the same to be removed or placed in secure condition when considered dangerous; to prevent the deposit of ashes in unsafe places, and the throwing of ashes in the streets and highways, to compel the use of spark arresters in all smoke stacks connected with apparatus where light fuel is consumed, to regulate and prevent the carrying on of manufactures dangerous in causing and promoting fires and the storing of inflammable or explosive materials, and the use of fire works and fire arms; and to regulate and prevent the sale or keeping for sale or use of any fire works, Chinese crackers, rockets, torpedoes, or other explosive contrivances, and to provide for the seizure and destruction of the same. Also to compel owners of buildings to have scuttles in roofs and stairs, and ladders to the same, and to compel owners of buildings of three or more stories in height to maintain ladders or fire escapes, and to regulate the number and location thereof, to regulate the location and construction of smoke houses, and to prohibit them when they shall be deemed dangerous to other buildings, and to make any other provisions to guard against fire or to prevent the spreading of fires, which the city council may deem proper

#### CITY COUNCIL TO HAVE POWER TO PURCHASE FIRE APPARATUS.

SEC. 3. The city council shall have power to purchase, keep and maintain fire engines and other fire apparatus, and to build and maintain engine houses, hose houses and such other buildings as may be necessary or convenient; also to erect and maintain fire alarm telegraphs and boxes of every other means for giving notice of fires

SEC. 4. The city council may continue the present volunteer fire companies and authorize the organization of such other volunteer companies as in its discretion may be necessary or expedient.

Whenever the city council may decide by a two-thirds ( $\frac{2}{3}$ ) vote of all its members that greater protection can be secured by a paid fire department, it may by resolution duly passed, two-thirds ( $\frac{2}{3}$ ) of all the members voting in the affirmative thereof, abolish said volunteer fire department and create in lieu thereof a paid fire department, which shall be officered and managed as provided in the next two (2) sections. *Provided, however,* said two (2) sections shall not apply to the volunteer companies of said city.

#### CHIEF ENGINEER AND OTHER OFFICERS.

SEC. 5. In the event of the creation of a paid fire department, the city council shall immediately appoint a chief engineer of said fire department, and provide by ordinance for such other officers and men as may be deemed necessary for such department, and define the respect-

ive ranks and duties of such chief engineer and other officers and men and their compensation.

#### APPOINTMENT AND REMOVAL OF OFFICERS AND MEN.

SEC. 6. The chief engineer shall nominate for the approval of the city council, all other officers and men connected with such department, and may at any time by and with the consent of the standing committee on fire department of the city council; remove or discharge such officers or men as he may deem it for the interest of the city to discharge, and whenever the council shall deem it necessary to reduce the number of men employed, said chief engineer shall upon the direction of the city council recommend the discharge of such officers or men as can be released without impairing the working efficiency of such department.

#### RULES AND REGULATIONS.

SEC. 7. The city council shall have power and authority to make by ordinance all needful rules for the government of the fire department, and for the protection and use of all engine houses, telegraph lines, and other property and apparatus pertaining thereto, and of the water works, mains, pipes, cisterns and hydrants in said city as used in connection with said department, and by such ordinance provide for the punishment of such persons injuring or interfering with such property or any portion thereof, and may also by such ordinance make provision to keep away from the vicinity of any fire, all idlers and suspected persons, and to compel all bystanders to aid in the preservation of property exposed to danger by such fire.

#### FIRE MARSHAL.

SEC. 8. The city council may designate such officer of the fire department as it may select to act as fire marshal of the city, to see that the ordinances of the city relating to the buildings and care of chimneys, and respecting all other precautions against dangers from fire are not violated, and who shall have power and be fully authorized to enter any dwelling house or other building at all hours between seven (7) o'clock in the morning and six (6) o'clock in the evening, and examine all chimneys, stoves, furnaces, pipes and other parts of such buildings, and see that the ordinances of the city respecting the same are enforced. It shall further be the duty of such fire marshal to examine particularly into the cause of every fire which shall happen within the city, and to make and keep a brief record of the same, and make report thereof to the council at the first regular meeting in every month.

#### FIRE POLICE.

SEC. 9. Whenever the city council shall deem it necessary, it may provide for a fire police of such number and with such powers as it may determine, and for that purpose it may either give police powers to such of the officers or men of the fire department as may be necessary, or authorize the appointment of the necessary policemen in the same manner as other policemen are appointed. In all cases all pres.

ent at any fire shall be subject to the direction of the officers of the fire department present at such fire.

#### PENALTIES FOR REFUSING TO OBEY ORDERS AT FIRES.

SEC. 10. If any person shall at any fire refuse to obey the orders of the chief engineer of the fire department or other officer vested with authority at such fires, such person may be arrested by direction of the officer whose orders are so disobeyed, and upon complaint made before a city justice, shall be punished by fine not exceeding fifty dollars (\$50) and costs of prosecution, and imprisoned until such fine and costs are paid, not exceeding sixty (60) days.

#### EXPENSES—HOW PAID.

SEC. 11. All expenses of the fire department and all amounts paid for the purchase of fire apparatus or any property for use of the fire department, or the erection of any telegraph, shall be paid out of the funds devoted to payment of current expenses of the city. The construction of engine houses or other buildings for the use of said department, may be paid out of the permanent improvement fund of the city.

#### WOODEN SIDEWALKS PROHIBITED.

SEC. 12. The city council shall have power to prohibit the construction of wooden sidewalks prohibited within the fire limits of the city whenever they shall deem the safety of the city to require it.

### CHAPTER VIII.

#### STREETS, SIDEWALKS AND BRIDGES—CITY COUNCIL TO HAVE CONTROL.

SECTION 1. The city council shall have the care, supervision and control of all highways, streets, alleys, public squares and grounds within the limits of the city, and may lay out and open new streets and alleys, and extend, widen, straighten, and may build, maintain and repair bridges across streams and railway tracks, may provide for the pavement of gutters or the roadbeds of any street or alley.

#### ESTABLISHMENT AND CHANGE OF STREET GRADES.

SEC. 2. The city council shall have power to establish the grade of any street when such grade has not been established, and may by a vote of two-thirds ( $\frac{2}{3}$ ) of the members of the council, change the grade of any street after such grade has been established. It shall cause accurate profiles of the grades of all streets to be made and kept in the office of the city engineer.

#### VACATING STREETS—POWER OF COUNCIL EXCLUSIVE.

SEC. 3. The city council may also by a vote of two-thirds ( $\frac{2}{3}$ ) of the members thereof, vacate any highway, street, lane or alley, or portion of either; and such power of vacating highways, streets, lanes and alleys within the city of Fergus Falls, is vested in said city council, and no court or other body or authority shall have any power to vacate any such highway, street, lane or alley, or any plat or portion of any plat of lands within said city.

## CITY ENGINEER TO HAVE CHARGE.

SEC. 4. The city engineer of the city shall have supervision and general charge of all work done on any street, highway or alley in the city, may direct the manner of performing such work and the constructing of all sidewalks or street crossings, bridges or other structures in or upon such streets, may suspend any such work or construction as shall not conform to his requirements or those of the city council, and shall take care that the terms of all contracts for any work or construction in behalf of the city are fully complied with.

## COUNCIL MAY CONTRACT FOR CLEANING STREETS BY DISTRICTS.

SEC. 5. The city council shall have power to designate districts of portions of the streets and alleys of the city, for the purpose of cleaning the same, and may provide for the cleaning of such districts by contracts on such terms as shall be deemed advisable.

## WORK DONE BY CONTRACT.

SEC. 6. All work done or constructions made pursuant to the provisions of this chapter, shall, save making, changing and repairing streets, sidewalks and alleys of which the estimated cost shall exceed five hundred dollars (\$500), shall be let by contract to the lowest responsible bidder therefor, and the city council may require of the bidder a bond with sureties for the faithful performance of the contract; due notice shall be given of the time and place of letting such contract, provided that, if in the opinion of the council, no just and reasonable bid shall have been received for any such work after due notice as aforesaid, or if the persons to whom the same is let fail in any particular to duly perform the same, the city council may by a two-thirds ( $\frac{2}{3}$ ) vote have such work done without contract by the direct employment of labor and purchase of material by said city.

