

## CHAPTER 4.

(S. F. 377.)

AN ACT TO REDUCE, CONSOLIDATE AND AMEND THE CHARTER  
[OF THE CITY] OF NEW ULM.*Be it Enacted by the Legislature of the State of Minnesota:*

SECTION 1. The act entitled, "An act to incorporate the city of New Ulm in the county of Brown and state of Minnesota, approved February twenty-fourth (24th), eighteen hundred and seventy-six, (1876) and all acts of the legislature amending the same, subsequently passed, are hereby amended, consolidated and reduced to one act, so that the same shall constitute the charter of the city of New Ulm, which shall read as follows:

## CHAPTER I.

## CITY AND WARD BOUNDARIES.

SECTION 1. That all that district of country contained within the limits and boundaries hereinafter described shall be a city by the name of "The City of New Ulm," and the people who now do and hereafter may reside therein shall be a municipal corporation by the name of the city of New Ulm, and by that name shall sue and be sued, and be impleaded in any court, make and use a common seal and alter it at pleasure, and take, hold, purchase, lease, sell and convey such real, personal and mixed estate as the purpose of the corporation may require, or the transaction or exigencies of the business may render convenient, within or without the city, and the same shall be free from taxation; shall be capable of contracting and being contracted with and have the general powers possessed by municipal corporations at common law, and in addition thereto shall possess the powers hereinafter specifically granted and the authorities thereof shall have perpetual succession.

SEC. 2. The boundaries of said city shall be as follows, viz: All the territory in the county of Brown lying and being in township number one hundred and ten (110) north, of range thirty (30) west, saving and excepting therefrom section number twenty-seven (27); section number thirty-four (34); west half of section number thirty (30); section number thirty-one (31); the south half of section number thirty-two (32); all in said town and range.

SEC. 3. The said city is hereby divided into three wards as follows, to-wit:

The First ward shall comprise all that part of said city included within the following boundaries: Commencing at a point on the boundary line of said city and there in the middle of the street between outlot No. two hundred and sixty-eight (268) and fraction "h" of said city, thence running in a northeasterly direction and following the centre line of said street to the centre line of Garden street, thence

along the centre line of said Garden street, and in a northwesterly direction to the centre line of Centre street, thence along the centre line of Centre street, and in a northeasterly direction to the Minnesota river, thence down the Minnesota river along the boundary line of said city to the point where the said river leaves the city limits, thence along the boundary line of said city to the point of beginning.

The Second ward shall comprise all that part of said city bounded as follows: Commencing at a point where the centre lines of Broadway and Centre streets cross each other, thence following the centre line of Centre street and in a northeasterly direction to the Minnesota river, thence up the Minnesota river and along the boundary line of said city to the point where the city limits leave said river, thence south and along the boundary line of said city to where the Winona & St. Peter railroad crosses the city limits, thence in an easterly direction and along the track of said railroad to the point where said track crosses the centre line of Broadway, thence along the centre line of Broadway to the point of beginning.

The Third ward shall comprise all the remaining portion of said city not included in the said First and Second wards.

SEC. 4. The city council of said city shall have the power by ordinance to change the boundaries of said wards or increase the number thereof, to not exceeding five (5), as the convenience of the inhabitants may require, such wards to contain as nearly as practicably an equal number of votes.

## CHAPTER II.

### ELECTIONS AND OFFICERS.

SECTION 1. There shall be held an annual election for elective officers hereinafter provided, on the first (1st) Tuesday of April of each and every year, at such place in each ward as the city council shall designate, and shall be conducted in all respects in accordance with the general election laws of this state, except as hereinafter qualified. Ten (10) days previous notice shall be given by the city council of the time and place of holding such election and the officers to be elected by the posting by the city clerk of the notices thereof at each place of election in the city and by publishing the same in the official paper of the city. The city council shall in due time before any election appoint such number of judges of election as may be necessary to constitute a full board for each election district, as provided by general law.

SEC. 2. Special election for any purpose shall be held and conducted in all respects as general or annual elections under this charter, and upon a notice of not less than ten (10) days, which notice shall distinctly specify the object of said election.

SEC. 3. The elective officers of said city shall be a mayor, city clerk, treasurer, two (2) justices of the peace, who shall be styled city justices, and two (2) constables, all of which said officers shall be resi-

dents and qualified voters at such election of said city, and a city council consisting of two (2) councilors from each ward, who shall be residents within and qualified voters of the ward for which they may be elected; and all of said officers shall hold their respective offices for two (2) years and until their successors are elected and qualified. *Provided* that the present officers of said city shall hold their offices for the full term for which they were elected; and the city council shall so arrange, as soon as practicable, that each ward elects one councilor each year, except to fill vacancies; and for that purpose shall previous to the first election next to be held under this charter and at any subsequent election in case of filling vacancies, designate for what term, if any, councilors shall be elected in each ward in order to arrive at and maintain the desired requirement of electing one (1) councilor each year in each ward.

SEC. 4. The official term of all officers elected under the provisions of this act, shall commence on the second (2d) Tuesday of April next succeeding their election.

SEC. 5. Whenever a vacancy shall occur in the office of any elective officer of said city, excepting that of mayor, which is hereinafter provided for, such vacancy shall be filled by appointment by the city council until the next annual election, and the successor of such person so appointed to fill any vacancy, as aforesaid, shall be elected at such election for the unexpired term.

SEC. 6. Any officer removing from the city, or ward, for which he was elected or appointed, or who shall neglect or refuse for ten (10) days after notice of his election or appointment, to qualify or enter upon the discharge of the duties of his office, shall be deemed to have vacated the same, and the city council shall declare the office vacant, and proceed to fill such vacancy as herein prescribed.

SEC. 7. At the first meeting of the city council after the annual election in each year, they shall proceed to elect by ballot from their own number a president of the council, who shall hold that office for one (1) year, or while he is a member of such body during that period, and vacancies in the office of president of the council shall be filled by the city council for the unexpired term. The president of the council shall, during the absence of the mayor from the city, or his inability, from any cause, to discharge the duties of the office, exercise all the powers and discharge all the duties of the mayor, and when so acting, shall be styled, "Acting Mayor," and acts performed by him, as aforesaid, shall have the same force and effect, as if performed by the mayor.

SEC. 8. In case of a vacancy in the office of the mayor by death, resignation or otherwise, the president of the council succeeds to the office of and becomes mayor of the city until the next annual election and the vacancy caused thereby in the city council, shall be filled by that body as herein provided. In the absence from the city of both the mayor and president of the council, or their inability to discharge the duties of their respective offices, and it should be necessary or proper that either of said officers should discharge a public or official duty in said city, the city council shall meet forthwith and appoint of

their own number a president *pro tem*, who shall become acting mayor and exercise all the powers and duties of said office for the time being.

SEC. 9. All persons entitled to vote for state or county officers, and who shall have resided in the city of New Ulm for four (4) months immediately preceding the election, and ten (10) days in the ward in which they offer to vote, and shall be a bona fide resident of said city at the time of election, shall be entitled to vote for any officer at any election held under this act; and a plurality of votes shall constitute an election.

SEC. 10. Whenever a proposition is voted upon, that money shall be borrowed or bonds shall be issued for and in behalf of said city, then and in that case, only the qualified voters who have paid taxes to the county treasurer of said county for the year immediately preceding the election, or are assessed to a taxable amount, at the time of the election, for property in New Ulm, shall be allowed to vote, and the judges of election are authorized to require the production of the proper tax receipt or evidences of assessment for their inspection, or other satisfactory proof thereof; and any person refusing or neglecting to comply therewith, shall not be allowed to vote. If said proposition is voted upon at the same time when officers, or other propositions are voted upon, then in that case, a separate ballot shall be used for the above purpose, and deposited in a separate ballot-box provided therefor; and all votes not cast in compliance with the above shall not be counted.

SEC. 11. Whenever two or more candidates for an elective office shall receive an equal number of votes for the same office, the election shall be determined by the casting of lots in presence of the city council, at such time and in such manner as they may direct; of which time and place said candidates shall have notice.

SEC. 12. Each ward shall constitute an election district for state, county as well as city elections. The elections in said city shall be held and conducted by the councilors of each ward and one or more electors of said ward, to be appointed by the city council, who shall be the judges of election, and they shall have the power to appoint the clerks of such election. In all other respects the elections are conducted in the same manner and under the same penalties, judges and clerks of election having the same duties and powers, receive the same compensation, and vacancies in the board are filled, all as required by the laws of this state regarding elections, except that the returns of all elections for city officers shall be made to the city clerk as hereinafter provided; *Provided*, that no candidate for office at any such election shall act as judge or clerk of election.

SEC. 13. Whenever any city election shall be closed, and the votes cast thereat counted, and the result ascertained, the said election-board shall make return thereof, with an abstract of the whole number of votes cast at such election, stating the whole number of votes for each person for each office, or upon any or all propositions affirmative and negative of any proposition, submitted to the people of said city at such election, and shall within two (2) days deliver or cause to be delivered, by one of their number, into the hands of the

city clerk, such abstract and return; and the city council shall meet and canvass said returns, and declare the result, as appears from the same, within three (3) days thereafter. The city clerk shall then forthwith notify the officer or officers elected, of their election, by written notice served upon such officers in person, or left at their last usual place of abode with some person of suitable age and discretion. Certificates of election shall be issued to all elective officers of said city, under the direction of and in manner and form as the city council may prescribe.

SEC. 14. Should there be a failure by the people, for any cause, to hold any city election at the time or in the manner herein prescribed, or to elect any officer herein required to be elected, on the day designated, the city council may order a new election to be held, ten (10) days' notice of the time and place being given; *Provided*, that no failure of the city clerk to give the notice of election specified in section one (1) of this chapter, shall in any manner invalidate any general election.

SEC. 15. The mayor shall, except as herein otherwise provided, at the first meeting of the city council after the annual election, or an adjournment thereof, nominate and appoint, with the advice and consent of that body, a city attorney, city marshal, city surveyor, assessor, street commissioner, poundmaster, and also at the same time, or as soon thereafter as may be, all such other officers necessary for the proper management of the affairs of the city, or officers created by virtue of this act.

SEC. 16. The official term of all officers of the city, appointed by virtue hereof, shall commence on the third (3d) Tuesday of April next succeeding their appointment, and shall hold their respective offices for one year and until their successors are appointed and qualified, except as herein or otherwise differently provided. Warrants of appointment shall be issued to all appointed officers of said city in such form and manner as may be prescribed by the city council.

## CHAPTER III.

### POWERS AND DUTIES OF OFFICERS.

SECTION 1. Every person appointed to any office by the city council, or elected to any city office by the people may be removed from said office by a vote of two-thirds ( $\frac{2}{3}$ ) of all the city councilors. But no officer elected by the people shall be removed except for cause, nor unless furnished with a written statement of the charges against him, nor until he shall have had a reasonable opportunity to be heard in his defense. 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 have power to compel the attendance of witness and the production of books and papers, and to hear and determine the case; and if said officer neglects to appear and answer the charges against him, the city council may declare the office vacant.

SEC. 2. Every person elected or appointed to any office under this act, shall, before he enters upon the duties of such office, take and subscribe an oath of office, and file the same, duly certified by the officer administering the same, with the clerk of said city, and the treasurer and such other officers as the city council may direct, shall, before entering upon the duties of their respective offices, be required to execute such bond to the city of New Ulm, as the council thereof may direct and approve, for the faithful performance of the duties of such office, and such bond may be increased or diminished at the pleasure of the council, and any officer failing to give the required bond at any time may be removed from said office by the council.

SEC. 3. The mayor shall take care that the laws of the state and the ordinances of the city are duly observed and enforced, and that all other executive officers of the city discharge their respective duties properly. He shall from time to time give the council such information and recommend such measures as he may deem advantagous to the city. He is invested with the veto power. The mayor shall be the chief executive officer and head of the police of the city, and shall by virtue of his office, nominate for appointment all police officers and watchmen, except when otherwise provided for. He is clothed with the power to call upon any male inhabitant over the age of eighteen (18) years and organized or unorganized force of armed citizens of said city to aid in the enforcement of the laws and suppression of disturbances and any person, when so directed, who shall not obey such call or render such aid, shall upon conviction before the city justice or other magistrate having jurisdiction thereof be fined not less than five dollars (\$5) nor more than one hundred dollars (\$100). In case of riot, large public gathering, or other disturbance, he may provide and appoint as many special or temporary policemen or watchmen, as he may deem necessary, and any policemen or watchmen so appointed by the mayor as aforesaid may be discharged by him whenever he sees fit; but such special or temporary appointments shall not continue for more than one week without the consent of the city council.

SEC. 4. 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 with the city clerk to be presented to the council at their next meeting thereafter; and upon the return of any resolution or ordinance by the mayor, the vote by which the same was passed shall be reconsidered, and if after such consideration the city council shall pass the same by a vote of two-thirds of all the councilors, it shall have the same effect as if approved by the mayor, and in such case the votes shall be by ayes and noes, which shall be entered by the city clerk. If an ordinance or resolution shall not be returned by the mayor within five (5) days (Sunday excepted) after it shall have been presented to him, the same shall have the same effect as if approved by him. All contracts appropriations and orders drawn on the treasurer, shall be signed by the mayor.

