

CHAPTER 12.

[H. F. No. 855.]

AN ACT ENTITLED AN ACT TO AMEND THE CHARTER OF THE CITY OF MANKATO IN THE STATE OF MINNESOTA.

Be it Enacted by the Legislature of the State of Minnesota:

SECTION 1. That chapter eight (8) of the special laws of Minnesota for the year eighteen hundred and eighty-seven (1887), being "an act to amend and consolidate the charter of the city of Mankato, state of Minnesota," is hereby amended as follows:

SEC. 2. That sections one (1) and two (2) of chapter one (1) of the charter of the city of Mankato, be amended to read as follows:

Section 1. All the district of country in the county of Blue Earth contained within the subdivisions and boundaries hereinafter described, shall be a city by the name of Mankato, and the people now inhabiting and those who shall hereafter inhabit within the district of country hereinafter described shall be a municipal corporation by the name of the "City of Mankato," 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 and purchase, lease and convey any and all such real and personal or mixed estate as the purposes of the corporation may require, within or without the limits aforesaid; shall be capable of contracting and being contracted with; and shall have the general powers possessed by municipal corporations at common law, and in addition thereto shall possess the powers hereinafter specifically granted, and the authorities thereof shall have perpetual succession.

Section 2. The subdivisions of land included in and constituting the city of Mankato, shall be as follows, to-wit: Lot one (1) and the south half ($\frac{1}{2}$) of the south-east quarter ($\frac{1}{4}$) of section six (6), lots one (1), two (2), three (3) and four (4), and the south-west quarter ($\frac{1}{4}$) of the south-east quarter ($\frac{1}{4}$), and the east half ($\frac{1}{2}$) of the east half ($\frac{1}{2}$) of the south-east quarter ($\frac{1}{4}$), and the east ($\frac{1}{2}$) of the north-east quarter ($\frac{1}{4}$) of section seven (7), and the south-west quarter ($\frac{1}{4}$), of the north-west quarter ($\frac{1}{4}$), and the west half ($\frac{1}{2}$) of the south-west quarter ($\frac{1}{4}$) of section eight (8), and the west half ($\frac{1}{2}$) of the north-west quarter ($\frac{1}{4}$) of section seventeen (17), and the north-east quarter ($\frac{1}{4}$) and the north-west quarter ($\frac{1}{4}$), and the west half ($\frac{1}{2}$) of the south-west quarter ($\frac{1}{4}$), and the north-east quarter ($\frac{1}{4}$) of the south-west quarter ($\frac{1}{4}$), and the north half ($\frac{1}{2}$) of the south-east quarter ($\frac{1}{4}$) of section eighteen (18), and the west one-fourth ($\frac{1}{4}$) of the west one-half ($\frac{1}{2}$) of the east half ($\frac{1}{2}$) of section seventeen (17), and also the west one-fourth ($\frac{1}{4}$) of the west one-half ($\frac{1}{2}$) of the south-east quarter ($\frac{1}{4}$) of section eight (8), all in township one hundred and eight (108), in range twenty-six (26), west of the principal meridian. Also lot two (2) in section thirteen (13) and lot fourteen (14) in section four-

teen (14) in township one hundred and eight (108), range 27. Also all of the territory and land in the county of Blue Earth and the state of Minnesota, embraced within the following boundaries, to-wit: Commencing at a point on the town line in the center of the Minnesota river where the north line of town one hundred and eight (108), range twenty-seven (27), crosses said river, opposite the north-west corner of government lot five (5), in section one (1), town one hundred and eight (108), range twenty-seven (27); thence east along town line between town one hundred and eight (108) and one hundred and nine (109) to the northeast corner of section six (6), town one hundred and eight (108), range twenty-six (26); thence south along the east line of said section six (6) to the northwest corner of the southwest quarter of the southwest quarter ($\frac{1}{4}$) of section five (5), town one hundred and eight (108), range twenty-six (26); thence east to the northeast corner of the southeast quarter ($\frac{1}{4}$) of the southwest quarter ($\frac{1}{4}$) of said section five (5), thence south along the quarter ($\frac{1}{4}$) line through sections five (5), eight (8) and seventeen (17), to the southeast corner of the southwest quarter ($\frac{1}{4}$) of section seventeen (17); thence west along the south line of sections seventeen (17) and eighteen (18), in town one hundred and eight (108), range twenty-six (26), to the northeast corner of the northwest quarter ($\frac{1}{4}$) of the northwest quarter of section nineteen (19), town one hundred and eight (108), range twenty-six (26); thence south to the northeast corner of the southwest quarter ($\frac{1}{4}$) of the southwest quarter ($\frac{1}{4}$) of said section nineteen (19); thence west to the northwest corner of the southwest quarter ($\frac{1}{4}$) of the southwest quarter ($\frac{1}{4}$) of said section nineteen (19); thence north along section line between section nineteen (19), town one hundred and eight (108), range twenty-six (26), and section twenty-four (24), town one hundred and eight (108), range twenty-seven (27), to the southeast corner of the northeast quarter ($\frac{1}{4}$) of the northeast quarter ($\frac{1}{4}$) of section twenty-four (24), town one hundred and eight (108), range twenty-seven (27); thence west to the center of the Blue Earth river opposite the southwest corner of government lot eight (8), in section twenty-three (23), town one hundred and eight (108), range twenty-seven (27); thence in a general northerly direction along the center of the Blue Earth river to its junction with the Minnesota river; thence along the center of the Minnesota river in a general northeasterly direction to the place of beginning. Also the west one-fourth ($\frac{1}{4}$) of the west one-half ($\frac{1}{2}$) of the east half ($\frac{1}{2}$) of section seventeen (17); and also the west one-fourth ($\frac{1}{4}$) of the west one-half ($\frac{1}{2}$) of the southeast quarter ($\frac{1}{4}$) of section eight (8), in township one hundred and eight (108), north of the base line and in range twenty-six (26) west of the principal meridian. Also lots three (3), four (4) and five (5), and the south half ($\frac{1}{2}$) of the northwest quarter ($\frac{1}{4}$), and the south half ($\frac{1}{2}$) of the northeast quarter ($\frac{1}{4}$) and the southwest quarter ($\frac{1}{4}$) and the southeast quarter ($\frac{1}{4}$) of section thirteen (13), and lots eleven (11), twelve (12) and thirteen (13), of section fourteen (14), in township one hundred and eight (108) north of range twenty-seven (27) west, all in said Blue Earth county.

SEC. 3. Section three (3) of chapter four (4) of said charter is

hereby amended by adding to the end of said section three (3) the following:

Forty-fourth—To control the erection and maintenance of steam or hot water heating apparatus for heating public and private buildings in said city, and for furnishing steam power, and define the manner in which the streets, alleys and public grounds may be occupied with pipes.

Forty-fifth—To erect, maintain and furnish hospitals and receive donations for buildings or grounds, or for furnishing the same.

Forty-sixth—To control, license and regulate skating rinks.

Forty-seventh—To make proper ordinances in regard to the inspection of cattle to be slaughtered for beef, and to appoint inspectors in reference to the same.

SEC. 4. Section one (1) of chapter five (5) of said charter is hereby amended to read as follows:

Section 1. The common council shall have power to levy upon all real and personal property in said city, except such as is by the laws of this state exempt from taxation, taxes to provide for the current expenses of the city government, for the purchase, opening and maintaining of public grounds, and the construction of public buildings, and for improvements of a general character, and for all other expenses which may be incurred, and other improvements which may be made and which are authorized by law.

SEC. 5. Section eleven (11) of chapter three (3) of said charter is hereby amended to read as follows:

CITY PRINTING.

Section. 11. The common council at their first meeting after each biennial election, or as soon thereafter as may be, shall advertise for proposals to do the city printing, giving public notice of not less than one (1) week, in such manner as the council may direct, that sealed bids shall be received by the city recorder for doing said printing. The bid or bids received by said recorder to do said printing shall be publicly opened and read by the recorder at such time and place as the common council shall appoint, and the person or persons offering to do said printing for the lowest sum or price in any newspaper of common circulation published in said city shall be declared the public printer;

Provided, however, that if the common council shall deem it best for the interest of the city to select a person who is not the lowest bidder, they may elect such person public printer, and he shall be declared the city printer for the ensuing two (2) years; and in the newspaper designated in said accepted bid or proposal, shall be published all ordinances, by-laws, and other proceedings and matters required by this act or by the by-laws or ordinances of the said city to be published in a public newspaper. The city printer or printers, immediately after the publication of any notice, ordinance or resolution which is required to be published, shall file with the city recorder a copy of such publication, with his affidavit, or the affidavit of his or their foreman, of the length of time and the date or dates at which the same has been published, and such affidavit shall be a prima facie

evidence of a publication of such notice, ordinance or resolution. *Provided, that if no person will publish or offer to publish in any newspaper published in said city, such ordinances or other matters as the common council may require to be published, at a rate not exceeding that now prescribed by statute for legal advertisements or notices, the common council may make such other provisions for publishing its ordinances, by-laws and matters requiring publication as it may think fit, anything herein contained to the contrary notwithstanding.*

SEC. 6. Section six (6) of said chapter three (3) is hereby amended by adding to the end of said section the following: Said treasurer may appoint a deputy who may perform all the duties required of his principal.

SEC. 7. Sections eight (8) and ten (10) of said chapter three (3) are hereby repealed.

SEC. 8. Sections one (1) and two (2) of chapter two (2) are hereby amended to read as follows:

Section 1. There shall be an election for electing such officers as are herein or otherwise by law made elective, on the first Tuesday in April, eighteen hundred and eighty-nine (1889), and every two (2) years thereafter. Such elections shall be held on the first Tuesday in April at such place or places in each ward or election precinct as the common council of said city shall designate, which election shall be held in conformity to the general election laws of the state.

Section 2. The elective officers of said city shall be a mayor, a municipal judge, treasurer, and recorder, all of which officers shall be residents and qualified voters of said city. Each ward shall elect two (2) aldermen, only one (1) of whom shall be elected at each biennial election except to fill a vacancy, and shall be residents within, and qualified voters of the ward for which they may be elected, and shall hold their office for four (4) years. All other officers necessary for the proper management of the affairs of the city, unless otherwise provided, shall be chosen by the common council. The mayor, municipal judge, treasurer and recorder shall be elected for two (2) years, and until their successors are elected and qualified. No alderman shall be elected in eighteen hundred and eighty-nine (1889) unless it be to fill a vacancy. In order to carry out the change of election from annual to biennial, the alderman having one (1) year to serve from April, eighteen hundred and eighty-nine (1889), and any vacancies filled at said election, and the city treasurer shall continue and hold their respective offices until the election in April, eighteen hundred and ninety-one (1891), and their successors are elected and qualified. At the April election in eighteen hundred and ninety-one (1891), one (1) alderman shall be elected for two (2) years and one (1) for four (4) years, in each ward of said city, and thereafter one (1) alderman from each ward at each election shall be elected for four (4) years, and until his successor is elected and qualified.

SEC. 9. Section eleven (11) of said chapter two (2) is hereby amended to read as follows:

Section 11. The term of every officer elected under this law shall commence on the second Tuesday of April of the year for which

he was elected, and shall, unless otherwise provided, continue for two (2) years, and until his successor is elected and qualified.

SEC. 10. That chapter six (6) of said charter of the city of Mankato be amended so as to read as follows:

CHAPTER VI.

TITLE I.

BOARD OF PUBLIC WORKS.

Section 1. There is hereby established an executive department of the municipal government of the city of Mankato to be known as the board of public works, of the city of Mankato; to be constituted and organized as hereinafter provided.