## STREET COMMISSIONER.

SEC. 7. The city council may, at its first meeting after each annual election, appoint one (1) street commissioner for the city, whose term of office shall be for one (1) year. It shall be the duty of such street commissioner to see that all streets and sidewalks under his charge which have been graded and opened for travel are kept clear of obstructions and in such repair as to be safe and passable; also to superintend, subject to the directions of the city engineer, the grading of streets and laying of sidewalks, and to carry into effect all orders of the city council. But no street commissioner shall do any work upon streets except such as is necessary to keep traveled streets and improved sidewalks in repair and passable condition, and unless such work is specially ordered by the city council. The street commissioner shall keep accurate accounts of all his work and expenditures, and make detailed and itemized reports thereof to the city council at least once in each month, and oftener if ordered by the city council. And no bill for compensation to said street commissioner shall be allowed unless the same shall be accompanied or preceded with full and itemized reports of his work and expenditures up to the time of rendition of such bill. Said street commissioner shall be paid for his services such compensa-

tion as the council shall determine for the time actually given by him to such services to be paid upon bills thereof audited, as other claims against said city.

NO STREET COMMISSIONER TO HAVE INTEREST IN ANY WORK.

SEC. 8. No street commissioner shall be interested in any contract for any work done under his charge, nor be allowed compensation for any used team owned by himself or in which he shall have any interest, nor for any material or labor furnished by him except his personal services, nor shall he receive directly or indirectly any commission, gratuity, money or valuable thing from any person doing work or furnishing material for any work or construction under the charge of such street commissioner or the city engineer of the city.

PENALTIES.

SEC. 9. If any city engineer, street commissioner or any other officer of the city shall have any interest in any contract, work or construction done pursuant to this chapter, all such contracts shall be void, and such work done, material furnished or applied for the use of the city, shall be forfeited; and every such engineer, street commissioner or other officer who shall accept any gift or gratuity, or any commission from any person having contracts with said city, or furnishing material or performing labor under the provisions of this chapter, which contract, material or labor, shall be under the charge or supervision of such engineer, commissioner or other officer, or subject to acceptance by them or either of them, or shall fail to account for any moneys or property coming into his hands or possession, shall be punished in the same manner as provided by law for the acceptance of bribes by public officers.

BRIDGES AND STREETS—FROM WHAT FUND MAINTAINED.

SEC. 10. All bridges in said city crossing any lake or river, or any material stream or water course in said city tributary to said river, or crossing any railroad track, whatever the form or material used in the construction thereof, shall, together with the guards and embankments connected therewith, and the immediate approaches thereto which form the necessary part of the same, be built, maintained and kept in repair by the city, as a general city charge, except where other provision is made therefor.

POWER TO OPEN NEW STREETS AND ASSESS EXPENSES.

SEC. 11. Whenever the city council shall determine to lay out or open new streets or alleys in said city, or to widen, straighten or extend any that now exist or may hereafter exist, it may, for such purposes, purchase or condemn any real estate or interest therein which is private property, and provide for the payment of the value of such property as may be taken from such improvement, and all damages done to any private property by reason of such improvement and the expense of making such improvement by assessing, levying and collecting the whole expense of such improvement, or such part thereof as may be considered equitable, upon the property to be benefited by such im-

provement without regard to cash valuation; but no assessment for such improvement shall exceed the actual benefit to the property upon which the same shall be assessed; and in case the whole expense of such improvement shall exceed the benefits accruing therefrom to any specific property, the excess of such expense shall be made a general city charge, and be paid as current expenses of the city. This however shall not be construed to prohibit the payment of such expenses out of the permanent improvement fund if the council so direct. Nothing in this section shall be construed as permitting the condemnation of any ground of any cemetery or burial place and occupied for such purposes, without the consent of the owners of such ground.

#### PAVEMENTS.

SEC. 12. The city council is hereby authorized, in its discretion, to cause to be paved, repaved or macadamized, any street or alley or any part thereof in the city, or any gutter along any side of any street or alley or any portion thereof, in such manner as it may direct, and to collect the cost and expense of the same by special assessment upon the property fronting upon such improvements on the same side of the street, but the expense of paving or otherwise improving the crossings of such streets and of such improvements as shall be in front of property exempt from such assessment, or belonging to the city, shall be paid from the current funds of said city. No assessments shall be made for paving or macadamizing any ground occupied by railway tracks or lying between such tracks.

#### SIDEWALKS—HOW MAINTAINED.

SEC. 13. It is hereby made the duty of all owners of land adjoining any street, lane or alley in said city, to construct, reconstruct and maintain in good repair such sidewalks along the side of the street, lane or alley next to the lands of such owner respectively as may have been heretofore constructed or as shall hereafter be constructed, or directed by the city council to be built, and of such material and width, and upon such place and grade as the city council shall deem it necessary that any sidewalk in the city of Fergus Falls shall be constructed or reconstructed, it shall by resolution direct such construction or reconstruction, specifying the width thereof and the material of which the same is to be constructed.

The publication of such resolution once in the official paper of the city, shall be sufficient notice to the owners of the land along which such sidewalk is to be built to construct the same, and unless such owners shall each along his respective land construct and fully complete such sidewalks within four (4) weeks after the publication of such resolution as aforesaid, the city council shall forthwith proceed to ascertain the expense of constructing the same, and assess and levy such expense upon and against each lot and parcel of land upon which such sidewalk shall front.

Such assessment shall be collected in the same way in all things as is provided for the collection of special assessments under the provisions of chapter ten (10) of this charter. And the city council may, either before or after making such assessment, cause such portion of such sidewalks as have not been built by the owners of such lands

fronting on the same, and all street crossings to be built by the proper street commissioner, or upon contract or by any other person, as the council may determine.

#### REPAIRS OF SIDEWALKS.

SEC. 14. If the owner of any lot or parcel of land shall suffer any sidewalk along the same to become broken, rotten or out of repair, it shall be the duty of the proper street commissioner to immediately repair the same in a good, substantial and thorough manner, and to report to the city council the cost of such repairs in each case, and a description of the lot or parcel of land abutting which such repairs are made, and such report shall be carefully filed and preserved by the city clerk, and the city council shall, once in each year, at or as near as conveniently may be, the time of levying the yearly city taxes, assess and levy upon each of the lots and parcels of land fronting or abutting upon sidewalks which have been so repaired by street commissioners, the cost of making such repairs. In each case such assessments for all such repairs within the year may be combined in one (1) assessment roll, and be collected as provided for in chapter ten (10) of this charter. In case any such sidewalk shall become so out of repair as to become dangerous, and cannot be made safe without being rebuilt, and there are no funds to defray the expense of such rebuilding, it shall be the duty of the proper street commissioner to remove the same entirely, and the expense of such removal shall be added to the cost of rebuilding when the same shall be reconstructed, and collected with the assessments for such reconstruction.

#### LIABILITY FOR INSUFFICIENT SIDEWALK.

SEC. 15. It is not only made the duty of all owners of land within said city to keep in good repair all sidewalks constructed or existing, or that shall hereafter be constructed or exist, along or abutting upon their respective lots and parcels of land, but such owners are hereby declared to be liable for all damages, to whomsoever resulting, arising from their fault or evident neglect in not keeping any such sidewalk in good repair, and in safe, passable condition; and no actions shall be maintained against the city of Fergus Falls by any person injured through or by means of any defect in any sidewalk, unless the owner of the land along which such sidewalk was so defective, is joined in said suit as a party defendant, and in case of judgment against the defendants in such action, execution shall at first issue only against the defendant owning such land, and the city shall not be required to take steps to pay such judgment until such execution shall be returned unsatisfied; and if said city shall pay such judgment it shall become the owner of the same, and may enforce payment of the same from the other defendant, and shall be entitled to execution therein against him, and to take such other proceedings as judgment creditors are entitled to take.

#### COST OF SIDEWALKS—FROM WHAT FUND ADVANCED.

SEC. 16. Moneys to build or repair sidewalks, when the same shall be done by the street commissioner under this act, or in case of building by a contractor, may be advanced from the permanent improve-

ment fund, to be reimbursed by the special assessment when collected; and the expense of constructing all street crossings of sidewalks, shall be chargeable to the city.

#### GROUND TO BE GRADED.

SEC. 17. It shall be the duty of the city council before ordering the construction of any new sidewalk, to cause the ground on which it is to be built, to be properly graded, in case the council deem it necessary.