SEC. 5. The mayor may also 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 the 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 of the limits named in such appointment. The mayor shall, whenever he deems it necessary, 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.

SEC. 6. The acting mayor has all the powers and duties of the office of mayor, when he for any reason properly assumes to act as such, and all acts performed by him when so acting, shall have the same force and validity as if performed by the mayor.

SEC. 7. The president of the council shall preside over the meetings of the city council and perform such of the duties as are herein prescribed or conferred upon him as such presiding officer. He shall have no vote except in case of a tie when he shall cast the deciding vote. In the absence of the president of the council from any council meeting a president *pro tem* may be elected, who shall for such meeting have the same power as the president. *Provided*, That the present mayor of the city shall preside over the meetings of the city council up to the next charter election hereunder.

SEC. 8. There shall be a clerk of said city, styled the city clerk, who shall keep his office at the place of meeting of the city council, or such other place convenient thereto as the council may determine. He shall keep the corporate seal and all the papers and records of the city, or papers by law required to be filed in his office, and keep a record of the proceedings of the city council, at whose meetings it shall be his duty to attend, and shall keep a record of the ayes and nays when demanded by any member of the council. Copies of all papers filed in his office, certified by him under the corporate seal, shall be evidence in all courts as if the original were produced. He shall draw and countersign all orders on the city treasurer in pursuance of an order or resolution of the city council and keep a full and accurate account thereof in books provided for that purpose. The city clerk shall have power to administer oaths, affirmations and take acknowledgments. It shall be the duty of the city clerk to report to the council the financial condition of the city, whenever the city council may require. He shall make and keep a list of outstanding city bonds, to whom issued, for what purpose, when and where payable and the rate of interest they respectively bear. He shall report to the council annually at the close of each fiscal year a detailed statement of the receipts and expenditures for the year and an estimate of the expenses of the city and likewise the revenue necessary to be raised for the current year; the fiscal year shall commence at such time as may be determined by the city council. Every contract made in behalf of the city or to which the city is a party, shall be void unless attested by the signature of the city clerk and the seal of said city attached

thereto, except as otherwise provided in this act. He shall keep regular books of accounts in which he shall enter all the indebtedness of the city and which shall at all times show the precise financial condition of the city, he shall countersign all bonds, orders or other evidences of indebtedness of the city. All claims and demands against the city, before they are allowed by the city council, shall be filed in his office verified by the oath of the claimant. He shall perform all other services by law required of clerks of cities or townships within said city, but when services are required of him by public law, for which compensation is made from state or county treasury, such service shall not be regarded as services for the city and he may retain such compensation in addition to the salary paid him by the city. The city clerk shall perform such other and further duties as may be prescribed herein or by any ordinance of said city, and any fees allowed to him by any ordinance may be retained by him in addition to his regular salary.

SEC. 9. The city council shall, whenever it is deemed necessary, have the power to appoint upon the nomination of a clerk, a deputy clerk. Whenever the clerk and deputy clerk are absent or are for any reason unable to act, the city 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 duties and liabilities, as the city clerk, and shall be paid for their services out of the salary of the city clerk.

SEC. 10. The city attorney shall be a person admitted to practice law in all courts of this state, and shall be the legal adviser of all officers of said city upon all subjects arising by virtue of this act. He shall attend and prosecute or defend all suits, actions or proceedings, either civil or criminal for or on behalf of said city or in which the city may be a party. He shall, when required, furnish written opinions upon any subject, arising by virtue of this act, submitted to him by the city council or any of its committees, attend the meetings of the city council, when requested, and shall perform all other professional services incident to his office. He may in his temporary absence, or other inability, at his own expense, with the approbation of the mayor, designate some other attorney to act in his stead for the time being.

SEC. 11. The treasurer shall receive all moneys, including all taxes, license moneys, fines and other revenues belonging to the city, keep an accurate and detailed account thereof, in such manner as the council may direct, shall pay out money only on orders drawn upon him duly signed by the mayor, and attested by the clerk of said city, and make such reports, exhibits and perform such other and further duties as may be required by the charter or ordinance of said city.

All the funds of the city of New Ulm shall be deposited by the city treasurer, in one or more national, state or private bank or banks in the name of the city treasurer in his official capacity and not otherwise, whenever the city council may so direct. Such bank or banks shall be designated or redesignated by the city council in their discretion at any time after advertising in one or more newspapers in the



county (or if the public interests may require, in one or more newspapers published in the state), once in each week for at least two weeks, for proposals stating what security would be given to said city for such funds and what interest on monthly balances of the amount so deposited, on condition that the said funds with accrued interest shall be held subject to draft and payment at all times on demand.

Before any such bank or banks shall be designated as such depository, such bank or banker shall deposit with the city clerk of said city, for the examination and approval by the city council, a bond with two (2) or more sureties payable to the city of New Ulm, and shall be in such amount and for such period as the city council shall direct, which amount shall be at least double the amount of funds to be deposited with such bank or banker.

Whenever any portion of the funds of said city shall be deposited by the city treasurer in the manner as provided by this act, such treasurer and the sureties on his bond shall be exempt from all liabilities thereon by reason of the loss of any such deposited funds from the failure or other acts of such bank to the extent and amount of such funds in the hands of such bank.

Each depository designated under the provisions of this act shall at all reasonable times permit an examination of the city treasurer's account upon the books of said depository by the city council or a committee appointed for that purpose. All sums of interest accruing upon the funds deposited with any bank or banker under the provisions of this act shall be credited to such deposit account on the first day of each month for the month preceding, and a monthly statement of such interest as computed on the balances shall be rendered to the city clerk forthwith, who shall charge the city treasurer with the amount thereof and credit the same to the general fund.

SEC. 12. The city justices shall possess all the authority, powers, rights and duties, and receive a like compensation as justices of the peace of this state, and have concurrent jurisdiction with justices of the peace of the county of Brown, and shall have exclusive jurisdiction to hear all complaints, conduct all examinations and trials for offenses committed within the city cognizable before a justice of the peace, and they have further exclusive jurisdiction to hear and try all complaints cognizable before a justice of the peace for violations of any provision or provisions of this charter and any ordinance, by-law, rule or regulation made or adopted by virtue hereof, and in all cases of offenses committed against the same and all cases in which the city is a party.

In all prosecutions for assault, batteries and affrays, and for all other offenses not indictable, and in all civil suits or proceedings before said city justices, the same forms and proceedings shall be had and used, when not otherwise herein directed, as are established and required to be had in civil and criminal actions by the laws of this state before a justice of the peace. *Provided*, that in cases of prosecutions for a breach or violation of an ordinance, by-law or regulation of said city or its charter, or for any assault, battery or affray, or other offense cognizable by a justice of the peace, or by the city

justices, committed within the city limits, no appeal shall be allowed when the judgment or fine imposed, inclusive of costs, does not exceed twenty-five (25) dollars.

In all cases of conviction for assaults, batteries and affrays within said city, and in all cases of conviction under any ordinance of said city for breaches of the peace, disorderly conduct, keeping houses of ill-fame, or frequenting the same, and of keeping or maintaining disorderly or ill-governed houses, the said justices shall have power, in addition to the fine or penalty imposed, to compel such offenders to give security for good behavior and to keep the peace for a period not exceeding six (6) months and in a sum not exceeding five hundred (500) dollars.

All fines and penalties imposed by said city justices for offenses committed within the limits of said city for the violation of any ordinance, by-law or regulation of said city, shall belong to and be a part of the general revenue of said city. The city justices shall also have power, in cases under this charter and ordinances of the city, when punishment is by imprisonment, or by imprisonment in default of payment of fine, to sentence the offender to hard labor in any workhouse established or designated by the city for that purpose, or in case of male offenders to sentence them to labor on the streets, public works or improvements of the city, until such person shall work out the amount of such fine and costs at such a rate per day as the city council may fix upon; and may punish and sentence such offenders by imprisonment and to be fed on bread and water whenever to their discretion it appears just and proper.

The city justice shall have authority and may commit any person or persons liable to imprisonment under the charter or ordinances of said city, to the county jail of Brown county, and such persons shall be in charge of the sheriff of said county, as in other cases, except as provided herein.

In all actions, prosecutions, and proceedings of every kind before either of the city justices, such city justice shall take judicial notice of all ordinances of said city, and it shall not be necessary to plead or prove such ordinance in said courts.

SEC. 13. In the absence, sickness, or other inability of both of the city justices, the mayor may by warrant, authorize any other justice of the peace of the county of Brown, to act and perform; within said city, the duties of said city justices, who shall possess for the time being, all the authority of a city justice without any further act whatever, and in such case, it shall be the duty of the mayor to inform the city attorney and marshal of such substitution.

SEC. 14. Said city justices shall be in attendance at their offices for the transaction of business at such reasonable hours as the city council may prescribe, and complaints may be made to, and writs and process shall, on request, be issued by them, at all times in court or otherwise.

SEC. 15. The said city justices shall, as often as the city council may by rule prescribe, make report to that body of all proceedings instituted before them in which the city is interested, and also account

for and pay over to the city clerk all fines and penalties collected by them belonging to the city; and said justices shall be entitled to receive from the county of Brown such fees in criminal cases as are allowed by statute to justices of the peace for similar services.

SEC. 16. The constables of said city shall possess all the authority, rights, powers, and duties and receive like compensation for their services as constables under the general laws of this state.

SEC. 17. The city marshal shall be the chief of police of said city and shall perform such duties as shall be prescribed by the city council for the preservation of the public peace and as may be required of him by ordinance.

All police officers of said city shall be and possess the powers of constables at common law, or by the laws of this state, and it shall be their duty to execute and serve all warrants, process, commitments and all writs whatsoever, issued by the city justices, for any violation of the laws of the state of Minnesota, or the ordinances, by-laws or regulations of said city, and also all writs and process issued by said city justices in civil actions; and they shall have authority to pursue and arrest any person fleeing from justice anywhere in this state, and when performing the duties of constables as aforesaid, shall be entitled to like fees. It is the duty of all police officers to see that all ordinances, health and police regulations are duly observed. Watchmen shall have authority to arrest and detain any person guilty of any breach of the peace, or of any violation of the laws of this state, or the ordinances or by-laws of the city; and for these purposes, shall have the powers of constables at common law while on duty. *Provided*, That no person shall be eligible to an appointment of police officer, who is not able to read and write the English language, of good health and physique, and a resident and citizen of said city.

SEC. 18. If any person shall, without authority, assume to act as a policeman or wear the badge of a policeman within said city, he shall be deemed guilty of a misdemeanor, and on conviction thereof before one of the city justices, he shall be fined such amount or imprisoned for a time not exceeding ninety(90)days in the discretion of the court.

SEC. 19. The assessor shall at the time of his appointment be a resident, freeholder and qualified elector of said city, shall have and possess all the authority, rights, powers and duties of assessors under the general laws of this state, except as hereinafter provided and qualified. Nothing herein contained shall be construed to prevent one person from holding the offices of city clerk and assessor at the same time.

SEC. 20. The city council may also, whenever it may deem it necessary, authorize the said assessor to appoint one or more assistants, who shall have the same qualifications as the assessor, to aid him in said assessment, and whose compensation shall be fixed by the city council, but no appointment of assistants shall be valid or in force until the same is confirmed by vote of the city council.

SEC. 21. The city council shall constitute the board of review and a majority thereof shall constitute a quorum, who shall be sworn according to law as such board, and meet at the council rooms in said

city at the time provided by law for the meeting of town boards of review, and revise, amend and equalize the assessment made by the city assessor. It shall be the duty of the assessor to be present at all meetings of said board and act as clerk thereof, and present to them all facts relating to the assessment. Such board of review is vested with all the powers which are or may be vested in country boards of equalization under the general laws of this state; but shall not be restricted by any limitation in respect to reducing aggregate sums of real and personal property as returned by the assessor. They shall receive as compensation for their services the sum of two (2) dollars per day.

SEC. 22. The duties of the city surveyor shall be prescribed by the city council and said officer shall be a practical surveyor and engineer. He shall file with the city clerk all surveys, plats, plans and estimates made by him for the city and they shall be the property of said city and open for the inspection of all parties interested.

SEC. 23. The street commissioner shall, under the direction of the council or a committee thereof, superintend all work and improvements on the streets, bridges and public grounds of said city, and carry into effect all orders and ordinances of the city council or orders of the street committee of said body in relation to work or improvements on the streets, roads, sidewalks, alleys, bridges and public grounds, and it shall be his duty to see that the same, when graded and opened for travel, are kept clear from obstruction and in such repairs as to be safe and passable, and shall perform such other services as hereinafter prescribed, and account for all moneys collected or property received or under his control belonging to the city.

SEC. 24. No street commissioner shall be interested in any contract for any work to be done under his charges, nor be allowed compensation for any use of team owned by himself or in which he has an interest. In the collection of the corporation or poll tax, the street commissioner shall have all the powers as possessed by road overseers under the laws of the state.

SEC. 25. The city council may divide said city into two or more road districts and then that body may appoint a sufficient number of street commissioners, who shall have the same powers and duties as are prescribed in the preceding sections.

SEC. 26. The city council, at their first meeting after the annual election in each year, or as soon thereafter as may be, shall designate one newspaper, printed in said city, as the official paper of the city, in which shall be published all ordinances and other proceedings and matters required by this act, or the by-laws or ordinances of the city council, to be published in a public newspaper. *Provided*, That the city council may order the publication of ordinances, advertisements, proceedings or such resolutions as may be of general importance, in such other newspapers as they may direct. The printer of the official paper so designated shall be styled city printer.