Section 2. The board of public works of the city of Mankato shall consist of three (3) reputable freeholders and qualified electors of said city, no two (2) of whom shall be residents of the same ward, and none of whom shall hold any other office under the charter and ordinances of the city. They shall be appointed by the mayor as soon as practicable after the passage of this act, and they shall hold office as follows: One (1) for one (1) year, one (1) for two (2) years, and one (1) for three (3) years, and until their successors are appointed and qualified. And the mayor shall designate in his appointments the term for which each member shall serve. The mayor shall on the second (2d) Monday in March, eighteen hundred and ninety (1890), and annually thereafter appoint one (1) member of said board whose term of office shall be three (3) years, and until his successor is appointed and qualified. In case the office of any member shall become vacant during his term, the said mayor shall in like manner as soon as practicable thereafter, appoint a person of like qualification aforesaid to fill such vacancy during said unexpired term, and until a successor shall be appointed and qualified. The members of the board of public works shall be required to give all the necessary time and attention to the proper and efficient discharge of the duties imposed upon them by the provisions of this act. The members of said board shall receive each six hundred (600) dollars per annum, salary payable monthly.

Section 3. The said mayor shall deliver to each person appointed by him as aforesaid, pro tempore or otherwise, a certificate of his appointment, and each of said persons shall before entering upon the discharge of his duties take and subscribe an oath to be indorsed upon said certificate to the effect that he will faithfully and impartially execute his duties to the best of his ability, and cause such certificate and oath within ten (10) days after said appointment to be deposited with the register of deeds of the county of Blue Earth, whose duty it shall be to file and record the same at the expense of said city.

Section 4. In case any person so appointed by said mayor fails for the space of ten (10) days after receiving said certificate of appointment to deposit the same with his oath as aforesaid, in the office of

said register of deeds as aforesaid, or in case any member of said board shall remove into or become a resident of a ward wherein another member resides, said office shall be declared vacant by the said mayor upon the fact being made known to him. Any member wishing to resign his office shall tender his resignation in writing to said mayor who shall be at liberty to accept or reject the same.

Section 5. No member of the board of public works, nor any officer or clerk in their employ shall be interested either directly or indirectly in any contract made and entered into by said board of public works; for any work or any material to be furnished therefor, and all contracts made with said board in which any member or officer of said board shall be interested shall at the option of the city be declared utterly void and of no binding effect whatever, and any member or officer of said board interested in any contract shall thereby forfeit his office and be removed therefrom on proof of such delinquency; and it is hereby made the duty of each member of said board of public works and of the mayor and every officer of said city to report to the common council any such delinquency when discovered. Any member, officer or clerk of said board who shall be interested directly or indirectly in any such contract or contracts aforesaid, and any contractor or other person who shall take any such contract or contracts with knowledge of such interest of such member, officer or clerk of said board in said contract or contracts, or who shall corruptly influence or attempt to influence the action of any member, officer or clerk of said board in the letting or making or entering into any contract, or in the performance of any official duties of such member, officer or clerk, shall be guilty of a misdemeanor, and liable on indictment and conviction thereof to be punished by imprisonment for a period not exceeding six (6) months or a fine not exceeding one thousand (1000) dollars, or both such imprisonment and fine in the discretion of the court.

Section 6. Any member of said board may be removed for cause by a two-thirds ($\frac{2}{3}$) vote of all the aldermen authorized to be elected, and under the same regulations as provided by this act in relation to elective officers of said city, and not otherwise.

Section 7. Said board shall annually elect one (1) of their number president, and they shall have the power to establish by-laws, rules and regulations for their government, and the officers and employees thereof.

Section 8. The city recorder shall be the clerk of said board, and it shall be his duty to keep the records and papers thereof, and he shall record their proceedings and perform such other duties as may be assigned to him by said board, and for the performance of such duties he shall receive a salary of three hundred (300) dollars per annum in addition to his salary as recorder and clerk of the municipal court.

Section 9. The board of public works shall on the third (3) Monday of March each year, or as soon thereafter as practicable, elect a competent and scientific person as civil engineer of said board, and said person so elected shall be ex-officio city engineer and shall have general charge of all engineering work required by the city. Said engineer shall perform all the civil engineering officially required by said

board, and neither said engineer or his assistants shall perform any other service except that connected with their official duties, without the permission of said board. In case of a vacancy the board shall fill the same for the unexpired term. Said engineer may be removed at any time for cause the same as other city officers. Said engineer shall within ten (10) days after his appointment take and subscribe an oath to the effect that he will faithfully execute his duties to the best of his ability, and he shall execute a bond to the city of Mankato with sureties in the sum of one thousand (1,000) dollars, and upon such conditions as shall be approved by said board. He shall receive such salary as may be fixed by the city council upon the recommendation of said board; and his said assistants shall receive such compensation as the board of public works with the concurrence of the common council shall determine.

Section 10. Meetings of said board shall be called by the president or a majority of said board, and they may meet at such stated times and in such manner as may be established by their rules, by-laws or regulations.

Section 11. The duties of the president shall be prescribed by the by-laws of said board, and in his absence the board may appoint a president pro-tempore with like powers and duties. A majority of said board shall constitute a quorum for the transaction of business, and they shall cause to be kept a record of their proceedings which shall at all times be open to public inspection. The board shall furnish the common council whenever required with any information needed in relation to their proceedings.

Section 12. The engineer of said board shall be charged with the erection and laying out, and with the control and supervision, of all sidewalks, streets, lanes, bridges, alleys and public levees, and it is hereby made his duty at all times to have and keep all the sidewalks, streets, lanes, bridges, alleys, and public levees in a cleanly condition, passable and safe for public use and travel. And to enable the said engineer to discharge the duties created by this section he can employ one (1) or more persons by consent of the said board of public works to perform such duties as said engineer shall prescribe, and the person or persons so employed shall receive such compensation as the board of public works with the consent of the common council may determine.

Section 13. A majority of said board shall be a quorum in all cases where a full vote of all the members may not be expressly required, and said board may adjourn from time to time; in case a quorum is not present at any meeting the member or members present may adjourn said board to another day, and in case none of the members are present at any time appointed for a meeting of said board the clerk of said board may adjourn the same to another time.

Section 14. The board of public works may adopt and use a common seal and alter the same at pleasure.

CHAPTER VI.

TITLE II.

STREETS, SIDEWALKS, ETC.

Section 1. The municipal corporation of the city of Mankato is hereby authorized and empowered to condemn lands for public parks, public markets, for the opening, widening, and extending or altering, and straightening of any street, levee, lane, alley, or highway, and to condemn an easement in land for the construction of slopes for cuts and fills upon real property abutting on any street, lane, alley, or highway, now ordered to be or such as shall hereafter be ordered to be opened, extended, altered, straightened or graded, and for changes of grade in any street, levee, lane, alley, or highway in said city, and to levy assessments for the same, and for such other local improvements as may be ordered by said municipal corporation upon the property fronting upon such improvements, or upon the property benefited by such improvements without regard to cash valuation. The provisions of this section shall apply to any and all improvements heretofore ordered, as well as to those which shall be hereafter ordered, and the common council shall have the care, supervision and control of all the highways, bridges, streets, sidewalks, alleys, levees, public squares and grounds within the limits of said city.

Section 2. Such assessment may be made by the said city of Mankato for grading, filling, leveling, paving, curbing, walling, bridging, graveling, macadamizing, planking, opening, extending, widening, contracting, altering and straightening any street, levee, lane or highway, and for a change of grade in any of the same, and also for the condemnation of land for public parks, public markets, and for an easement in land for the construction of slopes for cuts and fills in any street, levee, lane or highway which has heretofore been or shall hereafter be ordered to be opened, extended, widened, altered or straightened, and for a change of grade in any of the same and also for keeping the same in repair. Also for filling, grading, protecting, improving, and ornamenting any public park, square or grounds, now or hereafter laid out. Also for planting or protecting shade or ornamental trees. Also for constructing, laying, relaying, and repairing cross and sidewalks, area-walls, gutters, sewers, and private drains. Also street sprinkling, and also for the abatement of any and all public nuisances within the limits of said city.

Section 3. The expenses of any improvements mentioned in the foregoing section shall be defrayed save as herein otherwise provided, by an assessment upon the real estate benefited thereby, or by an assessment upon the real estate fronting thereon, to be levied in the manner hereinafter prescribed, *provided*, that cross foot-walks over public streets, lanes or alleys, and sidewalks adjacent to public squares, public grounds and public parks shall be paid out of the general funds of said city, and that all or any part of the expense of

the improving or ornamenting public grounds, squares and parks may, if the common council of said city deem it expedient, be paid out of the general fund of said city.

Section 4. All assessments for local improvements aforesaid, as provided in this chapter shall be made by the board of public works of the city of Mankato, except as may be herein otherwise provided.

Section 5. All applications or propositions for any improvement mentioned in section two (2) of this chapter, shall be made to or emanate from the common council of said city, and shall, except in the case of sidewalks and street sprinkling, be first referred to the board of public works by the said common council; *provided*, that any such application made to the said council shall be in writing, and the said council shall not be required to proceed further with any such application, by reference to the board of public works or otherwise, unless said council is satisfied that a majority of the property owners who would be probably assessed for the expense of any such improvement, have subscribed to such application. Upon such reference said board shall then proceed to investigate the same; and if they shall determine that such improvement is necessary and proper, they shall report the same to the common council, accompanied with an estimate of the expense thereof and a proper order directing the work. *Provided, further*, that it shall not be competent for said common council to order any improvement made against the unanimous report of all the members of said board when the board have assigned as a reason for their adverse report, that property cannot be found benefited to the extent of the damages, costs and expenses necessary to be incurred thereby.

In case the said board shall report in favor of said improvement, or some part thereof, or a modification of said improvement, the common council may in their discretion (unless otherwise provided for in this chapter) order the doing of such work or the making of said public improvement; and in all cases, the common council, after having obtained from said board of public works an estimate of the expense, may make such modification of the proposed plan as may be petitioned for by any of the owners of the property to be assessed, or as the council may think proper. *Provided further*, that such modification shall not materially change the character and object of the improvement as reported by said board, or materially increase the expense thereof. *And provided, further*, that the council shall in no case order the doing of any such work, or the making of any such improvement, unless, in their opinion, real estate to be assessed for such work or improvement can be found benefited to the extent of the damages, costs and expenses necessary to be incurred thereby, except as herein-after provided. Two or more improvements, upon one or more streets, either grading, sewerage or paving, or either or any of them, may be done at the same time, under one order, and may be included in one contract. *Provided, further*, that upon the unanimous recommendation of said board, the council may order the making of any improvement, and pay such proportion of the expense out of the general fund, as said council, by a three-fourths ($\frac{3}{4}$) vote of all its members may determine. *Provided*, that the common council, by a two-thirds ($\frac{2}{3}$) vote of its members, may, in cases where, in the judgment of said council, the

public necessity requires it, order the matter of any contemplated improvement and the advisability of doing the same, to the board of public works for their consideration, without petition.

Section 6. In case such improvement referred to in the preceding section shall relate to the opening, straightening, widening, contracting, altering, extending, or grading, paving, or sewerage any street, lane, alley, highway, levee or public grounds in the city, and said board shall report in favor of the same, they shall furnish the said common council, as part of their said report, with a plan or profile of the contemplated improvement, and shall also report whether, in their opinion, real estate to be assessed for said improvement can be found benefited to the extent of the damages, costs and expenses necessary to be incurred thereby, and whether the said improvement is asked for upon a petition or application of the owners of a majority of the property to be assessed for such improvement, and if it appear by such report that the owners of a majority of the property so to be assessed have not petitioned therefor, the same shall be ordered only by the votes of at least two-thirds ($\frac{2}{3}$) of all the members elect of said council. *Provided*, however, that such report or reports of the board of public works shall be construed as being advisory to the council, and shall not be deemed in law jurisdictional, and not essential to give the common council authority to order any improvements local to the city of Mankato.

Section 7. Whenever any order is passed by the common council by virtue hereof for the making of any public improvements (mentioned in section two (2) of this chapter, save as herein otherwise provided), which shall require the appropriation or condemnation of any land or real estate, the said board of public works shall as soon as practicable, proceed to ascertain and assess the damages and recompense due the owners of such land respectively, and at the same time to determine what real estate will be benefited by such improvement and assess the damages, together with the costs of the proceedings, on the real estate by them deemed benefited, in proportion as nearly as may be, to the benefit resulting to each separate lot or parcel thereof.