#### LIMITATION OF ACTION.

SEC. 18. No action shall be maintained against the city of Fergus Falls on account of any injuries received by means of any defect in the condition of any bridge, street, sidewalk or thoroughfare, unless such action shall be commenced within one (1) year from the happening of the injury, nor unless notice shall have first been given in writing to the mayor of said city, or the city clerk thereof, within thirty (30) days of the occurrence of such injury or damage, stating the place where and the time when such injury was received, and the circumstances surrounding the same, and that the person so injured will claim damages of the city for such injury; but the notice shall not be required when the person injured, shall, in consequence thereof, be bereft of reason; nor shall any such action be maintained for any defect in any street, until the same shall have been graded; nor for any insufficiency of the ground where sidewalks are usually constructed, when no sidewalk is built.

#### RAILWAYS OR STREET RAILWAYS, NOT TO PILE SNOW OR OTHER MATERIAL IN ANY STREET.

SEC. 19. No railway company, or street railway company, shall have any right, in clearing their tracks through any part of said city, or otherwise, to pile up snow or other material, and leave the same piled upon any traveled portion of any street in said city; and any such company shall be liable to any person who shall be injured by means of any such obstruction, caused by such company, or its servants, for all damages sustained; and in case any damages shall be recovered against the city for injuries caused by such obstruction, the city shall have the right to recover the same again from the company by whom the obstruction was caused.

#### . PLATS OF ADDITIONS—HOW MADE AND ADOPTED.

SEC. 20. Whenever any person shall subdivide any lot or piece of ground within said city into building lots for the purpose of selling the same, or any part thereof, he shall cause the same to be surveyed and platted in accordance with the provisions of chapter twenty-nine (29) of the general statutes, and when the survey and plat are so completed and acknowledged, it shall be presented to the city council and a copy thereof furnished the city engineer; said city council may accept or reject said plat, or direct it to be changed or modified in such manner as it shall deem expedient, but no plat for any tract of ground less than one (1) full block, nor containing fractional blocks



shall be accepted. When any plat is accepted by the city council, the city clerk shall so certify upon the face of such plat, with the corporate seal, when it may be recorded in the same manner and with the same effect as provided by general statutes in respect to town plats. All the provisions of section (9) nine, chapter (29) twenty-nine, of general statutes, shall be applicable to said city, and in addition thereto, no person shall be entitled to any damage for the laying out or extension of any street or alley over any lot or parcel of land sold or offered for sale contrary to law; provided no plat of any addition to said city shall be filed with the register of deeds, until the same shall have been approved by the city council.

#### EFFECT OF ACCEPTING PLATS.

SEC. 21. The acceptance of such plat or addition of any ground within the limits of said city, shall not make the city liable to grade the streets therein designated, or responsible for any insufficiency of such streets, until the city council shall direct the same to be graded and opened for travel.

### CHAPTER IX.

#### SEWERS.

SECTION 1. The city council shall have power to maintain the sewers now established in said city, and to enlarge, extend, relay or improve the same, as it shall consider the public good may require, and may construct and cause to be constructed additional sewers.

SEC. 2. Whenever in the construction, enlargement or extension of sewers, it shall in the judgment of the city council be necessary to take any private property consisting of either land, buildings, water-power or other private property, the city council shall have power to acquire the same by purchase or condemnation, and in all cases of purchase of such property, the city shall become the absolute owner thereof, and shall have the right to sell the same whenever for any cause it shall be deemed advisable to change the location of any such public works. In such cases when such property shall be acquired by condemnation, said city council shall have the right to agree with the owner of the fee of such property, and receive such compensation for vacating for the public use thereof as may be agreed on, or it may purchase such fee from such owner and sell the whole property again with such owner in sale of the whole property, and receive such reasonable proportions of the avails of such sale as may be agreed on.

SEC. 3. The city council may in like manner, whenever it shall deem it necessary to relay or extend any sewer through any street of the city, levy and collect the cost and expense of such improvement or extension by any equal assessment of an equal sum per front foot on the property fronting on such street, and subject to assessment, but in case it shall be deemed necessary to lay a larger sewer than is necessary for the use of such abutting property so that it shall serve as a main sewer to carry off the sewerage of remote tracts of the city, the additional expense of such main sewer over and above the expense of an ordinary sewer, shall not be so assessed upon the property front-

ing upon such street, but shall together with all expenses of such sewer not covered by assessment be paid out of the permanent improvement fund of the city.

SEC. 4. Whenever the city council shall deem it necessary to lay service pipes at the same time that pipes are laid in such streets either for water works or sewer, as hereinbefore provided for, to prevent further tearing up of streets or for other cause, it shall have power to lay and extend such service pipes from such street mains to the line of such street in front of such lot or parcel of land so fronting on such street, and to add to the assessment for such street main the whole cost of each of such service pipes to each lot or parcel of land, without regard to the cost valuation of frontage of such lot or parcel of land, and the location of such service pipe shall be determined by the city engineer.

SEC. 5. Whenever any sewer of said city shall be extended to or in the vicinity of any tract of wet or marshy land, either within or without the limits of said city, and the city council shall consider that the public health of the city demands the drainage of such wet or marshy land, and the extension of such sewer to or into such land and beyond the lines of the streets of the city, the council may, by resolution therefor, direct the commencement of proceedings against the owner or owners of such wet or marshy land, and thereupon said city shall have the right to maintain in the district court of the county of Otter Tail, or in any other court of competent jurisdiction, an action against such owner or owners to compel a contribution from them to defray the expense of extending such sewer to or into such lands, and the additional expense if any such may be caused by the necessity of enlarging the sewers through the streets of the city from such tract of land to the outlet of such sewer. In such action the court shall have power to direct the joining of other parties to such action as defendants in such manner as it shall adjudge equitable, and shall make award of such sum or sums of contribution to the expense of such sewer as it shall deem just and in proportion to the benefit to each specific parcel of such wet or marshy land as shall be affected by such sewer, but in no case to exceed the amount of benefit it shall adjudge to accrue to each of such specific parcels by reason of such extension of such sewer. Such award shall stand as the determination of such court, and said city shall, upon the completion of such work, have judgment and execution for the several sums so awarded, which judgment shall be a specific lien upon each of the parcels of the land upon which such award shall be made, which lien shall have priority over every other lien or charge upon such parcel, and such judgments may be enforced against such specific property, or against other property of the owners of such land as may be convenient. If upon the making of such award by said court, the city council shall consider the whole expense of such improvement above the amount of such award to be an excessive burden on the city, it may abandon the proceedings by paying the taxable costs in such action, or it may determine to proceed with part of such work and abandon the remainder thereof in its discretion, or it may in its discretion delay the performance of the work not exceeding three (3) years.

## CHAPTER X.

## CONDEMNATION OF PRIVATE PROPERTY, AND ASSESSMENTS FOR LOCAL IMPROVEMENTS—SELECTING PUBLIC GROUNDS.

SECTION 1. Whenever the city council shall consider it necessary to procure grounds for any public grounds, wharves, levees, engine houses, markets, or public buildings, or for waterworks, the city council shall appoint a committee of not less than three (3) of its members who, together with the city engineer, shall make examination and propose to the city council a location and description of land suitable for such public grounds, wharves, levees, engine houses, market or public buildings, or for water works, as the case may be, and the most convenient manner of taking and using the same, and present to the city council a plat of the land proposed to be taken, and in their report shall show, so far as the committee shall deem necessary, what canals, tunnels, buildings or structures can be used in the appropriation, and any other matter which the committee shall deem proper for the information of the council, and such committee may present for the consideration of the council more than one (1) location and plat.

## COMMITTEE TO REPORT.

SEC. 2. Such committee shall file their report with the city clerk, who shall give notice by publication twice in the official paper of said city, that such report is on file in his office for the inspection of all persons interested, and that the same will be presented to the city council for action thereon at a meeting of said council, to be named in such notice, which shall be the regular meeting of said council which shall occur next after one (1) week from the second (2d) publication of such notice. At the meeting named in such notice, the city clerk shall next after the reading of minutes of previous meeting, present such report, and the matter may be acted upon by the council at the same or any subsequent meeting. The council, under such rules as it may prescribe, may hear any persons interested in the matter, or refer the matter to a committee to hear such persons and report.