SEC. 27. Any person having been an officer of said corporation, shall, within three days after notification and demand, deliver to his successor in office, or other duly authorized person or persons, all

property; papers and effects of every description, in his possession belonging to said city or pertaining to his office, and if he fail so to do, he shall forfeit and pay to the use of said city the sum of five hundred (500) dollars, to be recovered in a civil action, besides all damages caused by his neglect or refusal to so deliver, and said successor may receive possession of such books, papers and effects in the manner prescribed by the laws of this state.

SEC. 28. The city printer or printers, 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 printer or foreman of the length of time the same has been published, and such affidavit shall be conclusive evidence of the publication of such matter, and no account for the publication of such notice, ordinance, resolution or other matter shall be allowed or paid by the city council until such proof of publication has been made and filed.

SEC. 29. The poundmaster shall have the same authority as police officers in enforcing the ordinances of said city against cattle or other animals running at large and for impounding the same.

SEC. 30. All officers of the city having charge of any city property shall, at the close of each fiscal year, and at other times when required, make and return to the city council, a complete inventory of all public property in their hands or control respectively.

Such inventories shall be preserved 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 council shall so specially direct.

SEC. 31. The city council shall have the power at any time to define and require other and further duties to be performed by any officer whose duties are herein prescribed, not inconsistent with this act, and to create such further offices and appoint such other officers as may be necessary to carry into effect the provisions of this act, and to prescribe their powers and duties and fix their compensation unless herein otherwise provided for.

SEC. 32. The city council shall have the power to fix the compensation or salary of all officers elected or appointed under this act. They also have the power to fix their own salary or per diem for the time necessarily spent in attending to the duties of their office, and attending their meetings.

All salaries or compensations shall be fixed by resolution at the time the office is created and at the commencement of the official year, or as soon after election or appointment as practicable, and when so fixed, shall not be increased or diminished during the term, for which such officers shall have been elected or appointed.

SEC. 33. All officers of the city, while holding such office, shall be exempt from serving as jurors in any court.

SEC. 34. That no city councilor or other officer of said city, while acting as such, shall directly or indirectly, be a party to or interested or concerned in any contract or job with said city, or in any work prosecuted by its authority, or in the compensation to be received

therefor, or in the furnishing of supplies, fuel or other articles purchasable for the public use, and any contract or transaction prohibited as aforesaid, shall be void, and any city officer so offending shall, on conviction thereof, be removed from office by the city council.

SEC. 35. The mayor, or acting mayor, sheriff of the county of Brown, or his deputy or deputies, coroner, and each city councilor, the city justices, chief of police, constable, police officers and watchmen, shall be officers of the peace, and shall command the peace and suppress in a summary manner all rioting and disorderly behavior within the limits of the city, and for such purposes may command the assistance of by-standers, and, if need be, all the citizens, organized or unorganized armed forces, and military companies; and if any person, by-stander, military officer or private shall refuse to aid in maintaining the peace when so required. each person shall forfeit and pay a fine of not less than ten (10) dollars nor more than fifty (50) dollars; and in case where the civil power may be required to suppress riots or disorderly behavior, the superior or senior officer present, in order named, shall direct the proceedings.

SEC. 36. The mayor, president of the council, or presiding officer thereof, the presiding officer of the board of review, and the chairman of the board of public works, shall by virtue of their office, in all matters or proceedings before them relating to or pertaining to the city, be and are hereby empowered to administer oaths and receive testimony under oath or affirmation.

## CHAPTER IV.

### THE CITY COUNCIL—GENERAL POWERS AND DUTIES.

SECTION 1. The city councilors shall constitute the city council of the city of New Ulm, and a majority thereof shall constitute a quorum, but a small number may adjourn from day to day and compel the attendance of absent members. The style of all ordinances shall be, "The City Council of the City of New Ulm do ordain."

SEC. 2. The city council shall hold regular or stated meetings at such times and places as they by resolution may direct. The first regular meeting after the annual election shall be held on the second (2d) Tuesday of April in each and every year. The mayor, or at his refusal, any four councilors may call special meetings by notice to each of the members, to be delivered personally or left at their usual place of abode.

SEC. 3. The city council shall be the judges of the election, return and qualification of its own members and in such cases shall have the power to send for persons and papers. It shall determine the rules of its own proceedings, punish its members for disorderly conduct and with the concurrence of two-thirds ( $\frac{2}{3}$ ) of all the councilors elected, expel a member after due notice given and an opportunity extended to the accused to be heard by counsel or otherwise; shall have power to compel the attendance of absent members and may provide

for the punishment of such absent members. Continued absence from the meetings of the city council by any of its members for six regular consecutive meetings shall be deemed good cause for removal.

SEC. 4. The city council shall keep a journal or record of its proceedings; and ayes and noes, when demanded by any member present, shall be entered on the journal.

SEC. 5. The city council shall have the management and control of the finances and all the property of the city, and shall likewise, in addition to the power herein vested in them, have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify, amend and repeal all such ordinances, by-laws, rules and regulations for the government, good order, and cleanliness of the city, the protection of its property, for the suppression of vice and intemperance, the benefit of trade and commerce, and for the prevention of crime as they shall deem expedient; they shall have power to establish and maintain a city prison, work-house, and watch-houses, and make all needful rules and regulations therefor; for the imprisonment, custody and safe-keeping of all persons arrested for or charged with any offense whatever. The council shall have the exclusive right to exercise all the legislative powers granted by this act to the corporation and has full power and authority to declare, and impose penalties and punishments, and enforce the same against any person or persons who may violate any of the provisions of any ordinance, by-law, rule or regulation passed or ordained by them; and all such ordinances, by-laws, rules or regulations are hereby declared to be and to have the force of law. *Provided* they be not repugnant to the constitution and the laws of the United States, or this state; and for these purposes shall have authority by ordinance, by-law, resolution or regulation.

*First*—To regulate and license exhibitions of common showmen and shows of all kinds, circuses, the exhibition of caravans, concerts and theatrical performances, also to license and regulate all auctioneers, hawkers, peddlers, public halls and other buildings and enclosures used for public resort and amusement, billiard tables, pigeon-hole tables, nine or ten-pin alleys, bowling saloons, taverns and saloons, and all persons vending, dealing in or disposing of spirituous, vinous, malt or fermented liquors, and to provide and enforce such restrictions or prohibitions therefor as to the council seem proper. *Provided*, That all licenses for dealing in spirituous, vinous, malt or fermented liquors shall terminate on the first (1) day of May of each year, and shall be at least fifty dollars (\$50), and as much higher as the city council shall direct, and the city council shall have the exclusive right to so license any person. And, *provided further*, that the city council may grant licenses to druggists and apothecaries to sell spirituous liquors within said city for medicinal, chemical and mechanical purposes only, for such sum as they may deem just and proper without regard to saloon licenses. And, *provided further*, that the city council shall not issue any licenses for the sale of spirituous, vinous, malt or fermented liquors for any sum less than the sum fixed under the provisions of any general law of this state.

*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 authorize the seizure and destruction of all instruments or devices used for the purpose of gambling.

*Third*—To prevent any rioting, noise, disturbance, disorderly, noisy or boisterous behavior or conduct, 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 or inmates thereof.

*Fourth*—To compel the owner or occupant of any cellar, tallow-chandler shop, soap-factory, tannery, stable, barn, privy, sewer, or other unwholesome or nauseous house or place, to cleanse, remove, or abate the same from time to time and as often as may be necessary for the health, comfort and convenience of the inhabitants of said city. To establish and maintain a public library and reading rooms.

*Fifth*—To regulate or prohibit the slaughtering of animals within said city, to direct the location and management of slaughter-houses and markets, breweries, distilleries, and to establish rates for and license venders of gunpowder, and regulate the storage, keeping and dealing in and conveying of gunpowder or other explosives, or combustible oil, substance or material.

*Sixth*—To prevent the encumbering of streets, sidewalks, alleys, lanes, or other public grounds, with carriages, carts, wagons, sleighs, boxes, lumber, firewood, posts, awnings, or any other material or substance whatever.

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

*Eighth*—To restrain the running at large of horses, mules, cattle, swine, sheep, poultry, geese, or other animals, and to authorize the distraining and sale of the same, and to impose penalties on the owners of such animals for violation of the ordinances. *Provided*, That when a sale of such animals shall be made, the proceeds thereof, after deducting the expenses of distraining, keeping, advertising and selling of such animals, shall be deposited in the office of the treasurer of the city, for the use and benefit of the owners thereof, if called for by such owner within one (1) year from the day of sale, otherwise the same shall belong to the city.

*Ninth*—To prevent the running at large of dogs, may impose a tax or license on the same, impose fines upon the owners or keepers and authorize the destruction or killing of dogs when at large contrary to the ordinances.

*Tenth*—To prevent all persons riding or driving any horse, mule, ox, or other animal on the sidewalks or other public grounds or property in said city, or in any way doing any damage to said sidewalks, grounds or property.



*Eleventh*—To establish and regulate boards of health, provide hospitals and hospital grounds, the registration of births and deaths, and the returns of bills of mortality, and to regulate or prevent, if deemed expedient, the burial of the dead within the city limits, and to purchase and hold grounds for a public cemetery, to improve and ornament the same and make all regulations necessary for the care, protection and government thereof.

*Twelfth*—To prevent the discharging of fire arms or crackers, and to prevent the exhibition of any fireworks in any situation which may be considered by the city council dangerous to the city or any property therein, or annoying to any of the citizens thereof.

*Thirteenth*—To regulate the size and weight of bread, and to provide for the seizure and forfeiture of bread baked contrary thereto, to regulate the inspection of flour, pork, beef, salt, fish, whiskey and other liquors and provisions; and to appoint inspectors, measurers, weighers, and gaugers and to prescribe and regulate their duties and compensation.

*Fourteenth*—To restrain and punish vagrants, tramps, mendicants, street beggars and prostitutes.

*Fifteenth*—To prevent open and notorious drunkenness, immoderate drinking, brawling and obscenity in the streets, alleys, stores, saloons or public places of the city, and to provide for the arrest and punishment of all persons who shall be guilty of the same.

*Sixteenth*—To direct and regulate or prohibit in any parts of the city the planting and preservation of shade or ornamental trees in streets, alleys, highways and public grounds of the city and to provide for the punishment of any violation of the ordinances thereto relating.

*Seventeenth*—To regulate the place and manner of weighing and selling hay, straw or other substances or feed, and the measuring, weighing and selling of firewood and other fuel and to appoint suitable persons to superintend and conduct the same; to provide for a standard of weights and measures; for the appointment of a city sealer, 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.

*Eighteenth*—To provide for, describe and regulate, or prohibit the proper erection of hitching posts or rings for fastening horses or other animals, or to prohibit the same in any portion of the city, in its discretion.

*Nineteenth*—To define and declare what shall constitute a nuisance and enact ordinances to prevent the same and punish violations thereof, and to remove and abate any nuisance injurious to the public health or morals, and to provide for the punishment of all persons who shall cause or maintain such nuisance.

*Twentieth*—To remove and abate any nuisance, obstruction or encroachments upon the streets, alleys, public grounds and highways of the city.

*Twenty-first*—To do all acts and make all regulations which may be necessary and expedient for the preservation of health and the sup-

pression of disease and to make regulations to prevent the introduction of contagious diseases into the city, to make quarantine laws, and enforce the same within the city.

*Twenty-second*—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 any putrid or unsound meat, flesh or fish, or hides or skins of any kind; to provide for the punishment for any violation of same, and to authorize the removal of the same at the expense of the owners.

*Twenty-third*—To establish and construct public pounds, pumps, wells cisterns reservoirs and hydrants, to provide for the erection of and control of waterworks and water supply to the inhabitants of the city, and regulate water-rates; create, alter and extend water districts; for the lighting of the city, to create, alter and extend lamp-districts; to control the erection of gasworks or other works for the lighting the city, streets, public grounds and public buildings.

*Twenty-fourth*—To regulate and license hacks, drays, carts, omnibuses, wagons and other vehicles engaged in hauling or carrying for hire, and the charges of the drivers of such vehicles, prescribe standing places in the streets therefor, and to authorize the mayor or chief of police to regulate and direct the locations of vehicles in the streets or alleys within said city.

*Twenty-fifth*—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. Also to compel the owners of low grounds where water is liable to collect and become stagnant, to fill or drain such low places, and in their default, to authorize such filling or draining at the expense of such owner or owners.

*Twenty-sixth*—To license and regulate butcher shops and stands for the sale of game, poultry, butcher's meats, butter, fish and other provisions.

*Twenty-seventh*—To regulate the time, manner and place of holding public auctions or vendues and sales at public outcry.

*Twenty-eighth*—To restrain and regulate parties, processions, runners, porters, agents and solicitors for boats, vessels, stages, cars, public houses or other establishments.

*Twenty-ninth*—To establish public markets and other public buildings, make rules and regulations for the government of the same, and to restrain all persons from interrupting or interfering with the due observance of such rules and regulations, and to appoint suitable officers for overseeing, caring for and protecting the same.