Section 8. The board of public works shall then give fifteen (15) days notice by one (1) publication, in the official newspaper of the city, of the time and place of their meeting, for the purpose of making said assessment, in which notice they shall specify what such assessment is to be for, and they shall describe the land to be condemned as near as may be done by a general description, and all persons interested in any such improvement shall have the right to be present and be heard, either in person or by counsel, and the city attorney as counsel for the city of Mankato shall be permitted to appear before them at such hearing to represent the interests of said city. The said board shall view the premises to be condemned, and receive any legal evidence that may be offered for the purpose of proving the true value thereof, or the damages that will be sustained, or benefits conferred by reason of the contemplated improvement; and the said board for this purpose are hereby authorized to administer oaths to all witnesses produced before them, and they may adjourn from time to time and place to place, until such assessment is completed, and said board shall have authority to send for persons or papers and to compel the at-

tendance of witnesses, and shall have authority to issue subpoenas under the seal of the board.

Section 9. The said board of public works, in making said assessment, shall determine and appraise to the owner or owners the value of the real estate appropriated for the improvements, and the damages arising to them respectively from the condemnation thereof, which shall be awarded to such owners respectively, as damages after making due allowance therefrom for any benefits which such owners may respectively derive from such improvements.

And said sum so awarded as damages shall bear interest at the rate of seven (7) per cent per annum from and after the date of the confirmation of the assessment therefor as hereinafter provided for until paid.

The condemnation, taking and appropriating of any real property, or of an easement therein for any improvement mentioned in section one (1) of title two (2) of this chapter shall be deemed (in law) to be done and fully consummated upon the confirmation by said board of the assessment of damages and benefits therefor.

Section 10. If the damage to any person be greater than the benefit received, or if the benefit be greater than the damage, in either case the board of public works shall strike a balance and carry the difference forward to another column, so that the assessment may show what amount is to be received or paid by such owners respectively, and the difference only shall in any case be collectible of them or paid to them.

Section 11. In the assessment of damages and benefits for the opening of any street, levee, lane, highway or alley, it shall be lawful for the said board of public works, in their discretion, in making such assessment, where part of the land to be laid out into such street, levee, lane, highway or alley has been theretofore donated by any person or persons for such street, levee, lane, highway or alley, to appraise the value of the land so donated, and to apply the value thereof as far as the amount so appraised shall go, as an offset to the benefits assessed against the person or persons making such donation or those claiming under them; but nothing herein contained shall authorize any person or persons by whom such donation is made, to claim from the city the amount of such appraisal, except as an offset as herein provided. And where the assessment is for the widening of any street which may have been heretofore, either in whole or in part donated to the public by the proprietors of the adjoining land, it shall also be lawful for said board of public works, in their discretion, to make such allowance therefor, in their assessment of benefits, as shall in their opinion be equitable and just.

Section 12. 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 another 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 said board of public works, and notice of such determination shall be given by them to

the owner when known, if a resident of the city, or left at his usual place of residence or abode. If the owner is not known or is a non-resident, ten (10) days notice by one (1) publication to all persons interested, shall be given in the official paper of the city. Such owners may at any time, within ten (10) days after such notice, notify the board of public works, in writing, his election to take such building, or part of building, at the 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 such time for the removal of such 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, within the time prescribed, then no deduction shall be made from the estimated damages aforesaid, and the said board of public works shall after the confirmation of the assessment, and after the money is collected or otherwise provided and ready in the hands of the treasurer to be paid over to the owner for his damages, proceed to sell such building or part of building at public auction, for cash, giving ten (10) days public notice of the sale by one (1) publication in the official paper of the city, and cause such building to be then forthwith removed. The proceeds of such sale shall be paid into the city treasury, to the credit of the local improvement fund.

Section 13. If the lands and buildings belong to different persons, or if the land be subject to lease, the damages done to such persons, respectively, may be awarded to them by the board of public works, less the benefits resulting to them, respectively, from the improvements.

Section 14. Having ascertained the damages and expenses of such improvement, as aforesaid, the said board of public works shall thereupon apportion and assess the same, together with the costs of the proceedings upon the real estate by them deemed benefited, in proportion to the benefits resulting thereto from the improvement, as nearly as may be, and shall briefly describe the real estate upon which their assessment may be made; and it shall constitute no legal objection to such assessment, that the amount thereof either exceeds or falls short of the original estimate of the cost of the improvement submitted to the common council by the board of public works.

Section 15. When completed, said board of public works, shall cause to be given ten (10) days notice by two (2) publications in the official paper of the city to the effect that such assessment has been completed, and that at a time and place therein specified the said board will meet for the purpose of hearing objections, and that all such objections must be filed in writing with the clerk of said board at least one (1) day prior to said meeting, and that unless sufficient cause is shown to the contrary the same will be confirmed, and when so confirmed shall be entered in a book kept for that purpose. Objections to said assessments shall be in writing and filed with the clerk of said board, at least one (1) day prior to said meeting of said board last mentioned; *Provided, however*, that the said board may, in its discretion, allow any party interested, who has accidently or inadvertently

omitted to file his objection aforesaid, to do so at the time of meeting of said board. Should no quorum be present at the said appointed meeting of said board, the said meeting may be adjourned by the member or members of said board present, or if none of the members are present, by the clerk of said board, to such other convenient time and place as may be deemed expedient; *provided further*, that nothing herein contained shall preclude the said board from causing a new notice aforesaid to be given, of a meeting of the said board for the purpose of hearing objections to said assessment, and for the confirmation thereof in manner as before required, in case the previous notice shall be found imperfect, or in case of a defect in the attendance of the members of said board, or for any other reason which shall be satisfactory to the said board for so doing. The said board shall have the power to adjourn such hearing from time to time, and shall have power in their discretion to revise and correct the said assessment, and to confirm or set aside the said assessment, and proceed to make an assessment de novo, without any further order from the council. Said assessment when confirmed, shall be final and conclusive upon all parties interested therein, except as hereinafter provided. When said assessment is confirmed a warrant under the seal of said board shall issue to the treasurer of said city for the collection of the same from the property on which the same has been assessed, signed by the mayor and clerk of said board. If said assessment shall be set aside by the said board aforesaid, or by the court, the said board of public works shall proceed de novo, without any further orders from the council, to make another or new assessment, and they shall proceed in like manner and give the like notice as herein required, in relation to the first, and all parties in interest shall have the like rights and the said board shall perform like duties and have like powers in relation to any subsequent determination as are hereby given in relation to the first. As soon as practicable after the said assessment has been confirmed and entered, the clerk of said board shall cause a brief notice, by one (1) publication, of the fact of said confirmation and entry to be published in the official paper of said city.

Section 16. Any person whose property has been appropriated, and who has filed objections to such assessment, as hereinbefore provided, shall have the right at any time within ten (10) days after the publication of said notice provided for in the next preceding section, to appeal to the district court of Blue Earth county of this state, from the order confirming said assessment. Said appeal shall be made by filing a written notice with the clerk of the board of public works, specifying the name of the court in which the appeal is taken, and a description of the property of said appellant so appropriated, and the objections of said appellant to such assessment, and by filing with the clerk of said court within ten (10) days thereafter a copy of said notice of appeal and objections together with a bond to the city of Mankato conditioned to pay all costs which may be awarded against the appellant, in such sum and with such security 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, together with a copy of such notice with the date of filing thereon certified by the

clerk of the board of public works. In case of an appeal, a copy of the assessment roll as confirmed, aforesaid, and of the objections aforesaid made to the confirmation thereof, certified by the clerk of said board at the expense of the appellant, shall be filed in the office of the clerk of the court to which appeal shall be taken, and the cause shall be docketed by such clerk in the name of the person taking such appeal against the city of Mankato, as an appeal from assessments. The said cause shall then be at issue, and shall have the preference in order of trial over all civil causes pending in said court. Such appeal shall be tried in said court as in the case of other civil causes, except that no pleading shall be necessary; and on such trial the only question to be passed upon shall be whether the said board of public works had jurisdiction in the case, and whether the valuation of the property specified in the objections is a fair valuation, and the assessment, so far as it affects such property, is a fair and impartial assessment. The judgment of the court shall be to confirm the assessment, if it shall have been found that said board has jurisdiction, and that said valuation and assessment, in so far as the same shall affect the property of said appellant, are fair and impartial. If the court shall find that the board of public works had no jurisdiction in the matter appealed from, then and in such case the judgment of the court shall be to annul said assessment. If the court shall find that the board had jurisdiction, and shall also find that said valuation is unfair, and that the damages awarded by said board to said appellant are insufficient and inadequate for the property so appropriated, then, and in such case, the court shall determine and find the amount of damages which said appellant is entitled to receive, and shall order judgment therefor. On motion of the corporation attorney, the court shall order a stay of judgment for four (4) months, and the board of public works shall, without unnecessary delay, after the notice of the rendition of such judgment, proceed to make a new assessment or reassessment, for the purpose of raising the difference between the amount originally awarded by said board to said appellant or appellants and the amount which the court has adjudged said appellant is entitled to receive; and said board shall proceed, in making such new assessment or reassessment in the same manner, and shall have and take like proceedings as are provided for in section fifteen (15) of this chapter, where an assessment has been set aside or annulled by said board, or by the order and judgment of said court.

Section 17. When such assessment shall have been confirmed and no appeal shall have been taken therefrom, or if any appeal shall have been taken, when judgment shall have been rendered thereon, the same shall be a lawful and sufficient condemnation of the land or property ordered to be appropriated. The common council shall thereupon cause to be paid to the owner of such property or his agent, the amount of damages over and above all benefits which may have been awarded therefor, as soon as a sufficient amount of the assessments have been collected for that purpose; but the claimant shall in all cases furnish an abstract of title, showing himself to be entitled to such damages before the same shall be paid. If in any case there shall be any doubt as to who is entitled to the damages for land taken, the city may require of the claimant a bond with good and sufficient

sureties to hold the city harmless from all loss, costs and expenses in case any person should claim such damage. In all cases the title to the land taken and condemned in the manner aforesaid shall be vested absolutely in the city of Mankato in fee simple. It shall be the duty of the clerk of the board to cause all deeds taken by the city for land acquired by condemnation to be recorded without delay, and the said clerk shall be the custodian thereof. In case no deed is given, it shall be the duty of the said clerk to cause the county auditor and city treasurer to be notified of the title so acquired by the city, giving to each of them a description of the land so acquired. And it shall be the duty of the register of deeds of the county of Blue Earth to record all deeds, without requiring the certificate of the county auditor, county treasurer or city treasurer that the taxes and assessments thereon have been paid.

Section 18. As soon as the money is collected and ready in the hands of the treasurer to be paid over to the parties entitled to damages for the property condemned, ten (10) days notice thereof by two (2) publications shall be given by the city treasurer in the official paper of the city, and the city may then, and not before, except as hereinafter provided, enter upon, take possession of and appropriate the property condemned; and whenever the damages awarded to the owner of any property condemned by the city for public use, shall have been paid to such owner or his agent or when sufficient money for that purpose shall be in the hands of the city treasurer, ready to be paid over to such owners, and said ten (10) days notice thereof shall have been given in the official paper of said city, the city may enter upon and appropriate such property to the use for which the same was condemned. *Provided*, however, that the city shall not be hindered, delayed or prevented by the prosecution of an appeal by any person as hereinbefore provided for in section sixteen (16) of this title from entering upon and appropriating such property to the use for which the same was condemned. If the city shall after such an appeal has been taken, by its mayor execute and file with the clerk of the district court of Blue Earth county, a bond to be approved by said clerk payable to the appellant, conditioned that the city shall in case the assessment against the property appealed from be annulled and set aside by the court, pay whatever sum shall finally be awarded by the board of public works as damages for such property so condemned and appropriated, less such sum as shall be assessed thereon as benefits. This provision shall apply as well to all proceedings for condemnation now pending, in whatever stage such proceedings may now be, as to those hereafter to be initiated. The mayor of the city is hereby authorized and empowered to execute the bond herein provided.