## DESIGNATION OF PUBLIC GROUNDS AND APPOINTMENT OF COMMISSIONERS AND THEIR AWARD.

SEC. 3. Whenever the city council may determine upon the lands and other property to be taken and appropriated, it shall designate the same as nearly as may be convenient, and shall cause such plat or survey as may be necessary to show or explain the same, to be made and filed therewith with the city clerk, and the city council shall then or afterwards appoint three (3) commissioners, who shall be freeholders of said city, and no two (2) of whom shall reside in the same ward, to view the lands, water power or other premises to be taken or appropriated, and ascertain and award the amount of damages or compensation to be paid to the owners of the property so to be taken and appropriated.

Two (2) or more of such commissioners shall constitute a quorum and be competent to do any act required of such commissioners. They shall be notified by the city clerk by notice to be served on them sev

erally, either personally or through the mail, to attend at his office on or before a day fixed by him, not less than two (2) days after the service or mailing of such notice, to qualify and enter upon their duties; and if any commissioner shall refuse or neglect to attend as aforesaid, he shall forfeit and pay to the city of Fergus Falls the sum of fifty dollars (\$50), to be recovered to the use of said city in a civil action in the municipal court; and in case a quorum of such commissioners shall not so attend at the time and place designated in said notice, the mayor or acting mayor of said city may, in writing, appoint one (1) or more commissioners in the stead of any such absentees. The commissioners shall be sworn by the clerk or any officer authorized to administer oaths to discharge their duties as such commissioners in the matter, with fidelity and impartiality, and make due return of their action to the city council. They shall give notice by two (2) publications in the official paper of said city that they will, on a day designated in such notice, which shall be at least ten (10) days after the first (1st) publication of such notice, meet at a place designated in said notice on or near the premises proposed to be taken and appropriated, and view the property proposed to be taken and appropriated, and ascertain and award therefor compensation and damages, and that they will there and then hear such allegations and proofs as interested persons may offer. Such commissioners shall meet and view the premises pursuant to such notice, and may adjourn from time to time, and after having viewed the premises may, for the hearing of evidence and the preparation of their award, adjourn or go to any other convenient place in said city; and such commissioners shall make a true and impartial appraisal and award of compensation and damages to be paid to each person whose property is to be so taken or appropriated, and report the same to the city council, and such award shall lie over until the next regular meeting of the council, which shall occur at least one (1) week after the reception of such award, at which or any subsequent time the city council may act on such award and hear any objection made thereto, or may refer the matter to a committee to hear such objection and report thereon. The city council may confirm such award or annul the same, or send the same back to the same commissioners for further consideration, and such commissioners may in such case again on giving notice published only in the official paper of said city, meet at a time and place to be designated in said notice, which shall be at least two (2) days after the publication of such notice, and hear any further evidence that may be adduced by interested persons, and may adjourn from time to time and correct any mistakes in such award, and revise and alter the same as they may deem just, and again report such award to the city council, who may confirm or annul the same. When any such award shall be confirmed by the city council the same shall be final and conclusive upon all parties interested, except as hereinafter provided.

#### OBJECTIONS TO AWARD PUBLIC GROUNDS—HOW TAKEN—APPEAL.

SEC. 4. Any person whose property is proposed to be taken under the provisions of this chapter, and who deems that there is any irregularity in the proceedings of the council or action of the commissioners, by reason of which the award of the commissioners ought not to be

confirmed, may, at any time before such award shall be confirmed by the city council, file with the city clerk in writing, his objection to such confirmation, setting forth therein specifically the particular irregularities complained of, and if notwithstanding such objection, the city council shall confirm the award such person so objecting shall have the right to appeal from the order of the city council confirming such award, to the district court of the county of Otter Tail, at any time within ten (10) days after such order. Such appeal shall be made by serving a written notice of such appeal upon the city clerk of said city, which shall specify the property of the appellant affected by such award and refer to the objections filed as aforesaid, and by also delivering to said city clerk a bond to the city of Fergus Falls, executed by the appellant or by some one in his behalf, with two sureties, which bond shall be approved by the court, who shall justify in the penal sum of fifty (\$50) dollars, conditioned to pay all costs that may be awarded against the appellant. Whereupon the city clerk shall make out and transmit to the clerk of said district court a copy of the award of said commissioners, as confirmed by the council and of the order of the council confirming the same, and of the objection filed by the appellant as aforesaid, all certified by said clerk to be true copies, within ten (10) days after taking of such appeal. But if more than one (1) appeal be taken from any award, it shall not be necessary that the clerk in appeals subsequent to the first, shall send up anything except a certified copy of the appellant's objection. There shall be no pleadings upon such appeal, and the only question to be decided shall be whether the commissioners had jurisdiction to make the award, and whether in their proceedings there was any such irregularity or omission of duty prejudicial to the appellant and specified in his [said] written objections. that as to him the award ought not to stand. The case may be brought on for hearing on eight (8) days notice at any general or special term of the court, and shall have precedence of other civil cases, and the judgment of the court shall be either to confirm or amend the award in so far only as the same affects the property of the appellant proposed to be taken or damaged, and described in said written objection, from which judgment no appeal nor writ of error shall lie. And if the court shall be of the opinion that such appeal was frivolous or vexatious, it may adjudge such costs against the appellant as to it may seem proper, not exceeding twenty-five (25) dollars: otherwise no cost shall be recovered by either party.

#### EFFECT OF AWARD—ABANDONMENT—CLAIMANTS—ABSTRACT AND AWARD.

SEC. 5. Whenever an award of compensation and damages shall be confirmed by the city council and not appealed from and whenever the same when appealed from, shall not be set aside by the court. the same shall constitute a lawful and sufficient condemnation and appropriation to public use of the land and property and rights in property for which compensation or damages are so awarded, and the city council shall thereupon cause to be paid from the permanent improvement fund of said city, or such other fund as may be provided by law, to the owners of such property, the amount awarded to each severally. In case such payment is not made within one (1) year after the confirmation of the award or the determination of the appeal thereupon, the proceedings

shall be deemed to be abandoned. Before payment of such award, the owner of such property, or the claimant of the award shall furnish an abstract of the title, showing himself entitled to all of 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 damages, or any part of the same, the amount so awarded shall be by the city council, appropriated and set apart in the city treasury for whoever shall be entitled thereto, and be paid over whenever any person shall show clear right to receive the same. The city 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. Upon the payment of said award or appropriation, or the setting apart of the money in the city treasury to pay the same, as aforesaid, the city shall become vested with the title to the property taken and condemned absolutely for all purposes for which the city may ever have occasion to use the same, and may, forthwith, enter upon the use of the same, and such purposes and uses shall include, among others, the right to authorize and empower the laying of railway tracks and the running of cars and engines thereon, upon the public levees by any railroad company or companies, and such prospective use shall be considered in the award of damages therefor. This section shall apply to all cases of appropriation of private property for public use provided for in this chapter.

#### STREET IMPROVEMENTS—PROCEEDINGS.

SEC. 6. Whenever the city council shall be petitioned by a majority of the resident property holders upon any street to lay out, grade or open any such street or alley, or to straighten, widen, grade or extend any that now or may hereafter exist, which shall make it necessary to take, injure or interfere with private property, it shall determine and designate in a general way, as nearly as may be convenient, the character and extent of the proposed improvement, and thereupon it shall be the duty of the city engineer to make and present to the council, a plat and survey of such improvement, showing the character, course and extent of the same, and the properties necessary to be taken or interfered with thereby, with the name of the owner of each parcel of such property, so far as the engineer can readily ascertain the same, and such statement as may in the opinion of the engineer, be proper to explain such plat and survey, and the character and extent of the proposed improvements, and this estimate of the cost of such improvement; and the city council may cause such plat and survey to be modified, amended or changed as it may deem proper, and shall estimate and fix upon the cost of making such improvement. *Provided*, however, that the city council may, by a two-thirds ( $\frac{2}{3}$ ) vote of a majority of all the members elect, lay out, grade or open any new street or alley, or to straighten, widen, grade or extend any street or alley without such petition. When such plat and survey shall be finally adopted by the city council, it shall be filed with the city clerk, and it shall be held to show correctly the character and extent of the improvement actually agreed upon and