*Thirtieth*—To prevent, control and regulate the landing of persons from boats, vessels or other conveyances whereon are contagious or infectious diseases or disorders, and to make such disposition of such persons as to preserve the health of the city; and also to regulate,

control and prevent the landing of paupers and persons in destitute conditions into the city not having a legal settlement or residence therein, and to require that such persons be taken back to the place from whence they may have been brought by the persons bringing or leaving them in said city.

*Thirty-first*—To provide for, create and establish the police of said city, to prescribe the number of police officers and their duties and regulate the same, and to provide for watchmen, designate their number and duties, and regulate the same.

*Thirty-second*—To regulate or prohibit the carrying or wearing by any person of concealed, dangerous or deadly weapons, and to provide for the confiscation thereof to the city.

*Thirty-third*—To control and regulate the cutting of ice in the Minnesota river within or along the boundary line of the limits of said city.

*Thirty-fourth*—To regulate the opening of hatchways and compel proper guards about the same.

*Thirty-fifth*—To regulate the movement and speed of railroad locomotives and cars, to require the maintenance of flagmen, or the construction and maintenance of gates at the crossings of railroad tracks over such streets and highways as the city council may deem necessary, to prevent any railroad company from obstructing the streets or crossings in said city for a time exceeding ten (10) minutes, accidents excepted, and any conductor or engineer of any railway train, car, or locomotive, who shall obstruct any street crossing in said city, with such train, car or locomotive for a time exceeding ten (10) minutes, shall be guilty of a misdemeanor and on conviction be fined not less than ten (10) dollars nor more than one hundred (100) dollars and costs and be imprisoned until such fine and costs are paid, not exceeding ninety (90) days in the discretion of the court.

*Thirty-sixth*—To compel railroad companies to grade their crossings of the streets, alleys and highways in the city to the full width and length of their right of way in said streets, alleys or highways, 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 across the full width of their right of way in the streets, alleys and highways in said city, when and where the same shall be deemed necessary by the city council of said city.

*Thirty-seventh*—To name, change and regulate the name of streets, avenues and highways in said city, and 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.

*Thirty-eighth*—Said city shall have power to establish and maintain one or more ferries, pontoon or other bridges across the Minnesota river at such points as the city council shall determine, and to construct and keep in repair the roads leading to the same, and the council may establish and collect such reasonable tolls for crossing ferries or bridges as they may deem expedient.

*Thirty-ninth*—The city council shall have power to expend the highway labor or poll tax and highway moneys on the highways and roads beyond the city limits into other towns and counties, whenever they deem it proper, and direct the street commissioner or such other person as they may designate, when, where and in what particular manner to expend the same.

*Fortieth*—To levy and collect taxes, provide suitable buildings or offices for all necessary purposes of the city, appropriate money and provide for the expenses of the city government and to provide for the taking an enumeration of the inhabitants of said city from time to time.

*Forty-first*—To establish, lay out, alter, open, widen, extend, vacate, grade, repair, pave and lighten or otherwise improve and keep in repair the streets, alleys, highways, sidewalks, culverts, gutters, sewers, parks, cemeteries and other public grounds in said city, also to regulate the width, material, construction and surface line of sidewalks, to prescribe different widths in different localities, and to prevent damage thereto.

*Forty-second*—To establish and record with the city clerk, grades of streets, alleys, highways and walks to which buildings and other erections shall conform, and to provide for the enclosing, improving, adorning and regulating all the public buildings and grounds belonging to the city.

*Forty-third*—To regulate and control or prohibit the placing of poles and suspending thereon, or stringing of telegraph, telephone, electric light or other wires along or across any of the streets, alleys, or highways of said city, and may order the same to be put under ground in the streets or highways in said city.

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

*Forty-fifth*—The city council may lay, regulate, or permit any party or corporation to lay gas or other pipes, water mains and pipes in any and all of the streets, alleys, highways and public grounds of the city, but in all cases the city council shall regulate the laying thereof, so as not to interfere with the construction of sewers, or lateral branches thereof, or with the proper drainage of the city.

*Forty-sixth*—To prescribe limits in which neither wood, lumber, lath, shingle or hay, or other combustible materials can be piled or stored, or lumber yards established or maintained.

*Forty-seventh*—To appropriate such reasonable sum as they think proper for the payment of music in the public parks of the city as the city council may determine.

*Forty-eighth*—To regulate the penning, herding, and treatment of all animals within the city.

*Forty-ninth*—To direct the location, regulate and prescribe the construction of privies, to require and provide for the removal and disposition in such manner with private parties or otherwise through-

out the city, or in such districts, of any or all swill, offal, garbage, ashes, barnyard litter, manure, yard cleanings, dead animals, or other foul and unhealthy stuff, with the authority to assess, levy upon, or compel the payment of the expense of such removal, upon the property or owner thereof, from which such above named matter or things shall be taken.

*Fiftieth*—To provide for requiring owners of buildings or other structures, which shall have been damaged by fire or otherwise or which by reason of dilapidation, defects in structure or other causes, may have or shall become dangerous to life or property or liable to cause accidents, to take the same or any part thereof down or remove the same, and in case of refusal or neglect of said owner to so take down or remove the same, when ordered by the officer designated by said city council, then to cause the same to be done at the expense of the owner, the cost thereof to be again raised by special assessment on the land on which the same stands.

SEC. 6. Fines, penalties and punishments imposed by the city council for the breach or violation of any ordinance, by-law or regulation of said city may extend to a fine not exceeding one hundred dollars (\$100) and costs and imprisonment not exceeding ninety (90) days or both, and to be fed on bread and water in the discretion of the court, and offenders against the same may be required to give security for their good behavior and to keep the peace not exceeding six (6) months and in a sum not exceeding five hundred dollars (\$500).

SEC. 7. The city council may also provide by ordinance that any one convicted of an offense before a city justice, subjecting such offender to imprisonment under the charter and ordinances of said city, may be kept at hard labor in any workhouse established or designated for that purpose, or in case of a male offender, may be kept at hard labor during his term of imprisonment in such workhouse or upon the streets, highways and public works or improvements of said city, or both; and may also provide by ordinance that any one convicted of an offense before a city justice, and committed upon non-payment of the 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 streets, highways or public works or improvements, or both, until such person shall work out the amount of such fine at such a rate of compensation as the city council may prescribe, for a time not exceeding said commitment, and the city council shall have full power to establish by ordinance, or otherwise all needful rules and regulations for the security of such persons thus employed, and to prevent escape, and to secure proper discipline. *Provided*, that until otherwise ordered by the city council, the county jail of the county shall be used as a city prison or workhouse of said city, and it shall be the duty of the sheriff or jailer of the county to take into custody and safely keep in said jail all persons committed thereto, until discharged according to law; and when said jail is so used, the prisoners of the city are to be as at present in the custody of the sheriff of Brown

county, except while working on the improvements of the city, as aforesaid, when they shall be under the control of the police force of said city. *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.

SEC. 8. The power conferred upon the city council to provide for the abatement or removal of nuisances, shall not bar or hinder suits, prosecutions or proceedings in the courts according to law.

SEC. 9. The mayor or the city council shall have power at any time to revoke and cancel for cause any license issued under this act or by authority of any ordinance, by serving a written notice upon the person holding the same, that such license is revoked and cancelled and the same shall thereafter be null and void; and if such license is revoked by the mayor, he shall notify the city council at its next meeting thereafter, of the cause of revoking and cancelling such license. The city council may reinstate such license as revoked by a majority vote of the members of the whole city council and thereafter the same shall be valid until revoked or cancelled again; and on conviction before a city justice of any person holding a license for a violation of the provisions of any ordinance relating to the exercise of any right granted by such license, or for misconduct in the course of trade, the said court may, and upon a second conviction shall revoke such license in addition to the penalties provided by law.

SEC. 10. All ordinances, by-laws and regulations of the city council shall be passed by an affirmative vote of a majority of all the members of the city council present, by ayes and nays, which shall be entered into the record, approved by the mayor and published in the official paper of the city before they shall take effect. No ordinance shall be passed at the same meeting at which it shall have been presented or proposed, except by unanimous consent of the members present, which shall be noted in the records, but this shall not preclude the passage of an ordinance reported by any committee of the council to whom the subject of such ordinance shall have been referred at any previous meeting.

SEC. 11. All ordinances after the same are approved shall be recorded by the city clerk in a separate book, provided for that purpose and the affidavit of the publication thereof shall be recorded therewith and the record of said ordinance and affidavit of publication or a certified copy thereof shall at all times be deemed and taken as sufficient evidence of such publication.

SEC. 12. That all books and pamphlets published or which may be published, purporting on their title page to be published by the authority, order or direction of the city council, and purporting to contain the charter and ordinances of said city, standing rules, orders or resolutions of said city council, or either, are hereby declared to be competent and prima facie evidence of the contents thereof, and of the regularity of all proceedings relating to the adoption, approval and publication thereof and shall be admitted as evidence in any court of this state without further proof; and the certificate of the city clerk

that any printed slip or paper to which such certificate may be attached, contains, or is a true copy of any ordinance, resolution, proceeding 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 such ordinance, resolution, or proceeding of the city council or other paper, and of the legal passage, adoption, approval and publication thereof.

SEC. 13. The city council may, during their fiscal year, by a vote of two-thirds ( $\frac{2}{3}$ ) of those present and voting, issue the bonds or other evidence of indebtedness of said city, bearing interest not exceeding nine (9) per cent per annum and for a time not exceeding one (1) year, in such amounts, and under such regulations as the council may prescribe, in anticipation of the taxes and revenues of such fiscal year. *Provided*, that the amount of such bonds or other evidence of indebtedness outstanding shall not at any one time exceed one-third of such taxes and revenues; and *provided further*, that the proceeds of such bonds or evidence of indebtedness, shall be applied to the same purposes as the taxes and revenues in anticipation whereof they may have been issued.

SEC. 14. The city council shall have power to acquire by purchase, lease, donation, grant or condemnation such private property as may be necessary for sites for public buildings or grounds for the use of the city and all other necessary purposes thereof, in manner as here-in provided and may by a unanimous vote of all the members thereof, sell and convey such real estate as the city may own and which is not needed for municipal purposes, and all conveyances heretofore made and executed by said corporation are hereby legalized and ratified.

SEC. 15. The city council shall examine and adjust the accounts of all city officers and agents of the city at such times as they may deem proper, and may require such officers or agents whenever they deem it necessary to exhibit to them all their books and papers belonging to their respective offices, and if such officer or agent shall refuse to comply with the order of said city council in discharge of their duties in pursuance of this section, the council shall declare the office of such person vacant, and may commence suit or proceedings at law against any such officer or agent who may be found delinquent or defaulting in his accounts or in the discharge of his official duties. The council shall make full records of all such settlements and adjustments.

SEC. 16. Whenever any person shall subdivide any lot or piece of ground within said city, he shall cause the same to be surveyed and platted in accordance with the provisions of the general laws of this state, relating to town plats, and when the survey and plat are so completed and acknowledged, it shall be presented to the city council; 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. 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 for by general law.

SEC. 17. If in any case, any of the powers granted to said city council, to be exercised by ordinances named in section five (5) of this chapter, or other provisions of this act, cannot well be exercised by the passage of ordinances, then and in that case, said city council may exercise any of said powers by means of the passage of resolutions.

## CHAPTER V.

### TAXES.

SECTION 1. All property, real and personal, within the city, except such as may be exempt by the laws of this state shall be subject to taxation for the support of the city government and the payment of its debts and liabilities, and all taxes shall be assessed and collected in the manner provided for by the general laws of this state, except as hereinafter expressly provided. *Provided*, That nothing herein contained, shall be construed as limiting the levying and collection of special assessments as provided for in this act.

SEC. 2. The city council shall have power annually to levy taxes upon all the taxable property in said city to defray the current expenses thereof; but such assessment and levy shall not exceed five (5) mills upon the dollar of the assessed valuation of such property.

SEC. 3. The city council shall have power to levy a special tax upon all taxable property within said city, for the purpose of constructing and maintaining bridges, culverts, grading and improvement of streets, alleys and highways, including the buildings and repairing of sidewalks, crosswalks and sewers, and for other necessary or proper purposes of the city or conducive to good order and cleanliness and the protection against crime, disease and fire. *Provided*, That such taxes shall in no year exceed ten (10) mills upon the dollar of the assessed valuation; and, *Provided further*, That for the improvements in this section mentioned, the city council shall have power to assess the tax to pay the same upon the ward or property benefited by such improvements, to such extent as the council may think just and equitable and in the manner as is herein provided.

SEC. 4. Every male inhabitant of said city between the ages of twenty-one (21) and fifty (50) years, excepting such as are exempted by law, who may reside within the limits of said city at any time between the first (1st) day of May and the first (1st) day of November of each year, and have not worked out or paid poll tax in any other place, shall be liable to a capitation or poll tax; and it shall be lawful for the city council at any time to levy the same, but such poll tax shall not in any one (1) year exceed two (2) day's work on each person liable therefor, which may be commuted by any party so taxed by payment to the street commissioner of the sum of one (1) dollar and fifty (50) cents per day, and the street commissioners shall expend all moneys so received on the streets, alleys and highways, under the direction of the city council. The laws of this state shall apply to warning, working, suing for and enforcing this collection of such poll tax, except as otherwise herein expressly provided.