Section 19. When the whole of any lot or parcel of land or other premises under lease or other contract shall be taken for the purpose aforesaid by virtue of this act, all the covenants, contracts and engagements between landlords and tenants or any other contracting parties, touching the same or any part thereof shall, upon publication of the notice required in the preceding section, respectively cease and be absolutely discharged.

Section 20. Where part only of any lot or parcel of land or other premises so under lease or other contract shall be taken for any of the

purposes aforesaid by virtue of this act, all covenants, contracts, agreements and engagements respecting the same, upon publication of the aforesaid notice, shall be absolutely discharged, as to the part thereof taken; but shall remain valid as to the residue thereof, and the rents, considerations and payments reserved payable and to be paid for in respect to the same, shall be so proportioned that the part thereof justly and equitably payable for such residue thereof, and no more, shall be paid and recoverable for the same.

Section 21. All proceedings taken by the said board of public works, in carrying out the provisions of this chapter, shall be recorded in a book or books kept for that purpose by the clerk of said board, describing particularly the respective improvements and the real estate taken and assessed. The said books in which the said proceedings have been entered aforesaid and the official files and papers of said board of public works, shall be deemed public records, and be prima facie evidence of the facts therein stated; and certified copies thereof by the clerk, or officer having proper custody thereof with the seal of said board attached, shall be evidence in all courts to the same effect as if the originals were produced. The clerk of said board shall be entitled to receive from any private party for any certified copy or transcript aforesaid furnished said private party the like fees as are received for such services by the clerk of any court of record in this state.

Section 22. The common council of said city may cause sidewalks to be constructed, relaid or repaired whenever they may deem that the public interest requires it. Whenever said council shall order the construction or repair of such sidewalks a copy of such order shall be transmitted to the board of public works, and the said board shall without unnecessary delay advertise for bids for the constructing or repairing such sidewalks or may furnish men and material and construct and repair such sidewalks without advertising for bids.

If the said board advertise for constructing or repairing such sidewalks, the said board shall give at least ten (10) days notice in the official paper specifying the kind of walk, and repairs if any, and may award the same to the lowest responsible bidder, who shall give bonds as for other public works, or the board may, after such bids are in, do said work under the charge of the city engineer if they deem said bid or bids too high, or the party not responsible.

At the first (1st) meeting in each and every month, unless otherwise ordered by the board, they shall give ten (10) days notice by two (2) publications in the official paper of said city to the effect that at a certain time and place they shall proceed to make an assessment for constructing, relaying, or repairing said sidewalks. Said notice shall briefly describe the location and nature of said improvements by streets.

The said board shall assess the amount as near as they can ascertain the same, which will be required to defray the cost of such improvement including the necessary expense of making and collecting the assessment upon the real estate or lots of land fronting on said improvement.

In making said assessment, the said expense and costs shall be apportioned in accordance with the number of lineal feet of said real

estate or lots of land fronting on said improvement as aforesaid. When said assessment is complete, the said board shall give ten (10) days notice by two (2) publications in the official newspaper of the city, to the effect that at a time and place therein specified said assessment will be confirmed, unless sufficient cause is shown to the contrary, and that objections must be filed one (1) day before such time of meeting, with the clerk of said board. Such objections shall be made and filed in the same manner, and said board shall proceed in hearing the same, and have the same power to revise, correct, confirm or set aside such assessment or proceed *de novo* as provided in section fifteen (15) of this chapter.

Said assessment when confirmed shall be final and conclusive and no appeal shall lie therefrom. A warrant shall issue for the collection thereof, and said assessment shall be enforced and collected as other assessments made under this chapter. *Provided, however,* when the cost of building or repairing any sidewalk does not exceed ten (10) dollars the same may be collected in the same manner as provided in section six (6), chapter nine (9), relating to sprinkling streets as hereinafter set forth. *Provided, however,* that nothing in the foregoing section shall be construed to prevent any property owner from constructing his or her own sidewalks, under the authority and direction of the city engineer, provided said sidewalk shall have been constructed before a sidewalk had been ordered in front of the property by the common council. In that case the property owner shall have no authority whatever in the premises to construct said sidewalk, but the same shall be built by the city, as provided by law, unless the board grant said property owner the right to build after the same has been ordered.

Section 23. Whenever an order shall be finally passed by the common council of said city as hereinbefore provided, for filling, grading, leveling, paving, curbing, walling, bridging, graveling, macadamizing or planking any street, levee, lane, alley or highway, or for keeping the same in repair, or for filling, grading, protecting, improving or ornamenting any public square; or for constructing area walls, gutters, sewers, and private drains, the city recorder shall transmit a copy of such order of said council to said board of public works.

The said board of public works shall cause the said work to be let and done as hereinafter provided; and after the whole of said work shall have been placed under contract, as hereinafter provided, the said board shall thereupon proceed without delay to assess the amount as nearly as they can ascertain the same, which shall be required to defray the cost of such improvement, including the necessary expense of making such assessment, in proportion, as nearly as may be, to the benefit resulting thereto, in manner hereinafter provided; *provided, however,* that the repairing of any street, lane, levee, alley, highway, public ground, bridges or sewers, the cost of which repairs is estimated not to exceed the sum of two hundred dollars (\$200), may be done under the direction of said board, and the costs thereof shall be paid out of the general fund. *And provided, further,* that nothing herein contained shall prevent the common council of said city from ordering the construction of one or more main sewers or culverts, in

accordance with any general system of sewerage which said council may adopt.

Section 24. When in any case any portion of the cost and expense of making any improvement mentioned in the foregoing section shall, by virtue of any valid law or ordinance, or by virtue of any valid contract, be chargeable upon any railroad company, the amount so chargeable may be assessed upon such railway company, and the balance only upon the real estate benefited thereby, and the city may collect the amount so assessed upon said railway company, by distress and sale of personal property in the manner provided for by the general laws of this state in the case of taxes levied upon personal property, or by suit brought for that purpose; *provided, however*, that any real estate belonging to said railway company, and deemed benefited by said improvement, shall be assessed as in other cases.

Section 25. Before proceeding to make an assessment for any improvement mentioned in section twenty-three (23), said board of public works shall give ten (10) days notice by two (2) publications in the official paper of said city, of the time and place of their meeting for the purpose of making such assessment; in which notice they shall specify what such assessment is for, and the amount to be assessed. The said board shall also give at least four (4) days personal notice to the same effect to all property holders interested, or their agents resident in the city of Mankato, known to said board and found; but the failure to give such personal notice shall in no wise affect the validity of such assessment or of any of the proceedings. All persons interested in such assessment shall have the right to be present and be heard, either in person or by counsel, and the said board may, in their discretion, receive any legal evidence, and may adjourn if necessary from time to time and place to place. The personal notice required by this section may be made by depositing in the Mankato post office a postal card addressed to the property owners to be assessed or their agents resident in Mankato, at least four (4) days prior to the making of an assessment, upon which card shall be printed or written substantially what the personal notice by said section twenty-five (25) is now required to contain; but the failure to give such personal notice shall in no wise affect the validity of said assessment or of any of the proceedings.

Section 26. When the said board of public works shall have completed their assessment provided for in sections twenty-three (23), twenty-four (24) and twenty-five (25), they shall cause like notice to be given of the time and place when said board shall meet to hear objections, and for the confirmation of such assessment, as hereinbefore required in relation to assessments for the condemnation of real estate; and objections shall be made in like manner and under the same regulations and conditions, and all parties in interest shall have like rights (except the right of appeal), and the said board of public works shall perform like duties, and have like power in relation to such assessments as are herein given in relation to assessments for the condemnation of real estate. When confirmed by the said board of public works, said assessment shall be final and conclusive upon all parties interested therein, and shall be collected as in other cases, and no appeal shall lie in any case from the order of confirmation.

If any assessment be annulled or set aside, the said board of public works shall proceed *de novo* to make another or new assessment in like manner, and give like notice as herein required in relation to the first.

Section 27. Whenever any public improvement shall be ordered for which an assessment is to be made as aforesaid, the board of public works shall cause proposals for doing said work to be advertised for in the official paper of said city, a plan or profile of the work to be done, accompanied with specifications for the doing of the same being first deposited with the clerk of said board, to be kept by him at all times open to public inspection; which advertisement shall be published twice at least in said official paper, and shall state substantially the work to be done. The bids for the doing of such work shall be sealed bids, directed to the board of public works of the city of Mankato, and shall be sealed in such manner as they cannot be opened without detection, and shall be accompanied by a bond to the city of Mankato in a sum not less than twenty (20) per cent of the cost of the work according to the price bid, as nearly as can be ascertained, executed by the bidder and two (2) responsible sureties, conditioned that he shall execute the work for the price mentioned in his bid according to plans and specifications, in case the contract shall be awarded to him. And in case of default on his part to execute the contract and perform the work, said bond may be sued and judgment recovered thereon by the city, for the full amount thereof, in any court having jurisdiction of the amount. Said bids shall be opened by the said board at their next meeting after the time limited by said proposals, or such other time thereafter as said board may appoint, and it is hereby made the duty of the board of public works in case of the default hereafter of any contractor to complete his contract with the city within the time limited in said contract to cause suit to be commenced forthwith upon the bond executed and delivered to the city, in accordance with the provisions of this section. And it is made the duty of said board of public works to reject all bids for contract work made by any person or persons who shall have defaulted in any contract awarded by the board of public works after the passage of this act, except as to time, or who shall have refused to enter into contract after the same may have been awarded to him or them.

Section 28. All contracts shall be awarded to the lowest reliable and responsible bidder or bidders, who shall have complied with the above requisition, and who shall have guaranteed to the satisfaction of said board the performance of said work to the satisfaction of said board, except in the case of paving streets with patented pavement or pavements, when in such case the notice for bids may call for wood, stone or other kind of pavements, and when all the proposals therefor are in, the board may select the one which is relatively the lowest, or the most satisfactory, all things considered, and the decision of the board shall be final. If the pavement selected is patented, the said board shall require a license from the patentee, to lay and relay the same for all time thereafter, free from all claims of royalty. Whereupon a contract shall be made on the part of said board, in the name of the city of Mankato, and shall be executed on the part of

said city by the president of said board, or such of their members as the said board may designate, and the seal of said board shall be thereto attached, and the said contract shall be countersigned by the city recorder. Said contract shall be filed in the office of the city recorder.

Provided, however, that said board may reject any bid which they deem unreasonable or unreliable, and that said board in determining the reliability of a bid, shall consider the question of the responsibility of the bidder and his ability to perform his contract, without any reference to the financial responsibility of the sureties of the bond. *Provided further*, that no contract shall be awarded except upon or by a vote of at least two-thirds ($\frac{2}{3}$) of the members of said board in favor thereof. And *provided further*, that no contract shall be awarded except with the approval of the common council by a two-thirds vote of the members thereof elect. *Provided further*, that if during any year at the time of the completion of any contract made by said board of public works there shall be no money in the treasury applicable to the payment of said contract after the allowance of any estimate, the city recorder is hereby authorized to issue a certificate of indebtedness for the amount due on said estimate, said certificate to be signed by the president of said board. Said certificate to be payable whenever there is money in the city treasury properly applicable to pay the same with interest not exceeding eight (8) per cent per annum, payable semi-annually at the office of the treasurer of the city of Mankato. The faith and credit of the city of Mankato are and shall be irrevocably pledged for the payment of the principal and interest of said certificate.