ordered by the city council. Said plat shall also show the amount of land taken from each owner, so far as the owners may be known, and the lands contiguous to or affected by such improvement. The city council shall then or afterwards appoint (3) three freeholders of said city; no two (2) of whom shall reside in the same ward, as commissioners, to view the premises and to ascertain and award the amount of damages and compensation to be paid to the owners of property which is to be taken or injured by such improvements, and to assess the amount of such damages and compensation, and the expense of the improvement upon the lands and property to be benefited by such improvements, and in proportion to the benefits to be received by each parcel and without regard to a cash valuation. Two (2) or more of such commissioners shall constitute a quorum and be competent to perform any duty required of such commissioners, and they shall be notified of their appointment, and vacancies in their number be filled in the same manner; and they shall take same oath and be subject to the same penalty for refusal and neglect to attend; to be collected in the same way as is provided in the case of commissioners appointed under section four (4) of this chapter. They shall give notice by two (2) publications in the official paper of said city, that such survey and plat is on file in the office of the city clerk for the examination of all persons interested, and that they will on a day designated in such notice, which shall be at least ten (10) days after the first publication of such notice, meet at a place designated in said notice on or near the proposed improvement, and view the property proposed to be taken or interfered with for the purpose of such improvements, and ascertain and award therefor compensation and damages, and view the premises to be benefited by such improvements, and assess thereon in proportion to benefits, the amount necessary to pay such compensation and damage and the cost of making the improvements, and they will then and there hear such allegations and proofs as interested persons may offer. And such commissioners shall meet and view the premises pursuant to such notice, and may adjourn from time to time and after having viewed the premises, may, for the hearing of evidence and preparation of their award and assessment, adjourn or go to any other convenient place in said city, and may have the aid and advice of the city engineer, and of any other officer of the city. After viewing the premises and hearing the evidence offered, such commissioners shall prepare and make a true and impartial appraisal and award of the compensation and damages to be paid to each person whose property is to be taken or injured by the making of such improvement; but if the remainder of the same property, a part of which only is to be taken or damaged by such improvement shall be benefited by such improvement, then the commissioners in considering and awarding compensation and damages, shall also consider, estimate and offset the benefits which will accrue to the same owner in respect to the remainder of the same property, and award him only the excess of the compensation or damages over and above such benefits. The said commissioners shall then assess the amount of such compensation and damages so awarded, together with the expense and cost of making the improvement upon the land and property benefited by such proposed improvements, and in proportion to such

benefits; but in no case shall the amount of said assessment exceed the actual benefit to the lot or parcel of land so assessed, deducting therefrom any damages or injuries to the same parcels which are less than such benefits, and assessing only the excess, and prepare and report to the city council their appraisalment and award, and if in the judgment of said commissioners the whole amount of such compensation and damages, together with the cost of making such improvement shall exceed the actual benefit to the specific property subject to assessment, they shall so indicate in their report, and shall state the amount of such excess. Said commissioners shall also report to the city council an assessment list containing their assessment of such compensation, damages and costs, or so much thereof as shall not exceed the actual benefits to the property so assessed, which list shall contain a brief description of each tract or parcel of property assessed, the name or names of the owner thereof, if known, and the amount assessed of the excess of such compensation, damages and costs as aforesaid, which they shall return unassessed. Such report shall lie over until the next regular meeting of the council, which shall occur at least one (1) week after the reception thereof, at which time, or at any meeting the city council may act on such report and hear any complaint touching such award or assessment, or it may refer the matter to a committee of the council to hear such complaints and report thereon. The council may confirm such award and assessment, or either, or amend the same, or send the same back to the same commission for further consideration; and the commissioners may in such case again, upon giving notice published once in the official paper of said city, meet at a time and place to be designated in said notice, which time shall be at least two (2) weeks after the publication of such notice, meet and hear any further evidence that may be adduced by interested persons, and may adjourn from time to time and may correct any amistake in such award and assessment and alter and revise the same as they shall deem just, and again report the same to the city council, who may thereupon confirm or annul the same. Whenever the city council shall confirm any such award and assessment, such confirmation shall make such award and assessment final and conclusive upon all parties interested, except as hereinafter provided, and the city council shall proceed at the same or any subsequent meeting, to levy such assessment upon the several parcels of land described in the assessment list reported by the commissioners in accordance with the assessment so confirmed, and cause to be made and adopted an assessment roll of the same which may be in the following form or in any other form the council may adopt:

The city council of the city of Fergus Falls doth hereby assess and levy upon and against the several lots and parcels of land below described the respective sums of money set against each lot or parcel. This assessment is made to defray the compensation and damages awarded for the taking of, and injury to private property, and estimated cost and improvement, in and about the

as shown on the plat and survey of the same on file in the office of the city clerk of said city. This levy is made conformably to the report and assessment of commissioners duly appointed to make such assessment, and in proportion to benefits from such improvements to accrue to the parcels, and not exceeding the benefits to the parcels so assessed.



Name of Owner, if known.	Description of land.	Lot	Block	Amount.	
				Dollars.	Cts.

Done at a meeting of the city council this \_\_\_\_\_ day of  
A. D 188 .

Attest:

City Clerk.

Mayor.

OBJECTIONS TO AWARD—[STREETS]—HOW TAKEN—APPEAL.

SEC. 7. Any person whose property is proposed to be taken, interfered with or assessed for benefits under the provisions of the last preceding section, and who deems that there is any irregularity in the proceedings of the council or action of the commissioners by reason of which the report of the commissioners or award made by them ought not to be confirmed, may, at any time before such award is confirmed by the city council, file with the city clerk, in writing, his objection to such confirmation, setting forth therein specifically the particular irregularities complained of, and if, notwithstanding such objections, the city council shall confirm such award the person so objecting shall have the right to appeal from the order of the city council confirming such award to the district court of the county of Otter Tail, at any time within ten (10) days after such order. Such appeal shall be made, and all proceedings thereunder had in the same manner as in case of appeals, provided for in section four (4) hereof, and all the provisions of said section four (4), respecting the taking of appeal, notices of appeal, bond, return of appeal to district court by the city clerk, proceedings in district court upon appeal and judgment therein, and the effects and penalty of such judgment and respecting costs, shall apply to appeals taken under this action. *Provided*, in all cases of appeals under this section, or section four (4) hereof, when the amount of damages awarded or the amount of the assessments for benefits made is complained of, the court or judge therefor shall, in case the other proceedings appealed from are found to be regular, upon motion of the appellant appoint a new commission consisting of three (3) disinterested free-holders of said city, to re-appraise such damages or assessment, who shall qualify as hereinbefore provided. In the order appointing such commissioners, the court or judge shall specify the first (1st) time and place of meeting of such and the notice to be given thereof, which shall correspond as near as may be to the notice provided for herein to be given by commissioners appointed by the city council. They shall hear the proofs submitted by all parties interested, and such commissioners shall in awarding damages and making assessments for benefit, be governed by the same rules and regulations as are herein provided for the government and authority of commissioners appointed by the city council and their proceedings,

as near as may be, shall conform thereto. The report of such commissioners shall be made to the court, and unless set aside by the court for good cause shown by either party, the award or assessment of such commissioners made to said court shall be the final determination of the amount of such damages or assessment of benefits. But said city council shall have the right at any time within ten (10) days after notice of such award to abandon the proceedings for such improvements if it shall consider the public good to require such abandonment. Such commissioners shall perfect and complete their award and make the same to the court with all convenient speed. Any vacancies occurring in said board of commissioners, shall be filled by the court or judge thereof, and no person shall decline when appointed as hereinbefore specified to serve on said commission under a penalty of fifty (\$50) dollars, to be collected in a civil action. All commissioners appointed under the provisions of this chapter shall receive compensation at the rate of three dollars (\$3) per day to be paid by said city.