SEC. 5 No moneys shall be paid out of the city treasury, unless such payment is authorized by a vote of the city council, and these shall be drawn out only upon orders 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 the same are drawn, and may be made payable to the order of such person or to the bearer, as the council may determine and may be transferred by endorsement.

SEC. 6. The city council shall have power and authority to borrow money, issue bonds and levy taxes for the purpose of carrying out any of the provisions of this act exceeding the amount authorized by other sections of this act, *provided*, the same be authorized by a majority of the taxable inhabitants who are qualified voters, present and voting at a general or special election held for that purpose, of which notice is given as at other elections. Whenever it shall be desired to submit to a vote, the question of the issuing of any bonds authorized by this section, the same may be done in such form and manner as the council by resolution may prescribe. No bonds shall be issued by the city council for any purpose, unless so authorized.

SEC. 7. All bonds issued in pursuance of the provisions of this section shall be under the corporate seal of said city, signed by the mayor and attested by the city clerk and shall upon the face express the object for which they were given and shall not be negotiated for less than their par value.

SEC. 8. All taxes may be levied by resolution of the city council, and no tax shall be invalid by reason of any informality in the manner of levying the same, nor because the amount levied shall exceed the amount required to be raised for the special purpose for which the same is levied; but in such case the surplus shall go into the general fund of the city.

SEC. 9. The city council shall cause to be transmitted to the county auditor of Brown county on or before the first day of October of each year, a statement of all taxes by them levied and also all special assessments levied upon any of the lots or portions of the city, and such taxes shall be collected and the payment thereof enforced, with and in like manner as state and county taxes are paid and the payment thereof enforced, and the county treasurer of said county shall pay such taxes over, as fast as collected, to the treasurer of said city.

SEC. 10. No limitation or restriction herein contained shall be construed to prohibit the levying of taxes to pay any judgment that may at any time be recovered against the city. In case of failure to collect taxes, or other cause, such levy shall prove insufficient to pay such judgment, new taxes shall be levied until the whole of such judgment shall be paid. Any excess of the amount so levied and collected over the payment of such judgment, shall go into the current fund of the city.

## CHAPTER VI.

## STREETS, SIDEWALKS, BRIDGES AND PUBLIC GROUNDS.

SECTION 1. The city council shall have the care, supervision and control of all public highways, bridges, streets, alleys, levees, public squares and grounds within the limits of said city, and shall cause all streets, which may have been opened and graded, to be kept open, and in repair, and free from nuisance; and shall have power to build and keep in repair bridges, lay out and open, alter and vacate, public squares, highways, streets, lanes and alleys, and extend, narrow, widen or straighten the same, subject to the assessment of damages provided for in this act.

SEC. 2. The city council shall have power and may cause to be established from time to time, whenever they deem it necessary, and as rapidly as the convenience of the inhabitants may require, under the direction of a competent surveyor, or the city surveyor, the grade of all highways, streets, sidewalks, alleys and public grounds in said city, and it shall cause accurate profiles thereof, to be made and kept in the office of the city clerk, in a book or books of profiles, kept for that purpose, and whenever such grade aforesaid, has once been established, it shall not be changed, unless by a vote of two-thirds ( $\frac{2}{3}$ ) all the members of the council elect.

SEC. 3. It is hereby made the duty of all owners of land adjoining any highway, street, lane, or alley in said city, to construct, reconstruct and maintain in good order and repair, such sidewalks along the side of the street, lane, alley, or highway next to and adjoining 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, in such manner and of such materials and width, and upon such place and grade, as the city council may by ordinance or otherwise prescribe.

SEC. 4. It shall not only be the duty of all owners of land within said city, to keep in good order and 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 a safe, passable condition; and no action shall be commenced or maintained against the city of New Ulm 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 the 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.

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

SEC. 6. All work done or constructions and improvements made pursuant to the provisions or requirements of this act may, and when it causes an expenditure of two hundred dollars (\$200) or more, shall be done by contract, let to the lowest responsible bidder, and in the latter case, public notice shall be given and proposals invited for the same in such manner as the council shall direct. *Provided*, That the city council may expend the poll tax or highway labor as they see fit, and may be proper, and this section shall have no application thereto, nor the provisions of this act relating to assessments or reference to the board of public works.

SEC. 7. All persons, who shall by means of any excavation in, or obstruction upon, any street of said city, not authorized by law or the ordinances of said city, render such streets unsafe for travel, or who shall, by negligence in the management of any such excavation or obstruction as shall be authorized, or by failure to maintain proper guards or lights thereat, render such street insufficient or unsafe for travel, shall be liable for all damages not caused by the negligence of the party injured, to whomsoever resulting, by reason of such obstruction or negligence; and no action shall be maintained against said city for such damages, unless such person, or persons, shall be joined as party defendants; and in case of judgment against the defendants in such action, execution shall at first issue only against the defendant causing such insufficiency, and the city shall not be required to take steps to pay such judgment until such execution shall be returned unsatisfied; and if the city shall pay such judgment, it shall become the owner of the same, and may enforce payment of the same from the other defendants, and shall be entitled to execution therein against him, and to take such other proceedings as judgment creditors are entitled to take.

SEC. 8. Whenever any party is joined with said city as co-defendant in any action for the insufficiency of any street or sidewalk, and such party is not a resident of and cannot be found within the state, service of summons in such actions may be made upon such defendant upon like evidence, and in the same manner as prescribed by general law for service by publication in other actions.

SEC. 9. No action shall be maintained against the city of New Ulm, on account of any injuries received by means of any defect in the condition of any bridge, street, sidewalk or thoroughfare, unless such actions 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 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 and opened for travel; nor for any insufficiency of the ground where sidewalks are usually constructed, when no sidewalk is built.

SEC. 10. 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 obstructions, the city shall have the right to recover the same again from the company by whom the obstruction was caused.

SEC. 11. The acceptance of plats of additions of any grounds, or subdivision thereof, either within or outside the limits of said city, shall not make the city liable to grade the streets therein designated, nor responsible for any insufficiency of such street, until the city council shall direct the same to be graded and open for travel.

SEC. 12. The city council, may by a vote of two-thirds ( $\frac{2}{3}$ ) of all the members of the city council vote to lay out or open any new street, alley or public ground, or to straighten, widen or extend any street or alley that now or hereafter may exist, and when such a vote is entered and approved, and which shall make it necessary to take, injure or interfere with private property, the same shall be referred to the board of public works, for assessment of benefits and damages caused thereby, as provided for by this act, and when that is determined and confirmed, final order for the purposes named shall be entered by the city council.

SEC. 13. The city council of said city shall have the sole and exclusive power to vacate or discontinue public grounds, streets, alleys and highways within said city. No such vacation or discontinuance shall be granted or ordered by the city council, except upon the petition of one or more residents and freeholders within said city; such petition shall set forth the facts and reasons for such vacation, accompanied by a plat of such public grounds, streets, alleys or highways proposed to be vacated, and shall be verified by the oath of the petitioners. The city council shall thereupon, if they deem it expedient that the matter shall be proceeded with, order the petition to be filed of record with the city clerk, who shall give notice by publication in the official paper of the city, for four weeks, at least once a week, to the effect that such petition has been filed as aforesaid, and stating in brief its object, and that said petition will be heard and considered by the city council, or a committee appointed by them, on a certain day and place therein specified, not less than ten (10) days from the expiration of such publication. The city council, or such committee as may be appointed by them for the purpose at the time and place appointed, shall investigate and consider the said matter, and shall hear the testimony and evidence on the part of the parties interested.

The city council thereupon, after hearing the same, or upon report of such committee in favor of granting such petition, may, by an order passed by a two-thirds vote of all the members elect, declare such public grounds, streets, alleys or highways vacated, which said order, after the same shall go into effect, shall be published as in the case of ordinances, and thereupon a transcript of such order, duly certified by the city clerk, shall be filed for record, and duly recorded in the office of the register of deeds of the county of Brown.

SEC. 14. Any person feeling aggrieved by any such vacation or discontinuance, may, within twenty (20) days after the publication thereof, by notice in writing served on the mayor of said city, a copy whereof, with proof of service, shall be filed in the office of the clerk of the district court, of the county of Brown, appeal to said court from such vacation or discontinuance, where such appeal shall be tried by the court and jury as in ordinary cases, and the judgment of which court shall be final. It shall be the duty of the city clerk, as soon as any such appeal is taken, to transmit to the proper court a certified copy of the record of all proceedings in the case, at the expense of the appellant. Such appeal shall be entered and brought on for trial, and be governed by the same rules in all other respects as appeals from justices of the peace in civil suits, except that no pleadings shall be required.

SEC. 15. Whenever any highway, street, alley, or public ground is laid out, widened, narrowed or enlarged, or when any of the same are vacated or discontinued under the provisions of this act, the city council shall cause an accurate survey and plat thereof to be made and filed in the office of the register of deeds for Brown county; and all streets, highways and alleys heretofore laid out, vacated or discontinued, or so intended by the action of the city council of said city are hereby legalized and confirmed.

SEC. 16. The city council shall have the power and authority by a vote of two-thirds ( $\frac{2}{3}$ ) of all the members of the city council, to grant the right of way upon, over and through any of the public streets, highways, alleys and public grounds of said city, to any railway company or other corporation, upon such limitations and conditions as they may prescribe by ordinance.

## CHAPTER VII.

### FIRE DEPARTMENT.

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 other buildings, the material or construction of which shall be regarded as not fire-proof or dangerous to surrounding property, shall not hereafter be erected, enlarged, placed or repaired, and to direct that any and all buildings within the limits prescribed, shall hereafter be built and constructed in such manner and of such materials as, in the judgment of the city council, shall not be dangerous to surrounding property, and to prohibit the repair-

ing, enlarging or rebuilding of wooden buildings within the fire limits without its consent, when the same shall have been damaged by fire or otherwise, to the extent of fifty (50) per cent. of the value thereof, and to prescribe the manner of ascertaining such damages. Any building hereafter erected, enlarged, rebuilt, placed or repaired in violation of the provisions of any ordinance passed, pursuant to this act, is hereby declared and shall be deemed a public or common nuisance, and the city council in addition to other penalties may provide for the abatement of such nuisance. The jurisdiction of the district court of Brown county is hereby extended to enjoin and prohibit any threatened or attempted violation of any ordinance of said city in pursuance of this section, and it shall be deemed adequate ground for the granting of such remedy, that any person is about to violate any provision of such ordinance notwithstanding that a penalty be provided in such ordinance for any violation thereof.

SEC. 2. The city council shall have power, by resolution, to order any building, structure, or materials therefor, hereafter erected, or in process of erection, of which the construction or materials may be dangerous to surrounding property, to be taken down or removed beyond the fire limits of the city, and shall have power to prescribe the notice to be given to the owner, occupant or agent to remove such building, and in case the same is not removed in pursuance of the notice given, to order the same taken down, removed by the police, or in such manner as the council may see fit. And the city council may prescribe penalties for the violation of any of the provisions of this section, or of any ordinance made or enacted to carry out the provisions thereof, not exceeding one hundred (100) dollars, which may be imposed by a city justice upon the complaint of any citizen.

SEC. 3. The city council shall have power 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 a safe or secure condition, when considered dangerous. To prevent the deposit of ashes in unsafe places, and the throwing of ashes into streets and alleys. To require the inhabitants to provide as many fire buckets, and in such manner and time as they shall prescribe, and to regulate the use of them in time of fire. To regulate and prevent the carrying on of manufactures dangerous in causing or promoting fires. To regulate and prevent the use of fire arms and fire works. To compel owners or occupants of buildings to have scuttles in the roofs, and stairs or ladders to the same. To authorize the mayor, councilors, fire wardens and other officers of the city, to keep away from the vicinity of any fire all idle and suspected persons, and to compel all bystanders to aid in the extinguishment of fires and the preservation of property, exposed to danger thereat, and generally to establish such regulations for the prevention and extinguishment of fires as the city council may deem expedient.

SEC. 4. The city council shall have power to prohibit the construction of wooden sidewalks within fire limits of said city and to prescribe other material to be used therefor, whenever they deem the safety of the city to require it.

SEC. 5. The city council shall have power to purchase fire engines and all other apparatus or material which may be necessary or required for the extinguishment of fires; to erect and maintain fire alarm telegraphs and boxes; to authorize the formation of fire engine, hook and ladder, and hose companies, and to provide for the proper support, compensation and regulation of the same, and to order such companies to be disbanded, their public meetings prohibited and their apparatus to be given up. Every member of such company which may be authorized to be formed, shall be exempt from poll tax and from serving on juries during the continuance of such membership, and shall elect their own officers, and make their own by-laws, subject, however, to the approval of the city council.

SEC. 6. The city council shall annually appoint a chief engineer of the fire department of said city to take charge of the same, and provide by ordinance for such other officers and men as may be deemed necessary for such department, and define their respective duties and compensation and make all needful orders and regulations for the government of the whole fire department. 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 city council, remove or discharge such officers and men as he may deem for the interest of the city.