Section 29. The said board of public works shall reserve the right in their said contracts in case of improper construction to suspend the work at any time and relet the same, or to order the entire reconstruction of said work if improperly done. In case where the contractor or contractors shall proceed to properly perform and complete the said contracts the said board of public works may from time to time in their discretion as the work progresses grant to said contractor or contractors an estimate of the amount already earned, reserving fifteen (15) per cent therefrom which shall entitle said contractor or contractors to receive the amount which may be due thereon, when there is money applicable to the payment of such work. When the whole work has been completed by such contractor or contractors, to the satisfaction of the board of public works, the amount or balance due him or them shall be audited and allowed by the common council of said city, and shall be payable out of the moneys applicable to the payment of such work. All estimates of the engineer of the board of public works for work done under any and all contracts, shall be made out monthly and so allowed by the board of public works, and in no case shall semi-monthly estimates for such work be given or allowed except final estimates which may be given and allowed at any time after the allowance of the preceding estimate.

Section 30. Two (2) or more of the notices required or authorized by this act to be given by the board of public works or the city recorder by publication in the official paper of the city in any special assessment proceedings may be comprised in one advertisement;

provided, however, such notices are of the same general character, or for like objects; and *provided further*, that in other respects the notice so published shall sufficiently comply with the essential statutory requirements, and the provisions of this section shall extend to and embrace all notices required to be given in the official paper of the city, by the city treasurer, or the delivery to him of all special assessment warrants for collection, and of his intended application to some court of general jurisdiction for judgment thereon, provided for in this chapter. *Provided further*, that all notices required to be given by or under this act or any act amendatory thereof, or which may be or which are to be given under this act, or any act amendatory thereof by publication in the official paper, shall be deemed sufficient and legal, if published on their regular publication day of said official paper.

Section 31. When any special assessment shall have been confirmed, it shall be the duty of the clerk of the board of public works to issue a warrant for the collection thereof, which shall be under the seal of said board, and signed by the mayor and clerk of said board, and shall contain a printed or written copy of the assessment roll as confirmed aforesaid, or so much thereof as describes the real estate and the amount of the assessment in each case. In case of an appeal as provided for by section sixteen (16) said appeal shall not delay or affect the collection of the assessment under such warrant, except as to the property of such appellant appropriated aforesaid. And in case such appeal shall be sustained and the assessment in relation to said property appropriated of said appellant shall be set aside by the court, the board of public works shall make a new assessment as to the property of such appellant last mentioned proceeding *de novo* as to the same, and in accordance with the provisions relating to improvements referred to in section seven (7); and in case the amount of damages or recompense which said board of public works may award such appellant upon such new assessment shall exceed the first, the board of public works shall make a new assessment upon the property benefited to pay the difference which may have been awarded appellant together with the costs and expenses of such new assessment.

Section 32. All warrants issued for the collection of special assessments shall be delivered by the recorder to the city treasurer within five days thereafter, taking his receipt therefor.

Section 33. Upon the receipt of any warrant for the collection of special assessment the city treasurer shall forthwith give notice by two (2) publications in the official newspaper for the city, that such warrant is in his hands for collection, briefly describing its nature, and requesting all persons interested to make immediate payment at his office, and that in the default thereof the same will be collected at the cost and expense of the persons liable for the payment of such assessment.

Section 34. All assessments levied under the provisions of this chapter shall be a paramount lien on the real estate on which the same may be imposed from the date of the warrant issued for the collection thereof.

Section 35. If the assessments charged in any special assessment

warrant, whether made by reason of the appropriation or condemnation of land, or for any other improvements whatsoever under the provisions of this chapter, shall not be paid within thirty (30) days after the publication of notice by the city treasurer that he has received such warrant for collection, except in case it is on a collection warrant issued on or by reason of a re-assessment, or a new assessment, in which latter case the notice that such warrant is in the treasurer's hands shall require payments to be made within ten (10) days after the publication, the assessment then remaining unpaid shall be collected with interest at the rate of twelve (12) per cent per annum thereafter until the same shall be paid. Upon all assessments paid prior to the expiration of said thirty (30) days said treasurer shall deduct ten (10) per cent of said assessment.

Section 36. It shall be the duty of the city treasurer, immediately after the expiration of the thirty (30) days or after (10) days on a re-assessment or a new assessment warrant, mentioned in the preceding section, to report to the court of Blue Earth county at any general or special term thereof, all assessment warrants for the collection of any assessments under the provisions of this chapter which have been delivered to him, and then and there ask for judgment against the several lots or parcels of land described in such warrants, for the amount of assessments, interest and costs respectively due thereon. The city treasurer shall previously give at least ten (10) days notice by two (2) publications in the official paper of said city of his intended application for judgment, which notice shall briefly specify the respective warrants upon which such application is to be made, and a brief description of the property against which judgment is desired, and require all persons interested, to attend at said term.

Said treasurer shall also give five (5) days personal notice to the same effect to all property holders interested or their agents resident in the city of Mankato if known to said treasurer and found, but the failure to give such personal notice shall in no wise affect the validity of the judgment applied for, or any of the proceedings. The advertisement so published shall be deemed and taken to be sufficient and legal notice of the aforesaid and intended application by the city treasurer, to such court for judgment, and shall be held a sufficient demand and refusal to pay said assessment.

Section 37. The city treasurer shall obtain a copy of the advertisement or advertisements referred to in the preceding section, together with an affidavit of the due publication thereof from the printer or publisher of the newspaper in which the same was published, and shall file the same with the clerk of such court, at the said term, with said reports.

Section 38. The clerk of said court upon the filing of such reports of the city treasurer, shall receive and preserve the same, and shall annex thereto, or file therewith, all judgments, orders, and other proceedings of said court in relation thereto. Each of said reports shall constitute a separate proceeding or suit and shall be docketed by the clerk of said court in a suitable record book to be kept by him for that purpose substantially in the following form, to-wit:

"The city of Mankato vs. certain lots of land.....suit for assessment on warrant for

.....” Or in such other manner as will sufficiently indicate the nature of the improvement for which the assessment is made, in which said record book the judgment when rendered shall also be docketed. *Provided*, however, that the court may by rule, or otherwise, direct how and in what form such proceedings and judgments may be entered or docketed, and that further record if any shall be made thereof and what papers shall be filed and how kept and preserved.

Section 39. It shall be the duty of the court upon the filing of said reports, to proceed immediately to the hearing of the same, and they shall have priority over all other causes pending in said court. The said court shall pronounce judgment against the several lots and parcels of land described in said reports, for which no objection has been filed for the amount of the assessment, interest, damages and costs due severally thereon. The owner of any property described in said reports, or any person beneficially interested therein who shall feel aggrieved by such assessment, shall file in said court his objections in writing, to the recovery of judgment against such property, and shall serve a copy thereof upon the corporation attorney at least five (5) days prior to the time designated in the city treasurer's notices, that he will apply for judgment as provided for in section thirty-six (36) of this chapter. No objection shall be interposed or sustained in relation to any of the proceedings prior to the confirmation of the assessment, except that the common council had no authority to order the said improvement, or the board of public works had no authority to have the said work performed; and no objections as to any other of the proceedings shall be sustained on any mere formal irregularity or defect, and the city treasurer may amend by leave of the court in its discretion in any matter in the furtherance of justice. The court shall hear and determine all objections in a summary manner without pleadings, and shall dispose of the same with as little delay as possible, consistent with the demands of public justice; but should justice require that for any cause the suit as to one or more owners should be delayed, judgment shall then be rendered as to the other property and lands, and process shall issue for the sale thereof the same as in all other cases. Upon the trial in the district court of an appeal from any assessment charged in any special assessment warrant, whether made by reason of the appropriation or condemnation of land, or for any other improvement whatsoever under the provisions of this chapter, the court shall give to the official act of said board in making the assessment the same weight, at least as evidence, as it would and should give to the testimony of an equal number of disinterested and specially qualified expert witnesses upon all questions considered and determined by the board in making such assessment.

Section 40. In all cases where judgment shall be rendered in default against the property described in said reports the court shall thereupon direct the clerk of said court to make out and enter an order for the sale of the same, which said order shall be substantially in the following form:

“Whereas due notice has been given of the intended application for a judgment against said lands and no owner hath appeared to make

defense or show cause why judgment should not be entered against the said lands and other property for the assessment, damages, interest and costs due and unpaid thereon.

Therefore it is considered by the court that judgment be and is hereby entered against the aforesaid lots and parcels of land in favor of the city of Mankato for the sum annexed to each lot or parcel of land, being the amount of assessment, interest, damages and costs due severally thereon and it is ordered by the court that the several lots and parcels of land, or so much thereof as shall be sufficient of each of them to satisfy the amount of assessment, interest, damages and costs annexed to them severally, be sold as the law directs."

In all cases where a defense shall be interposed and judgment shall be rendered against the property, a similar order adapted to the circumstances of the case shall be made and entered of record. Thirty-five (35) cents costs shall be laid to each lot or parcel of land against which judgment is rendered, and the further sum of one (1) dollar to each lot or parcel for advertising the notice of sale; *provided*, that in all cases where a defense is interposed and not sustained, the court may direct by special order or by rule, such additional costs to be included in the judgment as may be deemed proper.

Section 41. It shall be the duty of the clerk of said court within twenty (20) days after such order is granted as aforesaid, to make out under the seal of the said court a copy of so much of said city treasurer's report as gives a description of the land against which judgment shall have been rendered, and the amount of such judgment, together with the order of the court thereon which shall constitute the process on which all lands and pieces or parcels of land shall be sold for the amount of the assessments, interest, damages and costs so levied, assessed or charged upon them; and the said city treasurer is hereby expressly authorized and empowered to make sale of such lands, lots, pieces or parcels of land or other property, upon ten (10) days notice by two (2) publications in the official paper of said city.

Section 42. The said advertisement, so to be published in each case of a judgment upon any collection, warrant or report as aforesaid, shall contain a list of the delinquent lots and parcels of land to be sold, the names of the owners if known, the amount of judgment rendered thereon, respectively, and the warrant upon which the same was rendered, the court which pronounced the judgment, and a notice that the same will be exposed to public sale at a time and place to be named in said advertisement by said city treasurer. The omission of the name of any owner or any mistake respecting the same shall not invalidate the sale, if the property be otherwise described with sufficient certainty.

Section 43. In all proceedings and advertisements for the collection of such assessments, and the sale of lands therefor, letters and figures may be used to denote lots, parts of lots, lands and blocks, sections, townships, ranges and parts thereof, the year and the amounts.

Section 44. Certificates of sale shall be made and subscribed by the city treasurer, duly acknowledged before a notary public, or person authorized to take acknowledgments, and signed by two (2) wit-

nesses, which shall be delivered to the purchaser, and which certificates of sale shall contain the names of the purchaser, a description of the premises sold, the amount of the judgment for which the same was sold, adding interest at the rate of twelve (12) per cent per annum from the day when judgment was rendered to the day of sale, and fifty (50) cents costs on each description, or such other expenses as may be incurred by the city in selling the property; which judgment, interests and costs shall constitute the total amount for which the property shall be sold, which amount shall also appear in the certificate, and the time when the right to redeem shall expire. Said certificates shall bear interest at the rate of twelve (12) per cent per annum until paid. Said certificates shall state upon their face in addition to what is now required by law, that "This certificate may be redeemed in five (5) annual installments which shall become due and payable as follows: One-fifth (1-5) of said certificate at the end of each one of the successive five (5) years next ensuing from the date of this certificate, together with the interest on the whole amount thereof unpaid at the maturity of each of said installments—*provided*, that said certificate may be redeemed at any time before maturity upon the payment of thirty (30) days interest in addition to the interest which has already accrued. *Provided, however*, that property belonging to minors or to a lunatic, upon which city deeds have been or may be issued can be redeemed while such disability continues by the guardian of such person filing with the city treasurer a certified copy of his appointment by the probate court as guardian of such person together with an affidavit showing the facts showing said inability, whereupon the treasurer shall deliver to him a certificate of redemption upon the payment of the proper sum, which certificate of redemption together with a copy of the appointment as guardian and affidavit aforesaid shall be recorded in the office of the register of deeds and shall be deemed sufficient to remove the cloud from such title by reason of such city deed.