#### PAVING AND GUTTERS—PROCEEDINGS.

SEC. 8. Whenever the city council shall determine to cause to be paved, repaved, or macadamized, any street, lane or alley in said city, or any gutter or gutters along any such street, lane or alley, or to lay, relay or extend any sewers in any or through such streets, lanes or alleys or any portion thereof, it shall determine and designate in a general way as nearly as may be convenient, the character and extent of the improvements, and the materials to be used therein, and thereupon it shall be the duty of the city engineer to make and present to the city council an estimate of the cost of such improvements, stating therein the proportion of such estimated cost which shall be required to construct such improvements in front of abutting lands, which costs shall not in case of sewers exceed the cost of ordinary sewers in front of such abutting lands, and the proportion thereof required to construct the same across streets, lanes and alleys, and in front of lands not subject to assessment; also a list of the several lots and parcels of land fronting upon such proposed improvement with the number of feet front of each extending along such improvements, and the names of the owners of the several parcels as near as the city engineer can readily ascertain the same; a brief minute of the reception of such report shall be made and published in the records of the proceedings of the city council, which shall be held to be sufficient notice to all persons concerned; and such report shall lie over without any assessment *being made until the next regular meeting of the city council, which shall occur at least one (1) week after the reception of such report:* but the city council in its discretion may direct the city engineer to advertise for and receive in the meantime bids for doing the work and furnishing the material required to construct and complete such improvement, and report the same to the council at the meeting of the city council to which such report is laid over, or at any subsequent meeting; the city council may consider such estimate and list, and any further communication from the city engineer respecting the matter, and under such rules as it may make, shall hear all persons interested in the matter of such improvements, who may desire to be heard, and

the council may adhere to its resolution of making such improvements or may modify the character of the same, or abandon it. If the city council shall determine to go on with such improvements, whether modified or not, it may, either before or after having contracted for the construction of such improvements, estimate and fix upon the cost of such improvements, and the proportion of amount of such cost which is required to construct such improvement not exceeding in case of sewer the cost of an ordinary street sewer, when larger sewers are constructed, and it may assess and levy such proportion or amount of such costs upon the same lots and parcels of land upon the basis of an equal sum per front foot of each lot or parcel, measuring along the line of such improvements; and the city council shall cause to be made, and shall adopt an assessment roll thereof, which may be in the following, or any other form which the city council may deem proper.

The city council of the city of Fergus Falls doth hereby assess and levy upon and against the several lots and parcels of land below described, the respective sums of money set opposite each lot or parcel. This assessment is levied to defray the expense of \_\_\_\_\_ in the city of Fergus Falls, along \_\_\_\_\_ and said lots and parcels of land are assessed upon the basis of an equal sum per front foot along the line of such improvement:

Name of owner, if known.	Description of Land.	Lot	Block	Amount.	
				Dollars.	Cts.

Done at a meeting of the city council this \_\_\_\_\_ day of \_\_\_\_\_  
 A. D., 188\_\_\_\_  
 Attest: \_\_\_\_\_ Mayor.  
 \_\_\_\_\_ City Clerk.

#### ASSESSMENTS—WHEN REMITTED.

SEC. 9. The city council may, in its discretion, in case where any lot fronting on two streets has been previously assessed, and the assessment paid for laying sewer pipes upon a different street from the one through which such proposed improvement is to be extended, remit from the assessment of such corner lot such portion of such second (2d) assessment, not exceeding the amount of assessment for a frontage of sixty-six (66) feet, on each lot as it may deem just under all the circumstances of the case, but the discretion of the city council in such matter shall be final, and the refusal or failure of said council to make such remission shall not be a ground for setting aside such assessment in any court or proceeding.

#### CONSTRUCTION OF SIDEWALK WHEN OWNER FAILS.

SEC. 10. Whenever the city council shall have ordered the construction of any sidewalk and the owners of the land along such side-

walk is to be built shall refuse, or for the space of two (2) weeks neglect to construct the same according to the order of the city council, the city engineer shall report to the city council a description of each lot or parcel of land along which such sidewalk has not been built, and his estimate of the cost of building such sidewalk along each of such lots and parcels, such estimates shall not be binding upon the city council but advisory merely, and the council may obtain any other information as to such cost, and the council shall fix upon and designate the cost of building such sidewalk in front of each lot and parcel of land, and thereupon the city council shall assess and levy upon and against such lot and parcel of land so reported (after correcting mistakes if any) along which such sidewalk has not been built, such sum as will cover the cost of building such sidewalk along and fronting upon the same lots and parcels of land respectively, and cause to be made an assessment roll of the same, which shall be in the following form or any other form which the city council may adopt:

The city council of the city of Fergus Falls doth hereby assess and levy upon and against the several lots and parcels of land below described, the respective sums of money set against each lot or parcel: This assessment is made to defray the cost of \_\_\_\_\_ a sidewalk along the \_\_\_\_\_ side of \_\_\_\_\_ from \_\_\_\_\_ to \_\_\_\_\_ in accordance with a resolution of the city council passed the \_\_\_\_\_ day of \_\_\_\_\_ A. D. 188 , and duly published in the official paper of said city on the \_\_\_\_\_ day of \_\_\_\_\_ A. D. 188 ; the amount assessed against and levied upon each lot or parcel being the amount necessary to build such sidewalk along and fronting upon the same lot or parcel of land:

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

Done at a meeting of the city council this \_\_\_\_\_ day of \_\_\_\_\_  
A. D. 188 .

Attest:

City Clerk.

Mayor.

#### FORM FOR SIDEWALK REPAIRS.

SEC. 11. Assessments for repairs of sidewalks may be in the following form, or in any other form which the city council may adopt:

The city council of the city of Fergus Falls doth hereby assess and levy upon and against the several lots and parcels of land below described, the respective sums of money set against each lot or parcel: The assessment is made to defray the cost of repairs of sidewalks fronting upon each lot or parcel, which the respective owners have neglected to make, and which have been made by the street commissioner since the \_\_\_\_\_ day of \_\_\_\_\_ A. D. 188 ; the amount assessed

against and levied upon each of said lots and parcels of land is the actual cost of the repairs of sidewalks abutting upon such lot or parcel, and so repaired by such commissioners:

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

Done at a meeting of the city council this                      day of  
A. D. 188 .

Attest:

City Clerk.

Mayor.

#### ASSESSMENT FOR SPRINKLING STREETS.

SEC. 12. Assessments for sprinkling streets may be in the following form, or any other form which the city council may adopt:

The city council of the city of Fergus Falls doth hereby assess and levy upon and against the several lots and parcels of land below described, the respective sums of money set opposite each lot or parcel. This assessment is levied to defray the expense of sprinkling the streets fronting the said lots and parcels of land from                      A. D. 188 , to                      A. D. 188 , according to a contract for sprinkling from                      to                      for the term of                      years from                      , and said lots and parcels of land are assessed upon the basis of an equal sum per front foot along the line of such improvement:

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

Done at a meeting of the city council this                      day of  
A. D. 188 .

Attest:

City Clerk.

Mayor.

#### PROCEEDINGS WHEN COURT ANNULS AWARD.

SEC. 13. Whenever any portion of any award made by commissioners and confirmed by the council, under the provisions of section three (3), six (6), eight (8) or any other section or sections of this chapter, shall be annulled by the court upon appeal, as hereinbefore provided for, the city council may again appoint commissioners to view the property which was affected by such appeal, and appraise

amend the compensation and damages to be paid for the taking or appropriation of the same, and the like proceedings shall be had so far as applicable, as is provided in the sections under which the same was originally done, except that such commissioners shall make no new assessments of costs and expenses. They shall, however, in arriving at the compensation and damages to be awarded, take into consideration and offset any benefits which in their judgment the contemplated improvement will be to the remainder of the property, part of which may be taken or appropriated, and report their award to the city council, whereupon the same proceedings may be had as far as practicable as upon an original award, and if such award shall again upon appeal be annulled by the court, still another commission may be appointed and award made in the same manner, and so on, until a valid award shall be made, but no new assessments for benefits shall be made merely by reason of any change in the amount of the sum awarded for compensation and damages, and any sum which may be lacking to pay the awards shall be paid from the current funds of said city.

#### ANUEWING PROCEEDINGS AND HOW.

SEC. 14. If any special assessment heretofore made by the city council, or under its discretion, to defray the expense of any local improvement has been or shall be either in whole or in part, annulled, vacated or set aside by the judgment of any court, or if the city council shall be satisfied that any such assessment is so irregular or defective that the same cannot be enforced and collected, or if the city council shall have omitted to make such assessment at or before the making of such improvement when it might have done so, the city council shall anew, or hereafter compute and determine upon the cost of making such improvement in a gross amount, upon such data as to it shall deem sufficient; and the city council may then proceed to cause a new assessment of the cost of such local improvement, to be made, either on the property fronting on such improvements, or on the property benefited by such improvements, according to the character of such improvement, following as near as may be the provisions of the city charter in force at the time of making such improvement in determining the property to be assessed and the form and manner of proceeding subsequent to the determination of the cost of the improvement, and in case such second assessment shall be annulled, the city council may proceed to make other assessments until a valid assessment shall be made, but nothing in this section shall authorize any new assessment in cases where such court shall determine that the lots are not subject to assessment. Whenever a new assessment is made as provided in this section, the same may be collected under the provisions of this chapter. After such new assessment roll shall have been completed, the city clerk may note thereon against any piece of land upon which a former assessment of the same improvement has been paid, the words "paid on former assessment," which shall cancel such assessment on that parcel.