SEC. 7. Whenever any person shall refuse to obey any lawful order of any engineer, fire warden, mayor or councilor, at any fire, it shall be lawful for the officer giving such order to arrest, or to direct orally any constable, police officer, watchman or any citizen, to arrest such person, and to confine him temporarily in any safe place until such fire shall be extinguished, and in the same manner such officers, or any of them, may arrest, or direct the arrest and confinement, of any person at such fire who shall be intoxicated or disorderly, and any person who shall refuse to obey any such lawful order, or who shall refuse to arrest or aid in arresting any person so refusing to obey, shall upon conviction before a city justice, be punished by fine not exceeding fifty dollars (\$50) and costs of prosecution and be imprisoned until such fine and costs are paid not exceeding sixty (60) days. *Provided*, that the officers of said city shall be exempt from the provisions of this section.

SEC. 8. The city council shall have power to appoint a fire marshal of said city and one fire warden for each ward, to see that the ordinances of the city relating to precautions against dangers from fire are not violated, and who shall have power and are hereby authorized to enter any dwelling house or other building at all reasonable hours between seven o'clock in the morning and six o'clock in the evening and examine all chimneys, stoves, furnaces, pipes and other parts of such building, and see that the ordinances of the city respecting the same are enforced. The city council may require the fire marshal to examine particularly into the cause of every fire which shall happen within the city and make report thereof as the council may require.

## CHAPTER VIII.

## SPECIAL ASSESSMENTS.

SECTION 1. That the municipal corporation of the city of New Ulm is hereby authorized to levy assessments for local improvements upon the property fronting upon such improvements or upon the property to be benefitted by such improvements without regard to a cash valuation.

SEC. 2. That such assessments may be made by the city of New Ulm for filling, grading, leveling, paving, sprinkling, curbing, walling, macadamizing, planking, constructing bridges upon or otherwise improving any street, lane, alley or highway and for keeping the same in repair, for laying out, opening, extending, widening, straightening, or altering any street, lane, alley, highway or public ground, or procuring grounds for any public building and for planting shade trees upon, or otherwise ornamenting the same; also for filling, grading, protecting, ornamenting or otherwise improving any public square, park or grounds, now or hereafter laid out; also for constructing, laying, re-laying, erecting, cleaning and repairing cross and sidewalks, area walls, gutters, sewers, private drains, the establishment and extension of water works, and the abatement of any and all public nuisances within said city, and this section shall apply to all cases of appropriation of private property for public use, except as in this act otherwise provided.

SEC. 3. The cost of any improvements mentioned in the foregoing section, shall be defrayed, save as herein otherwise provided, by a special assessment upon the real estate benefited thereby, to be levied in a manner hereinafter described. *Provided*, that all street cross-walks and side-walks, adjacent to public grounds other than streets, lanes or alleys, be constructed at the expense of the city at large.

*Provided*, also that upon a vote of two-thirds of the councilors elect, any improvement mentioned in the foregoing section, may be made by the city at large without special assessment. *Provided*, also, that the repairing of any street, alley, highway, public ground, bridge, sewer, drain, or the making of any other improvement, the cost of which is estimated not to exceed the sum of one (100) hundred dollars may be done by the city council of said city, without special assessment therefor, or reference to the board hereinafter provided for.

SEC. 4. Such assessment, except as hereinafter provided, shall be made by a board of public works, who shall be appointed as follows: On the first (1st) Monday of May of each year, or as soon as practicable thereafter, the judge of the district court of the judicial district in which said city may be situated, upon the written or verbal application of the mayor of said city, and of which application public notice shall have been given by one publication in the official paper of the city, shall appoint as such board of public works three persons who shall be each respectable free-holders of said city, and qualified electors therein, and shall have been residents of said city for at least three (3) years prior to such appointment, and none of whom shall



be officers of said city. Such appointment shall be in writing, signed by said judge of the district court and a certified copy thereof transmitted to and filed by the city clerk of said city in his office, and shall thereupon become prima facie proof of such appointment and of the regularity of the same. Each of said members of the board of public works shall hold his office for one (1) year and until his successor shall be appointed and qualified, and all vacancies for an unexpired term shall be filled by said judge of the district court in like manner as original appointments are above provided to be made.

*Provided,* That no member of the board of public works shall act in relation to any assessment upon or condemnation of any property in which he has any property interest, but in cases of any such member being for any cause disqualified from acting in any case, a member *pro tempore* may be appointed, in like manner as above provided for appointment of said board, to act in place of such disqualified member. Each member, before entering upon the discharge of his duties, shall take and subscribe an oath, to the effect that he will faithfully and impartially execute his duties as member of the board of public works, to the best of his ability. Each of said members shall be entitled to receive a compensation for his services three dollars (\$3.00) per day for each day of actual service in the duties of such office, which shall be paid out of the city treasury. Said board of public works shall have power to elect one (1) of their own number as chairman of said board. Meetings of said board may be called by the chairman or by any two (2) members thereof, by personal or written notice to the several members, or left at their respective places of residence or by notice published for one (1) week in the official paper of said city. The city clerk shall act as clerk of said board, and shall keep a record of all the proceedings of said board in a book to be kept for that purpose and report the same to the city council of said city whenever required. Such records shall be kept in the office of the city clerk, and shall be deemed to be a public record. The city surveyor shall act under the orders of said board, and do all surveying, make all plans and estimates, and perform any such like work as may be required by said board. In case any such member, upon being personally notified of any meeting of said board, shall neglect or refuse to attend, he shall, except in case of sickness or absence from the city, forfeit and pay a fine to said city not exceeding fifty dollars (\$50.00) in each case, which shall be recorded in the same manner as is provided for the prosecution for the violations of ordinances of said city by the act incorporating the same. Two (2) of said three (3) members shall constitute a quorum and perform any act and have all the power of said board of public works.

SEC. 5. Whenever a petition for the making of any improvement mentioned in section two (2) of this act, shall be presented to the city council of said city, purporting to be signed by owners of real estate in the vicinity of such proposed improvements, and which signers shall, in the opinion of said city council, be owners of more than one-half ( $\frac{1}{2}$ ) an area of the real estate which may, by said city council, be deemed to be especially benefited by such improvements; or

whenever, without such petition, two-thirds ( $\frac{2}{3}$ ) of all the councilors elect shall vote in favor thereof, the city council shall, except in cases herein otherwise provided, refer the same to the board of public works. The said board shall then proceed to investigate the subject so referred, and may cause such surveys, or plats to be made, as they may deem necessary, and shall make report to the city council, and give an estimate of the expense of making such improvement, and of the proportion or amount thereof, which, in their opinion, may properly be assessed upon real estate as benefits derived from such improvements, and what proportion or amount should probably be assessed upon, or borne by the city at large. They shall also report whether, in their opinion, the contemplated improvement is desired by the owners of the greater part, in area, of the property likely to be assessed therefor. If the said board shall not approve of the making of such improvements, they shall in their report to the city council, give the reasons for their disapproval; and in such case the city council shall not order the prosecution or making of such improvements, except by a vote of two-thirds ( $\frac{2}{3}$ ) of all the members elect of said council. After the report of said board shall have been made to the city council, they may, in any respect, modify the plan of the contemplated improvements. *Provided*, That such modification shall not be such as to materially increase the expense or alter the general plan thereof, except upon a vote of two-thirds ( $\frac{2}{3}$ ) of all the councilors. The city council may, for any reason, again, or as often as they may deem necessary, refer the subject of any contemplated improvement to said board, to be acted upon by them anew, as above provided, or for any other or special purpose they may deem proper.

SEC. 6. When the board of public works shall have reported to the city council in relation to any proposed improvement involving the doing of any work, or the furnishing of any material, the city council may direct the city clerk to advertise for proposals for doing such work or furnishing such material, a plan and profile of the work to be done, accompanied with specifications for doing the same, in all cases where such plan, profile and specifications may be necessary for perfect description of the work to be done, being first placed on file in the office of the city clerk, which plans, profiles and specifications shall at all times be open for public inspection. The board of public works may for the sake of convenience or accuracy in making assessments as hereinafter provided divide the proposed work or improvement into several divisions or sections, and indicate the same in their report to the city council, and in such case the plan, profile and specifications shall correspond as near as may be with, and indicate such divisions or sections; bids for doing any work or making any improvement, as provided herein, shall name a gross sum for the whole work or improvement, or some specified section or division thereof, and the contract, when awarded, shall be for the doing of the work or making the improvement, or some specified section, portion or division thereof, at a gross sum for the whole, or for such specified part thereof; upon being directed to advertise for proposals, as above provided, the city clerk shall cause an advertisement to be published

for at least two weeks in the official paper of the said city, stating briefly, in general terms, the nature of the work to be done, stating where the plan, profile and specifications may be examined, and within what time, bids for doing such work will be received; such bids shall be directed to the city council of the city of New Ulm, and shall each be accompanied by a bond to the said city, in a sum equal to thirty (30) per cent. of the amount of the bid as liquidated damages, and signed by the bidder and two responsible sureties to the satisfaction of the city council, conditioned that the bidder shall execute the work for the price mentioned in his bid and according to the plan and specifications, in case the contract shall be awarded to him, and in case of default on his part to execute the contract and perform the work in accordance with its terms, said bond may be sued and judgment recovered thereon by said city for the full amount thereof, in any court having jurisdiction of the amount; *provided*, that the amount of such bond may, in the discretion of the city council, be fixed at any other sum or percentage than that herein before prescribed, or none may be required. Said bids shall be opened by the city council at their next meeting, after the time for receiving bids shall have expired, or at any other appointed, regular or special meeting thereafter. Upon the opening of said bids, or at any time thereafter, the city council may award the doing of the work, or any part thereof, to the lowest reliable and responsible bidder or bidders, who shall have complied with the above requirements, and who shall have sufficiently guaranteed to the satisfaction of the city council the faithful performance of said work. The city council may let such contract upon such conditions or provisions not inconsistent with the provisions of this act as they may deem proper; the acceptance of any such bid by the vote of the city council shall perfect the contract between such bidder and the city, and no signature of any officer of said city, or the affixing of the corporate seal thereof, shall be necessary to the validity of such contract. In case any person or persons with whom such contract may have been made, shall fail or neglect to complete the same within the time and in the manner prescribed, the city council of said city may at any time after such default, in its discretion and at its election, instead of causing action to be brought upon such bond for the recovery of the amount thereof on account of such default, by vote declare such contract forfeited, and the city may then complete the work by contract or otherwise, and the cost of completing the same shall be considered as forfeited and as liquidated damages between such contractor and said city for such breach of contract, and shall be deducted and withheld from the contract price, which such contractor was to have received for doing the whole of such work.

SEC. 7. Any contractor or person who enters into a contract for the doing of any work or making any improvement provided for in this act, shall take contract with the condition that he and the sureties upon his bond shall be personally and directly responsible for any and all loss, damage or injury to person or property by reason of the neglect or failure of himself, or any one in his employ, to so per-

form such work as to guard against all loss, damage and injury to person or property; and he shall so guard the said work by suitable guards by day and with lights at night, as to prevent any such loss, damage or injury. The provisions of this section shall be regarded as forming part of the contract entered into by any such person with the city.

SEC. 8. When the board of public works shall have reported to the city council in relation to any proposed improvement which shall require the appropriation or condemnation of any land or real estate, and the city council shall direct the further prosecution of such improvement, the said board of public works shall thereupon proceed, in the manner hereinafter prescribed, to ascertain and assess the damages to the owners of such land for such appropriation or condemnation; and to assess upon the real estate by them determined to be especially benefitted by the making of such improvement, such damages and the cost of making such improvement to the extent of the special benefits deemed to be derived by such real estate therefrom.

SEC. 9. The said board of public works, in making such assessment of damages, shall determine and appraise to the owner or owners the value of the real estate appropriated for the improvement, and the injury to them respectively arising from the condemnation thereof, which shall be awarded to such owners respectively, as damages, after making due allowances therefrom for any benefits which such owners may respectively derive from such improvement. If the damage to any person be greater than the benefit received, or if the benefits be greater than the damage, and in any case where both damages and benefits are to be assessed, the said board of public works shall strike a balance and carry forward the difference so that the assessment may show what amount is to be received or paid by such owners respectively; and only such difference shall in any case be collected of them, or paid to them, as the case may be.

SEC. 10. If there should be any building standing in whole or in part upon the land to be taken, the said board of public works shall add to their estimate of damages for the land, the damages also for the building or part of building necessary to be taken, if it be the property of the owner of the land. When owned by any other person, the damages for the building shall be assessed separately. The value of such building to the owner to remove, or of the part thereof necessary to be taken, shall also be determined by the same board of public works, and notice of such determination shall be given to the owner, when known, if a resident of the city, or left at his usual place of business or abode. If the owner is not known, or is a non-resident of the city, notice to all persons interested shall be given by publication for two weeks in the official paper of the city. Such owner may at any time within twenty (20) days after service or the first publication of such notice, notify the board of public works in writing of his election to take such building or part of building at their appraisal, and in such case the amount of such appraisal shall be deducted by the board of public works from the estimated damages for the land and building, where they belong to the same owner, and

from the estimated damages for the building where they belong to different owners, and the owner shall have reasonable time for the removal of the building after the confirmation of the assessment as the board of public works may allow. If the owner shall refuse to take the building at the appraisal, or fail to give notice of his election as aforesaid, then no such deduction shall be made from the estimated damages aforesaid; and after the confirmation of such assessment of damages for the taking of such property, and after provision shall have been made for the payment of the same as hereinafter provided, such building, or as much thereof as may be necessary, may be then taken and appropriated, sold or disposed of in such manner as the city council shall direct and the same or the proceeds thereof shall belong to the city.