Section 45. The person purchasing any lot or parcel of land shall forthwith pay to the treasurer the amount of the judgment due thereon, and on failure so to do, the said property shall be again offered for sale in the same manner as if no sale had been made, and in no case shall the sale be closed until payment shall have been made. If no bid shall be made for any lot or parcel of land the same shall be struck off to the city; and thereupon the city shall receive in the corporate name a certificate of the sale thereof, and shall be vested with the same rights as other purchasers at such sales.

Section 46. The city treasurer shall enter and extend upon the certified copy of judgment and order of sale issued to him by the clerk of the district court the interest, cost and expenses to be charged against each lot or description as provided by law, the amount of the sale, to whom sold, or if struck off to the city, to whom transferred afterwards, with the amount of the transfer, and attach thereto a copy of the advertisement pertaining to the sale. The city treasurer shall keep this record on file in his office. Certified copies thereof may be furnished when desired.

Section 47. If at any sale any piece or parcel of land shall be sold to a purchaser or a piece or parcel struck off to the city, the same

may be redeemed at any time within five (5) years from the date of the sale by any person having an interest therein, upon the payment of the amount for which the same was sold, with interest from the time of such sale at the rate of twelve (12) per cent per annum in accordance with the provisions of section forty-four (44) of this act, and upon terms and conditions as to installments therein provided, and any other assessments which may be made under or by virtue of this chapter, or the charter of the city of Mankato subsequent to the sale, with the interest accrued thereon, at the rate and payable in accordance with the provisions of section thirty-five (35). If the real estate of any lunatic or infant be sold under this chapter, the same may be redeemed at any time within one (1) year after such disability shall be removed. Redemption shall be made by the payment of the redemption money to the city treasurer, and upon such payment the city treasurer shall execute to said redemptioner a certificate of satisfaction of said assessment, judgment and lien. Upon the return of the certificate of sale or upon proof of its loss, and the filing with the recorder of an affidavit to that effect, if the property shall not have been redeemed according to law, a deed shall be executed to the purchaser or his assigns, under the corporate seal of said city signed by the mayor and recorder of said city, conveying to such purchaser or assignee the premises so sold and unredeemed as aforesaid.

The city treasurer shall at least three (3) months before the expiration of the time for redeeming any lot or parcel of land aforesaid cause to be published in the official paper of said city once a week for six successive weeks a list of all unredeemed lots or parcels of land, specifying each tract or parcel, the name of the person to whom assessed if any, and the amount of the assessment, charges and interest calculated to the last day of redemption, due on each lot or parcel, together with notice that unless such lots or parcels of land be redeemed on or before the day limited therefor, specifying the same, they will be conveyed to the purchaser. *Provided, however,* that before the holder of such certificate shall be entitled to a deed for said property he shall pay into the city treasury the cost of such notice to the expiration of the time of redemption. A memorandum of all deeds made and delivered shall be entered by the recorder in a book wherein such sales are recorded, and a fee of one (1) dollar may be charged by the recorder for every deed so issued. *Provided,* that nothing in this act contained shall be construed to affect or prejudice the lien of the state for all taxes which have been or may be levied upon such property under the general laws of the state. In case of redemption the city treasurer shall notify the person holding the certificate of sale that the amount of such certificate with the interest thereon so paid is in the city treasury subject to his disposal.

Section 48. Such certificate of purchase shall be assignable by endorsement, and an assignment thereof shall vest in the assignee or his legal representatives all right and title of the original purchaser.

Section 49. Whenever it shall appear to the satisfaction of the recorder before the execution of the deed for any property sold for assessments that such property was not subject to assessment, or that the assessment had been paid previous to the sale, he shall with the approval of the common council of said city, make an entry opposite

to such property on his record of sales that the same was sold in error and such entry shall be prima facie evidence of the fact therein stated. *Provided*, that where the sale shall have been made to any purchaser other than the said city, the common council of said city, before approving of such entry shall first cause notice to be given by mail or in such other manner as said council may direct to the purchaser, his heirs, assigns or legal representatives, of the said proceeding; and *provided, further*, that in case such entry is approved, the purchase money shall be refunded to the parties entitled thereto with interest.

Section 50. All deeds made to purchasers of lots or parcels of land sold for assessment, or the record thereof, shall in all cases be prima facie evidence that all requirements of the law with respect to the sale have been complied with, and of title in the grantee therein after the time for redemption has expired, and no sale shall be set aside or held invalid unless the party objecting to the same shall prove either that the court rendering the judgment pursuant to which the sale was made, had not jurisdiction to render the judgment, or that after the judgment and before the sale such judgment had been satisfied, or that notice of sale as required by this act was not given, or that the piece or parcel of land was not offered at sale to the bidder who would pay the amount for which the piece or parcel was sold, nor unless the action in which the validity of the sale shall be called in question, be brought, or the defense alleging its invalidity be interposed within three (3) years after the date of the sale, and in case any sale shall be set aside by reason of any defect in the proceedings subsequent to the entry of the judgment, the court so setting aside the sale shall have power in such case to order a new sale to be made as near as may be in accordance with the provisions of this act. That in any action heretofore or hereafter commenced in which the validity of a deed under this act is brought into question, and on account of any irregularities, the same shall be set aside, the party holding such deeds shall recover from the adverse party the amount paid for such deeds to the city with interest thereon from the date of sale at the rate of twelve (12) per cent per annum. All deeds referred to in this chapter shall be admitted to record without prepayment of taxes and without the county auditor's certificate that the taxes have been paid.

Section 51. Any change made in the incumbent of the office of the city treasurer during the pendency of any such proceedings shall not operate to affect or delay the same, but the successor or successors in office of such city treasurer shall be authorized to do all acts necessary to complete such proceedings the same as if his predecessor had continued in office. In case of a vacancy occurring in any such office, the proceedings shall be prosecuted by the recorder until such vacancy is filled by election or otherwise.

Section 52. All sales of property for the non-payment of assessments, provided for in this chapter, shall be made in the day-time at public vendue in the city of Mankato at the time and place stated in the notice of sale prescribed in sections forty-one (41) and forty-two (42) of this chapter, and may be adjourned from day to day (Sundays excepted) until the whole is completed.

Section 53. Any city treasurer or other officer who shall in any case refuse or knowingly neglect to perform any duty enjoined upon him by this chapter, or who shall consent to or connive at any evasion of its provisions, whereby any proceedings required by this chapter shall be prevented or hindered, shall for every such refusal or neglect be liable to said city individually and upon his official bond for double the amount of loss or damage caused by such neglect or refusal, to be recovered in an action in any court having jurisdiction of the amount thereof.

Section 54. No error or omission which may heretofore have been or may hereafter be made in the order, or in the proceedings of the common council or board of public works, or of any of the officers of said city, in referring, reporting upon, ordering, or otherwise acting concerning any local improvement provided for in this chapter, or in making any assessment therefor, or in levying and collecting such assessment not affecting the substantial justice of the assessment itself shall vitiate or in any way affect such assessment. The reports of the city treasurer and assessment warrants held by him, referred to in section thirty-six (36) of this chapter, shall be prima facie evidence that the proceedings up to the date of such warrants were valid and regular, and the certificate of sale issued as provided for in this chapter shall be prima facie evidence of the validity of and regularity of all proceedings up to the date of such certificates.

Section 55. No purchaser of lands or lots or other property sold for assessments, or his heirs or assigns shall be entitled to a deed until he or they shall have paid all assessments made thereon prior or subsequent to the assessment under which such purchase was made. The amount of all such prior or subsequent assessments so paid by any such purchaser, his heirs or assigns and all moneys paid by such purchaser, his heirs or assigns, to redeem the premises from any sale for any such assessment shall be a lien on the premises in his favor, and the amount thereof with interest at twelve (12) per cent. per annum from the time of such payment or redemption, shall be refunded to such purchaser or be paid to the treasurer of said city for the use of such purchaser, his heirs or assigns, by the owner or other person entitled to redeem before any redemption shall be made except as provided in the section next following.

Section 56. After any real estate shall have been bid in or struck off to the city of Mankato and the time of redemption had expired, said city may enter upon such real estate and take possession thereof and by its treasurer sell the same for the amount due on such special assessment, interest, penalty and costs, and a deed of the property so sold shall be executed in the same manner and by the same officers as provided in section forty-seven (47) of this chapter. *Provided however*, that if any lot or parcel of land so struck off to said city shall be again sold for like assessments, while the said city holds its title as purchaser aforesaid, the same shall not be sold to any purchaser except the city for less than the amount actually remaining unpaid on the preceding assessment as well as such subsequent assessment with interest aforesaid at the rate of twelve (12) per cent. per annum.

Section 57. For the additional duties imposed upon the city treas-

urer by this chapter he shall receive a fee on all collections upon warrants for special assessments of two (2) per cent. on all sums by him collected upon such warrants.

Section 58. All judgments rendered under this chapter upon said assessments shall bear interest at the rate of twelve (12) per cent. per annum from the date thereof until paid.

Section 59. The city treasurer of said city may at any time before or after the time of redemption has expired, assign any certificate of sale of property so bid in by the city, as aforesaid, to any person, by endorsement thereon, after payment by such person into the city treasury, of the amount at which the same was so bid in, together with the amount of any prior assessment with interest thereon at the rate of twelve (12) per cent. per annum and costs; and such assignee shall have the same right and title thereunder as if he had purchased the same originally at the sale, and shall be entitled to the deed, as in other cases. *Provided*, that after the expiration of the time of redemption of any certificate of sale of property if the same shall remain unredeemed, the mayor, committee of ways and means of the common council, recorder and city treasurer, or a majority thereof, may authorize the city treasurer to sell, assign, and transfer the interest of the city in and to any such certificate, for such sum or price as to them may appear for the best interests of the city.

Section 60. In all cases where the assessment or any part thereof, as to any lots or parcels of land assessed under any of the provisions of the city charter, for any cause whatever, may be hereafter set aside or declared void by any court, the board of public works shall, upon notice thereof by the city treasurer, proceed without unnecessary delay, to make a reassessment or new assessment upon all blocks, lots or parcels of land which have been or will be benefited by such improvement, to the extent of their proportionate part of the costs and expense thereof, as near as the same can be ascertained by the board of public works, and such reassessment or new assessment shall be made by the board of public works as near as may be in accordance with the law in force at the time such reassessment is made; and when the same shall have been made and confirmed by said board, it shall be enforced and collected in the same manner that other assessments are enforced and collected under this act. The fact that the contract has been let, or that such improvement shall have been in whole or in part completed, shall not prevent such new assessment from being made, nor shall the omission of said board before the first assessment, to furnish the council with a report that in their opinion property can be found benefited to the extent of the damages, costs and expenses necessary to be incurred thereby, or the omission of said board to furnish said council with a plan, section or profile of said improvement, constitute any objection to such reassessment or new assessment, or in any way prevent the board of public works from making such reassessment or new assessment, and no new order from the common council shall be necessary, in any case whatsoever, to authorize the board of public works to make a reassessment or new assessment.

And in all cases where judgment shall be hereafter refused or denied by any court or where any court shall set aside or declare void any assessment upon any lot or parcel of land, for any cause, the

said lots or parcels of land may be re-assessed or newly assessed, from time to time, until each separate lot, piece or parcel of land has paid its proportionate part of the costs and expenses of said improvements as near as may be to the benefits derived, or to be derived from such improvements. In case the amount of such re-assessment shall be less than the first (1st) assessment upon the lots and parcels of land re-assessed, the deficit shall be paid out of the local improvement fund or general fund.