#### RECORDING ASSESSMENT ROLLS.

SEC. 15. The city clerk shall record all assessment rolls of special assessments in books to be by him kept for that purpose, and shall, on

or before the first (1st) day of October of every year, deliver to the county auditor of said county of Otter Tail all such assessment rolls theretofore recorded, and the said county auditor shall extend the assessment in proper columns against the property assessed, and such assessments shall be collected and the payment thereof 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 city treasurer.

PROCEEDINGS NOT INVALIDATED BY INFORMALITIES OR IRREGULARITIES.

SEC. 16. No omission, informality or irregularity in proceedings in or preliminary to the making of any special assessment shall effect the validity of the same, where the assessment roll has been adopted by the city council, and the assessment roll, and the record thereof kept by the city clerk, shall be competent and sufficient evidence that the assessment was duly levied and the assessment roll duly made and adopted, and that all other proceedings antecedent to the adoption of such assessment roll were duly had, taken and performed as required by this charter; and no failure of the city clerk to record the assessment roll or to deliver the same to the county auditor on or before the time prescribed for such delivery, or to do any other act or thing of him required, shall in any way invalidate any assessment; and no variance from the direction herein contained, as to the form or manner of any of the proceedings shall be held material, unless it be clearly shown that the party objecting was materially injured thereby, and unless such objections were taken at the time and in the manner prescribed in this chapter.

COLLECTION OF ASSESSMENT—WHEN TO CEASE—NEW PROCEEDINGS—PAYMENTS ADINTERIM.

SEC. 17. In case any special assessment shall in any suit where its validity shall be questioned, be adjudged invalid, the city council may in its discretion, notify the county auditor to cease the collection of the same, if it shall have been transmitted to him for collection, and may proceed anew by proceedings either as in case of an original special assessment for the same purpose, or by taking up the previous proceedings at any point, and may make and levy a new assessment in the place and stead of the assessment which shall have been adjudged invalid; and the city clerk before delivering such new assessment to the county auditor for collection, shall ascertain and note thereon payments which have been made on such invalid assessments for the same purpose, which notation shall cancel the assessments as to the parcels and lots on which such payments were made, to the extent of such payments; such new assessments shall be collected in the same manner as original special assessments.

SPECIAL ASSESSMENTS—WHEN VALID—DISPOSITION OF SURPLUS—  
ABBREVIATIONS, ETC.

SEC. 18. No special assessment shall be questioned or held to be invalid because the amount of such special assessment shall happen to be either more or less than the amount of money actually required for the improvement for which such assessment shall be made. If the amount raised by such special assessment shall happen to be less than the amount required for such improvement the balance shall be paid from the current fund of the city except in case of sewers; such balance shall be paid from the permanent improvement fund; and if there shall happen to be any surplus from any such special assessment, the same shall be carried to the credit of the same fund, from which a deficiency would have been supplied or be otherwise disposed of, as to the city council shall seem most just toward the person upon whom such special assessment has been levied; and 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 act.

TWO-THIRDS VOTE REQUIRED TO MAKE IMPROVEMENTS—EXCEPTION IN  
CASES OF SIDEWALKS.

SEC. 19. It shall require a two-thirds vote of the members elect of the city council to determine, in the first instance, to make any improvement for which a special assessment may be levied except in respect to side-walks, when a majority vote will suffice. But this restriction shall not apply to any subsequent act of council touching such improvement to provide means therefor.

IMPROVEMENTS MADE BY CONTRACT—WHEN EXCEPTION—ASSESSMENTS  
WHEN MADE.

SEC. 20. Any improvement, the means to make or construct which may be raised by special assessment, may be performed by contract let in the ordinary way, or directly by the city, by the employment of labor and purchase of material or in any other manner in which the city council may deem proper in each particular case. And the city council may, in its discretion in any case, instead of causing the special assessment to be made entirely upon estimates, as herein before provided for, wait until the letting of the contract for such improvement or until such improvement shall be made before determining and fixing upon the cost and expense of such improvement, and appointing commissioners to make the assessment.

IMPROVEMENT WHEN DELAYED—EXPENSES HOW PAID—INTEREST.

SEC. 21. The city council may, at the time of ordering any improvement for which any assessment may be made, determine whether to proceed at once with such improvement, or await the collection of



such assessment. In case it shall determine to proceed with such improvement, the money to defray the expenses thereof, shall be advanced out of the permanent improvement fund of the city, or any other fund provided by law therefor. In such case there shall be added to the cost of such improvement interest at the rate of seven (7) per cent. per annum from the time of the making of such improvement until the thirty-first (31st) day of May next ensuing, and such interest shall be included in such assessment and be collected as part of the cost of such improvement.

#### MONY HOW KEPT WHEN IMPROVEMENT TO GO ON.

SEC. 22. In case any assessment is collected before the making of such improvement, the money so collected shall be kept separate from the funds of the city and not devoted to any other purpose than such improvements, and as soon as a majority of the assessments for such improvements are paid, the city council shall forthwith cause such improvement to be made.

#### SPECIAL PAYMENT OF ASSESSMENTS.

SEC. 23. After any special assessment roll shall have been adopted by the city council and before the same shall be delivered to the county auditor for collection, any assessment thereon may be paid direct to the city treasurer of said city; and upon the production of the city treasurer's receipt therefor to the city clerk, he shall enter upon such assessment roll opposite the assessment so paid, the words "paid to city treasurer," which entry shall cancel the assessment so paid. In case interest shall have been included in such assessment so much of such interest as shall not have accrued on such assessment at the time of such payment, shall be deducted therefrom.

#### NOT TO INTERFERE WITH ASSESSMENTS ALREADY MADE.

SEC. 24. Nothing herein shall interrupt or interfere with any assessments which have been heretofore made, but the collection thereof shall go on according to the provisions of the charter of said city in force at the time of making such assessments.

#### LIEN NOT TO BE DIVESTED.

SEC. 25. No sale under execution or other proceedings upon a judgment decree, foreclosure or lien, and no transfer or mortgage shall divest or effect the lien of any assessment for any tax, or for any improvement chargeable to or assessed against the property under this charter, although the confirmation of such assessment may be subsequent to the lien of such judgment, decree or other lien, or to such transfer or mortgage.

## CHAPTER XI.

### MISCELLANEOUS PROVISIONS—ORDINANCES AND RESOLUTIONS TO CONTINUE IN FORCE.

SECTION 1. All ordinances and resolutions heretofore made and established by the village council of the village of Fergus Falls, and

the city council of the city of Fergus Falls, and not inconsistent with the provisions of this act, shall remain in force except as altered, modified or repealed, and except such as may be hereafter altered, modified or repealed by the city council of the city of Fergus Falls; and all books or pamphlets published, or which may be published purporting upon their title page to be published by the authority, order or direction by the city council, and purporting to contain the ordinances of said city, standing rules and orders of said city council, or either, are hereby declared to be competent and *prima facie* evidence of the contents of such ordinances, standing rules and orders of any resolutions or other matters purporting to be the act of said city council which may be found printed therein, and of the due and legal adoption, approval and publication thereof, and the certificate of the city clerk that any printed slip of paper to which such certificate may be attached, contains or is a true copy of any ordinance, resolution, proceedings of the city council, or other paper, the original of which is presumably in the possession of said city clerk, shall constitute such printed slip or paper competent and *prima facie* evidence of the contents and purport of the ordinance, resolution, proceedings of the city council or other paper, and of the legal passage, adoption, approval and publication thereof.

#### COMPILATION OF ORDINANCES.

SEC. 2. The city council may from time to time, provide for the compilation and publication of the ordinances of the city, and such resolutions as may be designated, and for the distribution or sale of copies of such compilation, in its discretion, and may also provide for exchange of such printed compilations for similar publications of other cities.

#### INHABITANTS OF CITY NOT DISQUALIFIED IN CASES WHERE CITY IS PARTY IN INTEREST.

SEC. 3. 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.