SEC. 11. When any contract for the doing of any work or the making of any improvement, as herein provided, shall have been made or awarded by said city council, or when the damages to be paid for the appropriation or condemnation of any property in pursuance of the provisions of this act, shall have been ascertained and determined by the board of public works and confirmed by the city council; or in case an appeal shall be taken as provided in this act, then when such damages shall have been determined by the judgment of the court, the said board of public works shall thereupon proceed to assess in the manner hereinafter provided, upon the real property by them deemed to be especially benefited by the doing of the work or the making of the improvement, in proportion, as nearly as may be, to the benefits resulting thereto, the amount for which any such contract may have been awarded or let, or the amount of damages so ascertained and determined, as the case may be, to the extent of the special benefit deemed to be derived by such real estate therefrom. The balance of the amount for which such contract may have been awarded, or let, or of the damages for the taking of any property so ascertained and determined shall be chargeable upon and paid by the city at large.

SEC. 12. Before proceeding to make such assessment of benefits to be derived from any improvement, or of damages for the taking of any property, as hereinbefore provided, said board of public works shall cause notice to be given by publication in the official paper of said city, for at least two (2) weeks, of the time and place of their meeting, for the purpose of making such assessments, which notice shall specify in general terms, the object of such assessments. *Provided*, That in case any such improvement consists in or concludes the taking or appropriating of any land or property, written or printed notice of the meeting of such board of public works for the purpose of determining the damages to be awarded to the owner of such property for such taking, shall be served at least one (1) week before such meeting, by the chief of police or any police officer of said city, upon the person whose property is to be so condemned; if such person is known and is a resident of said city, such notices shall be served by delivering the same to the person to be served, personally, or by leaving the same at the usual place of abode of such person, with some person of suitable age and discretion there residing. If

the owner of such property is unknown or is a non-resident of said city, or is absent therefrom and has no place or residence therein where service can be made in the manner above provided, of which facts the returns of the chief police of said city shall be conclusive evidence, notice of such meeting shall be published as hereinbefore in this section provided. All persons interested in any such assessment shall have the right to be present and be heard either in person or by attorney. The board of public works shall view the locality of the contemplated improvement, and shall receive any legal evidence that may be offered relative to the matters to be determined by them, and are hereby authorized to administer oaths to all witnesses produced before them. They shall permit the city attorney or the city council to appear before them at such hearing to represent the interests of the city. They may adjourn from time to time and from place to place, until such assessment shall be completed. The action or determination of any two of said members of the board of public works shall be binding as the act of said board.

SEC. 13. When such assessments of damages or of benefits shall have been completed, the board of public works shall cause the same to be entered in a book to be kept for that purpose by the clerk of said board. After the same is so entered, said board shall cause notice to be given by at least one (1) week's publication in the official paper of said city, that such assessment has been completed and entered as aforesaid, and that at a time specified in such notice, application will be made to the city council for a confirmation of the same. Objections to said assessment may be heard before the city council at such time. *Provided*, That all such objections shall be in writing, and shall be filed in the office of the city clerk at least one (1) day prior to such meeting of the city council. Should no quorum be present at such appointed meeting of the city council, such meeting for confirmation may be adjourned by the members of said city council present, to such other time as they may deem expedient; and at such adjourned time, without further notice or publication, the city council may act in reference to such assessment in the same manner and with the same authority as they might have done at the meeting appointed for that purpose had a quorum been present. *Provided*, that nothing herein contained shall preclude the said board of public works from causing a new notice of application for confirmation to be given by publication in the manner above provided, in case any previous notice shall be found irregular or invalid, or in case of there being no quorum present at any prior appointed meeting, or for any other cause preventing a regular and valid action by the city council in relation to such assessments, the council shall have power to adjourn such hearing from time to time, and shall have power in their discretion to revise and correct the assessment, and to confirm the same, in whole or in part, and to annul the same in whole or in part, and to direct a new assessment to be made. Said assessment, when confirmed by the city council, or the same as corrected by said city council, without further action thereon by the board of public works or formal confirmation by the city council, shall be final and conclus-

ive upon all parties interested therein, except as hereinafter provided. If said assessment shall be annulled by the city council, or set aside by any court, in whole or in part, the board of public works shall proceed to make a new assessment in place of so much of the former assessment as may have been annulled or set aside, and return the same in like manner, and give like notices as hereinbefore provided, and all parties in interest shall have the like rights, and the city council shall perform the like duties, and have like powers in relation to any subsequent assessment or determination as are hereby given in relation to the first.

SEC. 14. Any person whose property has been appropriated, and who has filed objections to the assessment of damages therefor, as hereinbefore provided, shall have the right at any time, within ten (10) days after the confirmation of such assessment, to apply to the district court of the county of Brown from such confirmation of such assessment. Said appeal shall be made by filing a written notice with the city clerk, containing a description of the property of such appellant so appropriated, and the objections of such appellant to such assessment, and by filing with the clerk of said court a bond to the city of New Ulm, conditioned to pay all costs which may be awarded against the appellant, which bond shall be in such sum and with such surety as shall be approved by the judge of said court, or in case of his absence or inability to act, by the judge of any court of record in this state. A copy of such notice of appeal, with the date of filing the same, certified by the city clerk, shall also be filed with the clerk of the said court, within the time above limited for perfecting such appeal. A copy of the record of such assessment, as confirmed, as provided in section thirteen (13) of this act, and of the objections as aforesaid, made to the confirmation thereof, certified by the city clerk, at the expense of the appellant, shall be filed in the office of the clerk of said court at the time of taking such appeal. Such appeal shall be entitled in said court in the name of the person taking the same against the city of New Ulm, as an appeal from assessment.

SEC. 15. Such cause shall then be deemed to be at issue in such court, and shall have the preference in order of trial over all other civil actions pending in said court. Such appeal shall be tried in the district court as all other civil causes, except no pleadings shall be required, and on the trial, the only question to be passed upon, shall be whether the assessment of damages so far as it affects said property is fair and impartial. And if found not, the damages for the taking of the property specified in the objections, shall be reassessed by the court or jury, but such reassessment shall be, so far as practicable, in accordance with the same rules and principles herein prescribed in reference to the assessment by the board of public works. Judgment shall thereupon be entered to the effect that, upon the amount of damages so determined, being paid or secured in accordance with the provisions of this act, the city shall have the right to take, use and appropriate, the property in question for the purposes for which the same were sought to be taken, and from which said

judgment, no appeal or writ of error shall lie; and if the court shall be of the opinion that such appeal was frivolous or vexatious, it may adjudge costs against said appellant in a sum not exceeding thirty-five dollars (\$35) in addition to all taxable costs.

SEC. 16. When such assessment shall have been confirmed by the city council, and no appeal have been taken, or if an appeal shall have been taken when judgment shall have been rendered therein, the same shall be a lawful and sufficient condemnation of the land or property to be appropriated, and whenever there shall have been appropriated by the city council, from moneys actually in the hands of the treasurer of said city the amount of damages assessed for the taking of the same, and orders upon the treasurer for such amount, in favor of the person entitled thereto, shall have been drawn and signed, and delivered or tendered to the persons entitled to such damages, or whenever, instead of such delivery or tender, such orders shall have been deposited with the city clerk for the use of such persons, and to be delivered to them upon demand, then the said city may enter upon and appropriate such property to the uses for which the same was condemned. Whenever, in any case, the city shall be unable to determine to whom the damages awarded should be paid, or in case of disputed claims in relation thereto, the amount thereof may be deposited, by order of the city council, in the district court for Brown county, in the same manner as moneys are paid into court, until claimants and parties shall substantiate their claims thereto, and such payment into court shall be deemed, so far as the city is concerned, as a payment of the same to the person or persons entitled thereto, and the city shall be thereafter discharged from all further liability in respect thereto, and may enter upon and appropriate the property, for the taking of which such damages were assessed.

SEC. 17. All owners of real estate in front of, adjacent to, or upon which the city council shall order or direct any sidewalk to be constructed, relaid or repaired, shall construct, relay or repair such sidewalk at their own cost and charge in the manner and within the time prescribed by said city council in a notice served as hereinafter provided. Whenever said city council shall order any such work to be done, and shall by ordinance or otherwise, prescribe the manner of constructing such work, or shall have before done so, they shall cause a notice to be given by personal service upon the owner of such real estate, or by leaving the same at his usual place of abode, with some person of suitable age and discretion, or by publishing the same once in the official paper of said city, such notice stating the character of the work and the manner in which it is to be done, and the time within which the same shall be completed, which statement may be made in terms in said notice or by reference to any ordinance or resolution of said city council, then or heretofore published. Such notice shall state upon what lot, or tract of land, or in front of, or adjacent to, what lot or tract the said work is to be done, and the name of the owner or occupant of such land need not be given or stated therein. No reference to the board of public works need be made before the ordering of such work. If the work be not



done in the manner and within the time so prescribed by the city council, the council may proceed to do the work by contract or otherwise. When to be done by contract, they shall cause advertisements for proposals for doing such work to be made as is provided in section six (6) of this act, but no plan, profile, or specification of such work need be made or filed as is therein provided, but the terms upon which the work is to be done, the manner of doing the same, and any necessary particulars or specifications may be stated in said advertisement, in terms, or by reference to any ordinance, or resolution, or notice of the city council, then or therefore published, designating the same by its title or date, or the date of publication, or of the approval thereof by the mayor or acting mayor of said city. *Provided*, That bids for constructing sidewalks, and contracts made thereon, may state the price for doing any work at a gross sum for any lot or tract of land, or part thereof adjacent to, or upon which the same is to be done, or it may be at a certain sum per lineal foot or other unit of measurement.

SEC. 18. If the owner of any lot or parcel of land shall suffer any sidewalk along the same to become broken, rotten or out of repair, it shall be the duty of the street commissioner to immediately repair the same in a good, substantial and 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, in the manner provided for in this chapter, upon each of the lots and parcels of land fronting or abutting upon sidewalks, which have been so repaired by the street commissioner, the cost of making such repairs. In each case such assessments for all such repairs within the year may be combined in one assessment roll and be collected as provided for in this act. 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 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 assessment for such reconstruction.

SEC. 19. After the letting or awarding of the contract for constructing, relaying or repairing any sidewalk, as herein provided, or whenever the same otherwise shall have been done, the board of public works shall proceed to assess upon the real property, in front of, adjoining to, or upon which such sidewalk is to be or may have been constructed, relayed or repaired, the cost of such relaying, repairing or construction, as determined by the contract so let or awarded, or as the same appears by the report of the street commissioner, who may have repaired any sidewalk. No previous notice of such assessment by the said board of public works need be given, nor shall they be required to view the premises upon which such improvement is to be or has been made, or to hear any testimony, or

evidence, or objections relating to such assessment. The same proceedings shall be had in regard to the entering of said assessment, and in respect to the review or confirmation thereof by the city council, as are provided in section thirteen (13) of this act; and all the provisions of said section thirteen (13), except as herein otherwise provided, shall apply to the proceedings had under this section.

SEC. 20. When any special assessment for any of the improvements in this act mentioned, shall have been confirmed by the city council, or corrected and determined by the said council, it shall be the duty of the city clerk to issue to the treasurer of said city, a warrant for the collection thereof, which shall be under the corporate seal, and signed by the mayor or acting mayor of said city, and the city clerk, and shall contain a copy of the assessment as confirmed by the city council, or as corrected and determined by them, or so much thereof as describes the real estate assessed and the amount of assessment in each case. Any such warrant may contain copies of several of said assessments for any improvements made or to be made in pursuance of this act, and the same proceedings may be had for the collection of all the assessments charged therein, as are herein provided in relation to any one of such assessments.

SEC. 21. All warrants issued for the collection of special assessments shall be delivered by the city clerk to the city treasurer for collection. The city treasurer shall, when he shall have completed the proceedings incumbent upon him in respect thereto, return said warrant to the city council, accompanied with a written return, executed by him of his proceedings thereunder. Upon the receipt of any such warrant the city treasurer shall, by publication in the official paper of said city for at least two weeks, give notice that such warrant is in his hands for collection, briefly designating the improvement on account of which such assessment was made, and requesting all persons interested to make payment at a place therein designated, within thirty days after the first publication of said notice.

SEC. 22. When any lot or tract of land upon which any assessment may have been made in pursuance of the provisions of this act, shall be owned by more than one person, as tenants in common, it shall be lawful for any one or more of such tenants in common to pay such proportion of the whole assessment, upon such lot or tract, as his undivided interest in such lands bears to the whole thereof, which payment shall discharge such undivided portion of such land from such assessment, leaving the balance of such assessment to attach to the remaining undivided portion of such land; and in respect to such unpaid balance of assessment, and such remaining undivided portions of such lands, all of the provisions of this act shall, so far as applicable, be construed to apply.