Section 61. If in any case the first (1st) assessment to pay for any local improvement which has heretofore been or shall hereafter be ordered by the common council either before or after such improvement is completed, shall prove insufficient to fully pay for the same, whether said work was done before the passage of this act or otherwise, the board of public works shall upon notice thereof from the city treasurer, and without a further or new order from the common council, proceed without unnecessary delay to assess and re-assess the same upon the property benefited or which will be benefited until a sufficient amount is realized to pay for the same. If too large an amount shall at any time be raised, the excess shall be refunded ratably to those by whom it was paid if the council shall so order, it being the true intent and meaning of this act to assess and re-assess upon the real estate benefited to the extent of such benefits for any deficiency over and above the first (1st) assessment which said improvement may cost whether the said improvement has heretofore been made or may hereafter be made under the act of March fifth (5th,) one thousand eight hundred and eighty-seven (1887), to amend and consolidate the charter of the city of Mankato, and no error or omission, whether jurisdictional or otherwise, shall prevent a re-assessment to the extent of the benefits conferred by such improvement.

Section 62. In all cases where the treasurer shall be unable to enforce the collection of any special assessment by reason of irregularity or omission in any proceeding subsequent to the confirmation of such assessment the said board shall be authorized and empowered to cause a new warrant to issue to the treasurer for the collection of any assessment which by reason of such irregularity or omission remains unpaid or not collected. The treasurer shall proceed under such new warrants to enforce and collect the assessments therein specified in the same manner as near as may be as is prescribed by the provisions of this chapter for the enforcement and collection of special assessments after the same shall have been confirmed as in this chapter provided; and as often as any failure shall occur by reason of such irregularities or omissions a new warrant may issue and new proceedings be had in like manner until such special assessment shall be fully collected as to each and every tract and parcel of land charged therewith.

Section 63. In all cases where the work for any improvement contemplated by the provisions of this chapter shall be suspended before final completion, by the failure of the contractor to perform the same or for any other cause, the common council may order the board to re-let the unfinished portion of such work in the same manner as near as may be, as provided in this chapter, for the letting of contracts for public improvements, and in every case of such new

contract the work shall be paid for in the same manner as contracts for other like improvements.

Section 64. Property owners may be allowed to construct streets and other public improvements upon or through their own property at their own expense, in such cases and upon such terms and under such regulations as the common council may prescribe from time to time by ordinance.

Section 65. It shall be deemed personal notice in all cases under the provisions of this chapter where personal notice is required when the notice is served by delivering a copy, or by reading the same to the person to be notified, or by leaving a copy at his or her last usual place of abode, or at his or her place of business, with some person of suitable age and discretion or by leaving such copy in a conspicuous place at his or her place of business, in the day time if such person is absent therefrom.

Section 66. If the board of public works or the common council in the carrying out of the provisions of this chapter, should find unforeseen obstacles in grading, excavating, filling, paving, or in any case of improving or opening or widening streets, levees, alleys or public highways or sewers not provided for, the common council may by resolution order such change or modification in such improvement to meet such unforeseen obstacles as the common council may deem equitable and just, upon the recommendation of the board of public works or on their own motion, either before or after the confirmation of any assessment, or before or after the letting or making of any contract to do the same, or at any time while the work is in progress, by a two-thirds ($\frac{2}{3}$) vote of the common council elect; and any additional expense occasioned by such change or modification of the improvement may be included in the original assessment or raised by an additional assessment upon the property benefited by such improvement to the extent of such benefits. *Provided*, however, that no such work shall be done until ordered by the common council by a two-thirds ($\frac{2}{3}$) vote of the members elect.

Provided further, that in all contracts the case of such unforeseen obstacles shall be anticipated as far as possible by the board of public works causing a schedule to be made classifying the various kinds of work and material, and fixing the price to be paid by the city for such work and materials as may become necessary but cannot be foreseen; which said schedule shall be approved by the board of public works and a copy thereof shall be signed by the bidder and attached to his bid and the same shall be attached to and made a part of the contract; but no additional expense shall be incurred other than may be absolutely necessary to overcome such unforeseen obstacles. The said board of public works shall have power to correct any error, omission or mistake in an assessment, either before or after the confirmation, up to the time judgment may be obtained thereon, either as to the amount or as to the owner or description so as to conform to the facts and rights of the case as intended; and if by reason of such error, omission or mistake, the assessment shall be reduced below the amount of money required to pay the costs and expenses of said improvement, the board of public works shall make a new assessment, upon the property benefited to make up the deficiency, together with

the costs and expenses of such new assessment. *Provided further*, that five (5) days notice of the time and place of making such correction shall be given in one (1) publication in the official paper of said city, unless the owner of the real estate affected be present and consents thereto. Said correction shall be entered of record, and a copy thereof filed with the city treasurer. *Provided further*, that if the expense required to overcome such unforeseen obstacles will materially increase the cost which would be incurred in the work if such unforeseen obstacle had not occurred, then the common council shall have power by a two-thirds ($\frac{2}{3}$) vote of the members elect, to rescind the contract so far as the uncompleted part of the work is concerned, and may in their discretion, by a two-thirds ($\frac{2}{3}$) vote of the members elect, after such rescission, order the work to be re-let as other work is let under this chapter, and the original contractor in such case shall be entitled to be paid for the portion of the work done by him, ratably, according to the contract price as nearly as the same can be ascertained, and no more.

Section 67. When any notice is required to be published in any newspaper under this chapter, an affidavit of the publisher or printer of such newspaper, or the foreman or clerk of such publisher or printer, annexed to a printed copy of such notice, taken from the paper in which it is published, and specifying the time when and the paper in which such notice was published, shall be evidence in all cases and in every court of judicial proceeding, of the facts contained in such affidavit.

Section 68. The proceeds of all local improvement bonds heretofore or hereafter to be issued, and all moneys collected upon local improvements, and property condemned for public use, shall constitute a fund known as the local improvement fund of said city. All contracts heretofore or to be hereafter made for local improvements, which are to be paid for by special assessments under the provisions of this chapter, shall be paid for out of said local improvement fund, and such fund shall be kept inviolate, except as otherwise provided, for the payment of such contract. In the case of property condemned for public use if, after the expiration of six (6) months after the whole assessment for benefits of the improvement shall have been finally confirmed and determined, the said assessment shall not have been fully paid in, the common council of said city may in its discretion advance out of said local improvement fund sufficient to make up the deficit occasioned by such failure; *provided however*, that said advance shall in no case exceed twenty-five (25) per cent. of the damages to be paid upon such condemnation. Such advance shall be replaced in said improvement fund out of the assessments for such improvements which may be hereafter collected.

Section 69. If for any cause the proceedings of the Common Council or Board of Public Works or any of its officers may be found irregular or defective, whether jurisdictional or otherwise, the common council may order a new assessment from time to time and as often as need be until a sufficient sum is realized from the real estate benefited by such improvement to pay all the costs, damages and expenses incurred thereby; it being the true intent and meaning of this act to make the costs and expenses of all public improvements

provided for in this chapter, local to the city of Mankato, payable by the real estate benefited by such improvement, to the extent of such benefits; except that in the case of sidewalks the assessment shall be made as in such case provided.

Section 70. After judgment shall be ordered to be entered against any lot or real estate for the non-payment of assessments, the same shall not be opened or set aside except for mistake in entering the same, or in ordering the same to be entered, any provision of the general laws of the state of Minnesota to the contrary notwithstanding.

Section 71. It shall be the duty of the board of public works in estimating the benefits to any particular piece, lot or parcel of land to take into consideration the nature of the owner's interest therein, the form and position of their several parcels of land, the qualified rights of the owner in reference to its employments, and other circumstances which render the proposed improvement more or less beneficial to him or them, and the determination and assessment or estimate of benefits of said board shall be final, except where an appeal is expressly allowed under this act.

Section 72. If in the opinion of the board of public works, any work under any contract does not proceed each month so as to insure its completion within the time named in the contract, the said board shall have power to furnish and use men and materials to complete the work, and charge the expense thereof to the contractor, and the same shall be deducted from any moneys due him or to become due such contractor, or may be collected from him in a suit by said city.

Section 73. The register of deeds shall not record any deed from a private person or private corporation unless there be endorsed upon such deed a certificate of the city treasurer that all assessments for local improvements have been paid, and any violation of this provision by the register of deeds shall be a misdemeanor, and be punished by a fine not exceeding double the amount of the unpaid assessment. It shall be the duty of the city treasurer upon the application of any person interested in such deed, where the assessment has been paid and not otherwise, to make such certificate free of charge, but the said city treasurer shall not certify that said assessment has been paid in any case where the property has been purchased by the said city at the sale provided for in this act, and the time of redemption has not expired, and the city still holds the certificate of sale.

Section 74. The following forms of orders shall be deemed sufficient:

FORM NO. ONE.

It is hereby ordered by the common council of the city of Mankato,
That the matter of be and the same is hereby referred to the board of public works to investigate and report.

1st. Is this improvement proper and necessary?

2d. Give the council an estimate of the expense thereof, and state whether one-half ($\frac{1}{2}$) of the cost thereof is to be paid into the city treasury before the contract is let.

3d. Can real estate to be assessed for said improvement be found benefited to the extent of the damages, costs and expenses necessary

to be incurred thereby? If not, what proportion of the costs and expenses should be paid by the city at large?

4th. Is such improvement asked for upon the petition or application of the owners of a majority of the property to be assessed for such improvement?

5th. Send the council a plan or profile of said improvement as required by law, if you report in favor of the same.

6th. Send the council a proper order directing the work to be done.

FORM NO. TWO.

It is hereby ordered by the common council of the city of Mankato:

That the board of public works of said city of Mankato cause the following improvements to be made, to wit:.....

.....
.....
.....

That said board shall cause said work to be let by contract as provided by law. *Provided, however,* that should said board recommend that said improvement be done by days work instead of by contract, and said council by a two-thirds ($\frac{2}{3}$) vote of all the aldermen elect shall approve the recommendation of said board, then the council shall order the same done by days works.

As soon as said work is placed under contract, or is commenced by days works, said board shall proceed without delay to assess the amount, as nearly as they can ascertain the same, which will be required to pay the damages, costs and necessary expenses of such improvement upon the real estate to benefited by said improvement as provided by law, it being the opinion of the council that the real estate to be assessed for such improvement can be found benefited to the extent of per cent. of the damages, costs and expenses necessary to be incurred thereby.

FORM NO. 3.

It is hereby ordered by the common council of the city of Mankato:

That whereas, the common council is officially advised that upon the application of the city treasurer, to the district court of Blue Earth county, Minnesota, for judgment against the following lots, blocks, and parcels of land heretofore assessed by the board of public works for..... judgment was denied by said court to-wit:.....

Wherefore the board of public works of the city of Mankato, are hereby ordered to re-assess the aforesaid lots and parcels of land for their proportionate part of the costs and expenses of such improvement, not exceeding the benefits accruing to such lot, block or parcel of land from such improvement, and proceed therein in the mode and manner prescribed by law, it having been made to appear to the council, and it being the opinion of said council, that said lots and parcels of land have been benefited by such improvement.

Section 75. That hereafter no public improvement which requires an assessment to be made on property to be benefited, shall be ordered by the common council, except as hereinbefore provided in section five (5) of this chapter, unless at least a majority of the board

of public works shall recommend the making of such improvement except orders for sidewalks and street sprinkling and for sewerage and laying of water mains.

Section 76. In the assessment of damages and benefits for the opening of any street or alley, it shall be lawful for the board of public works, in their discretion, in making such assessments, should there be any building in whole or in part upon the land to be taken, as aforesaid, to consider the propriety of letting said building remain upon such land taken as aforesaid, for such time after condemnation as they may deem for the best interests of the city, and if they shall determine to let the building remain on said land for any given period, then they shall determine the value of the use of said land to the owner of said building for the time said building may be permitted to remain, which sum, when ascertained, shall be deducted from the damages awarded for said building.

Section 77. In addition to the bonds required by the city charter and the acts amendatory thereof, of persons contracting with said city to do any work, labor, or furnish any material before any contract for the doing of any work, labor, or furnishing any material to or for said city, shall be binding and valid as against said city, said contractors shall enter into bond with the city of Mankato, for the use of all persons who may do work or furnish materials, pursuant to any contract between said contractors and said city conditioned for the payment of all just claims for such labor, work or materials as they become due under said contract, which bond shall be in such an amount not less than the contract price agreed to be paid for the performance of such contract and with such sureties as shall be approved by the mayor and president of the board of public works, and shall file the same in the office of the city recorder of Mankato.