SEC. 4. The said city may lease, purchase and hold real estate sufficient for the convenience of the officers and inhabitants thereof, and may sell and convey the same, and the same shall be free from taxation while so held by the city.

#### CHARTER NOT REPEALED BY STATE LAW.

SEC. 5. No law of the 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.

#### PROCESS—HOW SERVED AGAINST CITY.

SEC. 6. 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 city council thereof, or to take such other proceedings as by the ordinances or resolutions of said council may have been in such case provided.

## ACTIONS TO BE IN NAME OF CITY.

SEC. 7. All actions brought to recover any penalty or forfeiture under this act, by the ordinances, by-laws or police or health regulations made in pursuance thereof, shall be brought in the corporate name of the city.

## PROSECUTIONS—HOW INSTITUTED.

SEC. 8. In all prosecutions for any violations of this act, or of any by-laws or ordinances of the city of Fergus Falls, the first process shall be by 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 Fergus Falls, but the person or persons so arrested may be proceeded against, tried, convicted, punished or discharged in the same manner as if arrested by warrant. All actions brought to recover any penalty or forfeiture under this act, or the ordinances, by-laws, police or health regulations made in pursuance thereof, shall be brought in the corporate name of the city.

## IMPRISONMENT—WHEN ALLOWED.

SEC. 9. In all cases of imposition of penalties or fine, or the rendering of a judgment by the city justice pursuant to any statute of the state of Minnesota, or pursuant to any ordinance or by-law of the said city of Fergus Falls, as a punishment for any offence, or for the violation of any by-law or ordinance as aforesaid, the offender shall be forthwith committed to the city prison of said city, or if there be no city prison, to the common jail of Otter Tail county, and there be imprisoned for a term not exceeding three (3) months, in the discretion of said court, unless the said fine or penalty be sooner paid, and from the time of the arrest of any person or persons for any offence whatever, until the time of trial, the person or persons so arrested may be imprisoned in the city prison, or in case there be no such city prison, in the common jail of Otter Tail county.

## CITY NOT LIABLE FOR BOARD OF PRISONERS IN STATE CASES.

SEC. 10. The city of Fergus Falls shall not be liable in any case for the board or jail fees of any person who may be committed by any officer or magistrate of the city to the jail of Otter Tail county under the state laws.

## NO PENALTY TO BE REMITTED WITHOUT VOTE OF TWO-THIRDS OF CITY COUNCIL.

SEC. 11. No penalty or judgment recorded in favor of said city shall be remitted or discharged, except by a vote of two-thirds ( $\frac{2}{3}$ ) of the members of the city council; but nothing in this section shall be so construed as to prohibit the city justice from granting new trials or reversing any judgment rendered by him according to the usual procedure of courts, nor to prohibit said court from suspending execution of sentence in its discretion.

NO PUBLIC PROPERTY TO BE DISPOSED OF WITHOUT AUTHORITY FROM CITY COUNCIL.

SEC. 12. No city officer or employee of the city shall sell, dispose of, or convert to his own use any city property in his charge, without special authority from the city council.

OFFICIAL PAPER—HOW DESIGNATED.

SEC. 13. The city council shall at its first (1st) meeting in April of each year, or as soon thereafter as may be, cause the city clerk to advertise in the official paper of the city for one (1) week, for sealed proposals for publishing in some daily or weekly newspaper, which shall have been printed, published and of general circulation in said city at least six (6) months prior to the making of such proposals, the ordinances, official proceedings of the council, and other matters required in the charter or the ordinances and resolutions of the city to be published in a public newspaper, such proposals to state the price per inch for the first (1st) insertion and for each additional insertion of all matters so to be published, said proposals to be marked "Proposals for advertising," and addressed to the city council, which proposals shall be opened at the next meeting of the council and the contract for such publishing awarded to such daily or weekly newspaper bidding the lowest therefor, which paper shall be declared the official paper of the city. *Provided*, That in determining which is the lowest bidder of the newspapers conforming thereto, regard may be had to the character and value thereof as a medium for advertising and for placing before the tax payers of said city and all persons interested therein, the matters herein provided to be advertised; and for the purpose of determining such character and value, the city council may require of the parties making such proposals such showing of the extent and character of the circulation of such newspaper, and other facts connected therewith as it may deem expedient, and in case any two (2) bids are the same, the council may by vote select one of such papers; *Provided further*, That the city council may reject all such proposals and adopt such other method of publishing such matter as it may in its discretion determine. *Provided further*, That the proprietor or proprietors of such paper shall enter into a written contract for the performance of the duties required of such proprietor or publisher, and give bond in the sum of five hundred dollars (\$500) with two (2) satisfactory sureties to be approved by the council, conditioned for the faithful performance of such contract. The daily or weekly newspaper so designated shall be and remain the official paper of said city, and the contract and bond aforesaid shall remain in force for the term designated, and until the city council shall designate another paper as the official paper of the city.

AFFIDAVIT OF PUBLICATION.

SEC. 14. The publisher or publishers of said official paper, immediately after the publication of any notice, ordinance or resolution, which by this act is required to be published, shall file with the clerk of the city a copy of such publication with his or their affidavit, or the affidavit of his or their foreman, of the length of time the same has

been published, and such affidavit shall be conclusive evidence of the publication of such notice, ordinance or resolution.

PROPOSALS AND CONTRACTS FOR JOB PRINTING.

SEC. 15. The city council shall at its first (1st) annual meeting in each year, or as soon thereafter as practicable, cause its city clerk to advertise in the same manner as hereinbefore prescribed in section fourteen (14) for sealed proposals for doing the job printing of said city; said bids to state the price per one thousand (1,000) ems for composition, the price per pound for paper, and the price per token for press work; which said bids shall be marked "Proposals for job printing," and addressed "to the city council of the city of Fergus Falls," and opened at its next meeting and the contract awarded to the lowest responsible bidder. *Provided*, That the city council may reject all such proposals and adopt such other methods for printing such matter as it may in its discretion determine; due regard being had to the facilities of the bidder to satisfactorily perform the work. *Provided always*, That such lowest bidder shall enter into a written contract for the performance of such job printing, with like bond and sureties as specified in section fourteen (14) of this chapter, for the faithful performance of such contract.

VOTE OF CITY COUNCIL—HOW RECONSIDERED.

SEC. 16. No vote of the city council shall be reconsidered or rescinded at a subsequent meeting, unless at such subsequent meeting there be present as large a number of aldermen as were present when the vote was taken.

FINES, PENALTIES, JUDGMENTS, &C.

SEC. 17. All fines, penalties, judgments and moneys that may be imposed, levied or collected by the municipal court or any other officer of the city for violation of any ordinance or by-law of said city, and in the possession of any officer of said city, or any of the laws of the state of Minnesota, shall be invested in and be the sole and exclusive property of said city.

SCHOOL DISTRICTS.

SEC. 18. The said city shall constitute one (1) school district, as the present village of Fergus Falls now constitutes one (1) school district; and this act shall in no manner affect said school district, its rights, powers or organization.

APPROPRIATIONS—FROM WHAT FUND PAID.

SEC. 19. All appropriations and expenses of the city not otherwise specially provided for, shall be paid out of the fund for the current expenses of the city.

SEC. 20. All acts and parts of acts heretofore passed for the incorporation of the city of Fergus Falls, and amendatory thereof, not necessary to carry out the provisions of this act, nor contained in or incorporated herein, and all acts inconsistent with this act, are hereby repealed; but the repeal of such acts and parts of acts shall not in any manner affect, injure or invalidate any bonds, contracts, suits, claims or demands that may have been duly and lawfully issued, entered into, commenced or that may exist under and by virtue, or in pursuance of the said acts, or any of them, but the same shall exist and be enforced and carried out as fully and effectually to all intents and purposes as if this act had not been passed.

And all ordinances, resolutions, regulations, rules, by-laws and orders of the city council of said city, or of the board of health of said city, or parts thereof not repealed, suspended or modified by this act, shall continue and remain of the same force and effect as if this act had not been passed, until altered, amended, repealed or suspended by the city council or by said board of health, in pursuance of this act.

And said city council may make, ordain and publish such ordinances as may be necessary to carry out the provisions of this act, not inconsistent with the constitution and laws of this state

SEC. 21. This act is hereby declared to be a public act, and may be read in evidence in all courts of law in this state without proof.

SEC. 22. This act shall take effect and be in force from and after its passage.

Approved March 6, A. D. 1888.