SEC. 23. If the assessments charged in any such warrant shall not be paid within thirty days after the first publication of such notice by the city treasurer, all such assessments then unpaid shall, from and after the expiration of such time, be deemed to be delinquent, and shall from thenceforth, without any further act or thing, be a lien upon the real estate upon which the same may have been

assessed, which lien shall continue until such assessments shall have been paid, and the city council shall proceed to levy such assessment upon the several parcels of land described in said warrant in accordance with the assessment so confirmed; and cause to be made out and adopt assessment rolls of the same, which may be in the following or any other form which the city council may deem proper:

SEC. 24. Assessment rolls for improvements of all kind or interference with private property may be in the following form or such other form as the council may direct:

The city council of the city of New Ulm doth hereby assess, and levy upon and against the several lots and parcels of land below described, the respective sums of money set against and opposite each lot or parcel. This assessment is levied to defray (the compensation and damages awarded for the taking and injury to private property) and costs of improvements on an about the..... in the city of New Ulm, as shown by the plat and survey of the same now on file in the office of the city clerk of said city. This levy is made conformably to the report and assessment of the board of public works, duly appointed, to make such assessments, and in proportion to the benefits accruing from such improvements, to the parcels, and not exceeding the benefits to the parcels so assessed.

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

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

Attest.

.....  
President of the council.

.....  
(L. s.) City Clerk.

SEC. 25. Assessment rolls for constructing or reconstructing sidewalks may be in the following form:

The city council of the city of New Ulm 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., 18.... and duly published in the official paper of said city on the...day of.....A. D. 18.... 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		Remarks.
				Dollars.	Cts.	

Done at a meeting of the city council this ..... day of ..... A. D., 18....

Attest. ....  
 President of the Council.

(L. s.) City Clerk.

SEC. 26. Assessment rolls for repairs of sidewalks may be in the following form:

The city council of the city of New Ulm 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 of land. The assessment is made to defray the cost of repair of sidewalks fronting upon each parcel or lot which the respective owners have neglected to make, and which have been made by the street commissioner since the ..... day of ..... A. D. 18....

The amount assessed against and levied upon each of said lots and parcels is the actual cost of the repairs of sidewalks abutting upon such lots or parcels so repaired by such commissioner.

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

Done at a meeting of the city council this ..... day of ..... A. D. 18....

Attest. ....  
 President of the Council.

(L. s.) City Clerk.

SEC. 27. Assessment rolls 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 New Ulm doth hereby assess and levy upon and against the several lots and parcels of land below described, and the buildings and improvements thereon, 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. 18..

to..... A. D. 18.... according to a contract for sprinkling ..... from.....  
 to..... and said lots and parcels of land, buildings and improvements are assessed by an equal rate upon the assessed value of the lots, lands, buildings and improvements fronting on the portion of the street so sprinkled.

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

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

Attest.

.....  
 President of the council

[L. s.] City clerk.

SEC. 28. The city clerk shall record all assessment rolls of special assessments in books kept by him for that purpose, and shall on or before the first (1st) Monday in October of each year deliver to the county auditor of Brown county all such assessment rolls theretofore recorded, and each county auditor shall extend the assessments in proper columns against the property assessed, and such assessment shall be collected and the payment thereof enforced, as any county and state taxes are collected and enforced, and such assessments shall be paid over by the county treasurer when collected to the city treasurer in like manner as other taxes.

SEC. 29. No omission, informality or irregularity in proceedings in or preliminary to the making of any special assessment shall effect the validity of the same when 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 such assessment was duly levied, and that such assessment roll was duly made and adopted, and that all other proceedings were duly had, taken and performed, as required by this charter, and no failure of the city clerk to record the said assessment roll or return the same to the county auditor on or before the time prescribed for such delivery, or to do any other act or thing required of him, shall in any way invalidate such assessment, and no variance from the directions herein contained as to form or manner of proceedings shall be held material, unless it can be clearly shown that the party objecting was materially injured thereby, unless such objections were taken at the time and in the manner prescribed in this chapter.

SEC. 30. In case any special assessment shall, in any suit wherein its validity shall be questioned, be adjudged invalid by the court, the city council may, in its discretion, notify the county auditor to cease

the collection of the same, if it shall be 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 place and stead of the assessment which shall have been adjudged invalid. The city clerk before delivering such new assessment to the county auditor, shall ascertain and note thereon payments which have been made on such invalid assessment for the same purpose, which notation shall cancel the assessment, as to the lots and parcels on which payments were made to the extent of such payment. Such new assessments shall be collected in the same manner as the original special assessment.

SEC. 31. No special assessment shall be held to be invalid because the amount of such special assessment shall happen to be more or less than the amount of money actually required for the improvements for which such assessment was made. If the special assessment shall happen to be less than the amount required, the balance shall be paid from the current funds of the city, except in case of sewers, the balance shall be paid from the permanent improvement fund, and if there should happen to be a surplus of such assessment, the surplus shall be credited to the same fund from which the deficiency would have been supplied, or be otherwise disposed of as the city council shall deem most just toward the person upon whom the special assessment was levied, and upon any assessment rolls or other papers being used upon any of the proceedings it shall not be necessary that words be written out in full, but abbreviations, letters, figures, and other 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.

SEC. 32. After any special assessment roll shall have been made and adopted by the city council, and before the same has been delivered to the county auditor for collection, any assessment thereon may be paid direct to the city treasurer of the 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.

SEC. 33. In case any assessment is collected before making of such improvement, the money so collected shall be kept separate from the funds of the city, and not be devoted to any purpose than such improvements, and when all the means therefor shall have been raised, the city council shall forthwith cause such improvements to be made.

SEC. 34. 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 ad-

vanced out of the permanent improvement fund of the city, or any other fund provided by law thereof. 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 making such determination until the thirty-first (31st) day of May next ensuing, when the taxes therefor would be paid, and such interest shall be included in the assessment rolls by the proper officers, and be collected as part of the cost of such improvement.

SEC. 35. Nothing herein contained shall intercept or interfere with any assessments which have been heretofore made; but the collection thereof shall go on according to the provisions of the charter in force at the time of making such assessments.

SEC. 36. The proceedings of the board of public works in carrying out the provisions of this act, shall be recorded in a book or books kept for that purpose. Such books and the official files and papers of said board shall be deemed public records, and copies thereof certified by the clerk of said board with the corporate seal of the city attached, shall be evidence in all courts, the same as such original records. The clerk of said board shall be entitled to receive from any private person for any certified copy of such records the same fees as are received for like services by the clerk of the district courts of this state.

SEC. 37. Two (2), or more, of the notices required or authorized by this act to be given by the board of public works, the city clerk or the city council, by publication or otherwise, in pursuance of the provisions of this act, may be comprised in one, provided that such notices are of the same general character or for like objects, and that in other respects the notice shall sufficiently comply with the essential statutory requirements, and the provisions of this section shall extend to and embrace all notices required to be given in the official paper of the city by the city treasurer of the delivery to him of all tax and special assessment warrants for collection, and of subsequent proceedings and requirements in relation thereto.

SEC. 38. Any change made in the incumbent of the office of said city treasurer or of any other officer of said city, during the pendency of any proceedings under this act, shall not operate to affect or delay the same, but the successor or successors of such officers shall be authorized to do all acts necessary to complete such proceedings the same as if their predecessors had remained in office, and any proceeding may be completed or act done in pursuance of the provisions of this act, by any officer after the expiration of his term of office, with the same validity as if he had continued in such office.

SEC. 39. Any change made in the official paper of said city during the pendency of any publication of any notice or proceeding under this act, or the substitution of any other paper as the official paper of said city, shall not invalidate any publication or proceeding, but the same may be completed in all respects as though no such change or substitution had been made.

SEC. 40. In none of the notices, orders, warrants or records in the proceedings prescribed by this act relating to assessments of benefits

for improvements made, need the name of the owner of the land upon which such assessments are made, be given, and no error or irregularity in any notice, order, assessment or proceeding of any kind had in pursuance of the provisions of this act, or any omission of the requirements thereof, shall invalidate the proceedings or cause the same to be held illegal, unless it shall be made to appear, affirmatively, that such error, irregularity or omission actually prejudiced the right and affected the interest of the parties interested therein.

SEC. 41. No error, irregularity, or invalidity in respect to any assessment upon any one or more of several lots or tracts of lands, or of the proceedings in relation thereto, shall invalidate or make illegal the proceedings or assessments in respect to any other lands than those in immediate respect to which such irregularity or error was made. No extension of the time for the doing of any work contracted for, or any other change in respect to such contract, not materially affecting the property rights of the person complaining of or pleading such change, shall invalidate any proceeding or assessment had or made under this act.

SEC. 42. No suspension or stay of proceedings, by appeal or otherwise, in respect to any assessment upon or proceeding for the condemnation of any particular property, shall stay or suspend any proceedings, under this act in respect to any other property; nor shall the annulling or setting aside of any such assessment or proceeding, in respect to any particular tract or tracts of land, invalidate or in any manner affect assessments upon or any proceedings in respect to any other tracts.

SEC. 43. Whenever it shall be deemed necessary to take private property for public use, without the delay incident to the proceedings therefor in this act prescribed, the same may be done upon there having been first executed and deposited with the clerk of the district court for Brown county, the bond of the city of New Ulm to the owner or owners of such property, to be approved by the judge of said court, and in such sum as he may prescribe, conditioned that the city will pay all damages that shall be awarded for the taking of such property, and all costs that may be adjudged to such owner or owners, in any court having jurisdiction in the premises. *Provided*, that proceedings shall be forthwith taken in pursuance of the provisions of this act to determine the amount of damages to which such owner or owners may be entitled for such taking. The city may thereupon enter upon and use the property in the same manner as they might if the damages for the taking had been already ascertained and paid or secured to be paid.

## CHAPTER IX.

### MISCELLANEOUS PROVISIONS.

SEC. 1. 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 councilors as were present when the vote was taken.



SEC. 2. No penalty or judgment recovered in favor of the city shall be remitted or discharged, except by a vote of two-thirds of all the councilors elect; but nothing contained in this section shall be construed to prohibit any city justice from reversing or reducing any penalty or judgment so rendered by him, nor to prohibit said court from suspending execution of sentence in its discretion.

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. 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.

SEC. 5. In all prosecutions for any violation of this act, the first process shall be by warrant on complaint being made; *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 or by-law of the city, but the person or persons so arrested may be proceeded against, tried, convicted and punished or discharged, in the same manner as if the arrest had been made by warrant. All warrants, process or writs by a city justice for the violation of any ordinance and by-laws of said city, may be directed to the chief of police or any police officer of said city, or as generally directed under the laws of this state, but may be served by any person authorized by law to serve process in the country.

SEC. 6. In all cases of the imposition of any fine or penalty, or for the rendering of any judgment by a city justice of said city, pursuant to any statute of the state of Minnesota, or pursuant to any ordinance or by-law of the said city, as a punishment for any offense, or for the violation of any ordinance or by-law 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 the county, and be there imprisoned for a term not exceeding three months, in the discretion of the city justice and under such further restrictions and prohibitions contained in this act, unless the said fine or penalty be sooner paid or satisfied; and from the time of the arrest of any person or persons for any offense 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 city prison, in the common jail of the county.

SEC. 7. When any suit or action shall be commenced against said city, all and every process and notice whatever, affecting such city, shall be served upon the mayor, or in his absence, upon the president of the council, and in the absence of both of these officers, upon the city clerk, or by leaving a certified copy thereof at the office of said clerk, and it shall be the duty of the officer so served to forthwith inform the city council thereof, and take such other proceedings as by the ordinances or resolutions said council may provide.

SEC. 8. No law of this state concerning the provisions of this act shall be considered as repealing, amendatory, or modifying the same, unless said purpose be expressly set forth in such law.

SEC. 9. The city of New Ulm shall not be liable in any case for the board or jail fees of any person who may be committed by any officer of the city, or any magistrate, to the jail of Brown county for any offense punishable under the state laws.

SEC. 10. No account or demand against said city shall be paid until it has been audited and allowed, and an order drawn on the treasurer therefor. Every such account shall be made out in items, and verified by affidavit, indorsed or annexed, that the same is just and correct, and no part thereof paid. After auditing the same, the president of the council shall cause to be indorsed by the city clerk, over his hand, on each account the words "allowed" or "disallowed," as the fact may be, adding the amount allowed, as the case may be, if any, and specifying the items or parts of items disallowed, if disallowed, in part only. The minutes of the proceedings of the council shall show the amount allowed. Every such account or demand allowed in whole or in part shall, with the affidavit thereto, be filed by the city clerk, and those of each year filed consecutively, numbered, and have indorsed thereon the number of the order on the treasurer issued in payment therefor, and the city clerk shall take a receipt on the stub of the order or otherwise for such order.

SEC. 11. This act is hereby declared to be a public act, and may be read in evidence in all courts in this state and need not be pleaded or proven.

SEC. 12. All ordinances, by-laws, rules, regulations and resolutions heretofore made and established by the council of said city and not inconsistent with this act, shall be and remain in full force and effect until the same shall have been altered, modified or repealed.

SEC. 13. All acts and part of acts heretofore passed for the incorporation of the city of New Ulm, and amendatory thereof, not contained in or incorporated herein, and all acts inconsistent with this act, are hereby repealed; but the repeal of any and all such acts or 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, be enforced, and carried out as fully and effectually to all intents and purposes as if the act had not been passed.

SEC. 14. The city council may from time to time, provide for the compilation and publication of the charter and ordinances of the city, and such resolutions and other matter 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.

SEC. 15. This act shall take effect and be in force from and after its passage.

Approved March 1, 1887.