Section 78. Whenever the board of health shall report to the common council that stagnant or impure water stands upon any lot, lots or parcels of land, thereby creating a nuisance injurious to public health, the common council may refer said report to the board of public works. Upon such reference, said board shall then proceed to investigate the same, and if they shall determine that a nuisance does exist by reason of any stagnant or impure water standing upon any lot, lots or parcels of land, and that the same is injurious to public health, they shall report the same to the common council, accompanied by a plan for the abatement of said nuisance, together with an estimate of the expense; if real estate to be assessed for said improvement be found benefited to the extent of the damages, costs and expenses necessary to be incurred thereby, and also send to the common council a proper order directing the work to be done. And after the common council shall order the doing of said work, the same proceedings shall be had in relation thereto by the board of public works and city treasurer as in other cases of other local improvements as provided for in this chapter.

Section 79. It is hereby made the duty of the board of public works at their first meeting after the approval by the common council of any contract let by the board of public works for any public improvement for which an assessment is to be made to proceed without unnecessary delay to the completion and confirmation of the as-

assessments for the benefits, costs and expenses of said improvements.

The said board of public works are authorized, whenever in their opinion it may be necessary, to employ such additional clerical force as may be proper in the office of the board of public works, and place the names of such additional persons so employed upon the pay roll of the employees of the board and shall duly notify the common council thereof. The pay rolls of the employees in the office of the board of public works, when the same shall have been certified by the clerk of said board and approved by the board shall be audited by the recorder of said city.

Section 80. When the costs and expense of any of the following improvements, viz., a change of grade; a condemnation of land for a street, public market, levee, alley, or park; or a condemnation of an easement of land for slopes in cuts or fills, does not exceed the sum of two hundred (200) dollars the assessment therefor may be paid out of the general fund of the city.

SEC. 11. Chapter nine (9) of said charter is hereby amended to read as follows:

CHAPTER IX.

TITLE I.

WATER WORKS AND SEWERS AND CONTRACTS THEREFOR.

Section 1. The city council shall have power to maintain the water works and sewers now established in said city and to enlarge, extend and improve the same, or to contract for a new system of water works and sewers at any time when the said common council shall see fit so to do.

Section 2. Whenever in doing any act under section one (1) of this chapter authorized therein to be done, it shall in the judgment of the common council be necessary to take any private property consisting either of land, buildings, water power, or other private property, the common council shall have power to acquire the same by purchase or by condemnation in the manner in this act provided, and in such case of condemnation as well as purchase, a full title in fee simple for the property acquired shall rest in said city.

Section 3. Sewers connected or intended to be connected with such general system or systems of sewerage may from time to time be ordered by said council to be constructed by the board of public works of said city in the same manner and under the same regulations as in the case of other local improvements of said city.

Section 4. The costs of constructing, altering or repairing any of the sewers or improvements herein provided for or referred to, as nearly as they can be ascertained, together with the necessary expense of making the assessment, shall be assessed by the board of public works of said city, upon the real estate benefited thereby, and enforced and collected in the manner and under the regulations provided by law for other local improvements of said city. *Provided, however,* that the common council may order the constructing, altering, or repairing of sewers, or such part of them, or such proportion

of the cost thereof as the council may deem expedient, to be paid by the city at large out of the sewerage bond fund or general fund.

Section 5. The board of public works shall have power to prescribe the conditions upon which sewers may be tapped, and to grant licenses therefor, and power to suspend or revoke the same. Said board shall also have the power to grant licenses to drain and sewer contractors and to any person or persons desiring to make an excavation of any kind in any of the streets, avenues, levees, or alleys of said city, and to suspend or revoke the same. Said board shall prescribe the amount to be paid for such licenses (the amount of the bond required to be given shall be as hereinafter provided) and shall also prescribe such regulations for excavating streets, avenues, levees, or alleys, for tapping and making connections with sewers, and for the protection and maintenance thereof, and also for the granting of licenses to drain and sewer contractors or other persons and shall impose such penalties as a punishment for any infraction thereof as they, the said board, may deem necessary and proper. No plumber or other person shall be permitted to tap or make connections with any sewer or to make any excavations whatsoever in any of the public streets, avenues, levees, or alleys of said city, without having first obtained from the board of public works a license therefor. An application for any license provided for in this section shall be in writing, signed by the applicant and addressed to the board of public works. Said application shall be accompanied by a bond in the sum of two thousand dollars (\$2,000) running to the city of Mankato, executed by the applicant as principal, and two responsible and satisfactory sureties, conditioned that such excavation and tapping or connecting with sewers shall be made in accordance with the regulations prescribed by the board of public works for street excavations and sewer connections, and also further conditioned to save the city harmless from all damages, loss, cost and expense to which said city may be subject by reason of such excavation and sewer connections. Said bond shall be approved by the corporation attorney and the president of the board of public works and filed with the city engineer. No person or corporation, whether licensed or otherwise, shall make any excavation whatsoever in any public streets, avenues, levees or alleys of said city without having first obtained from the engineer of the board of public works a permit therefor. Any violation of the provisions of this section by any person, or persons or corporation shall be deemed a misdemeanor and any person or corporation convicted thereof upon a complaint therefor shall be punished by a fine of not less than ten dollars (\$10) nor more than fifty dollars (\$50). *Provided, however,* that gas light companies, street railway companies, telegraph, telephone and electric light companies may be permitted to take out a season permit to make excavations upon such terms and conditions as shall be prescribed by the regulations of said board of public works. All licenses to tap or make connections with sewers or water mains, and plumbers' licenses granted prior to the passage of this act are hereby declared null and void.

Section 6. In view of the foregoing provisions of this chapter, the common council, at their option, shall have power to construct water works or to contract with any person, company or corporation for

supplying water for the use of the said city, and may establish rates for which such water may be furnished to individuals, and may make all necessary rates and regulations for the management and control of said water works, and for the purpose of furnishing a supply of water. The common council, or those with whom it may have contracted to obtain water, are hereby authorized to draw water for said city from any lakes, rivers or creeks within the said county of Blue Earth by means of pipes, ditches, drains, aqueducts, or other means, and construct dams, bulk heads, gates or other needful structures and means for controlling water and for obtaining it, and also may obtain water in any other way, by causing wells to be dug or bored, and reservoirs to be made, or by any other feasible and reasonable method that the common council may see fit to adopt.

And for the purpose of constructing said water works, the right of way may be obtained over and across any land needed therefor, by proceeding in the way and manner provided for the condemnation of land or real estate for laying out, opening or altering any street, lane, alley or highway in said city, except that no petition shall be necessary in any proceeding under this act.

Whenever the common council shall determine to construct water works, it shall have the right to lay water mains and pipes in any and all streets, alleys, highways and public grounds in the city or outside of said city. And said council shall have the right to condemn land for pumping stations, reservoirs, and such other lands as may be necessary to perfect and carry out a complete system of water works for said city, and like proceedings shall be had by the common council and the board of public works for the condemnation of any such lands as are now had for taking property for opening, widening or extending any street or alley in said city.

Section 7. In addition to all other powers conferred upon said board of public works, they are authorized to, and shall assess upon each and every lot and parcel of land in the city of Mankato that is lawfully assessable or in front of which water pipes are laid, an annual tax or assessment of five (5) cents per lineal foot of the frontage of such lot or parcel of land, and which shall be a lien upon such lot or parcel of land, and shall be collected as hereinafter provided.

Section 8. The said board of public works shall make up on or before the first (1st) day of November in each and every year a detailed statement duly certified to by the president and clerk of said board, and under the seal thereof, for the tax or assessment described in the foregoing section, for the year preceding and ending on the first (1st) day of October, which statement shall be transmitted to the county auditor of Blue Earth county as delinquent taxes for collection, whereupon it shall be the duty of the county auditor to extend the same on his rolls against the said property in said statement as aforesaid for collection, and if not paid within the time prescribed by law, then the same shall become a lien upon said real estate, and said real estate shall be subject to all penalties and charges as property delinquent for taxes for county and state purposes. All moneys collected or paid into the treasury of Blue Earth county on account of said assessments or taxes shall be paid over from time to time to

the city treasurer of Mankato to be placed to the credit of the water works fund.

Section 9. The common council, in order to carry out a system of general sewerage or water works in said city, if authorized to do so by a majority of the electors of said city, who at any general or special election may have voted on the question of issuing such bonds, may issue the bonds of said city for any amount not exceeding fifty thousand (50,000) dollars for sewerage, and a like amount for water works. Such bonds to run such length of time and to bear such rate of interest, not exceeding six (6) per cent per annum, as the common council may determine. Any such election for voting on said question may be called by the common council at any time when in their judgment the public necessities require it.

Section 10. No action shall be maintained against the said city on account of any injuries or damages to persons or property received because of defects existing in the condition of any highway, bridge, street, sidewalk, or thoroughfare in said city, unless the grade of such street or highway upon which such injury happened has been established or shall be hereafter established by the common council of said city, or under its direction, and not unless such action shall be commenced within one (1) year from the happening of the injury complained of, nor unless a notice shall have been first made in writing and served upon the mayor of said city, within thirty (30) days after the happening of such injury exclusive of the day of such service, stating therein the place where and the time when such injuries are claimed to have been received, and that the person so injured will claim damages for such injury of the city. But the notice shall not be required when the person so injured shall in consequence thereof or for other cause, be bereft of reason during all the time within which such notice is required herein to be made. Such defects for which notice is required as aforesaid shall embrace not only defects in streets affecting the public as travelers, but for any defects affecting owners or occupants of property fronting on such streets or sidewalks and shall include defects of every nature whatsoever.

Section 11. In the prosecutions of said actions against said city for personal injuries growing out of defective or poorly constructed sidewalks, it shall be necessary in order to maintain said action for the plaintiff to allege and prove that the defect or want of repair complained of existed for more than thirty-five (35) days immediately prior to the time of the happening of the injury or that the said city had actual notice and knowledge of such defects or want of repair at the time such injury happened.

Section 12. In all cases in which any person, company or corporation shall negligently or carelessly or without regard for the rights of the public do or cause to be done, or omit to do, any act or thing, whether in his or its own behalf or not, including contractors with said city, by means or because of which negligent acts or omission of any such person, corporation or company, injuries have resulted and for which injuries so caused the said city would be liable in damage to the party so injured, such person, company or corporation, and in case of contractors with said city they alone, or they and their bondsmen shall be liable to any person, company, or corporation, so injur-

ed for all damages not caused by or contributed to by the negligence of the party injured, of whatever kind such injuries be or to whomsoever resulting. And no action shall be maintained against said city for such damages unless such person, company, or corporation and in case of contractors with said city giving bonds, themselves and their bondsmen, be joined as defendants in said action. And in case of judgment against the defendants in such action execution of judgment shall first be issued against the defendants whose negligence first caused such injury, or against such defendant and his bondsmen alone, and the city shall not be required to take any steps to pay such judgments until such execution shall be returned unsatisfied. If the said 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 thereon against said defendants to take such other proceedings as judgment creditors are entitled to take in such actions.

Section 13. The common council shall have exclusive power to vacate or discontinue public streets, lanes, alleys or highways or any portion thereof in said city, but no such vacation or discontinuance shall be granted or ordered by the common council except upon the verified petition in writing of one or more of the owners of real property on the line of the street, lane, alley or highway. Such petition shall state the reasons for such vacation and briefly describe the street, alley, lane or portion thereof desired to be vacated. The common council upon presentation of such petition at any special or regular meeting of the same, and if it is deemed expedient that the matter shall be proceeded with, shall order such petition to be filed with the city recorder who shall immediately make and publish in the official paper of the city a notice for the period of four (4) successive weeks, at least once in each week stating that such petition has been filed with the city recorder and its object in brief, and that such petition will be heard and considered by the common council at a certain time and place specified therein, which time and place shall be fixed by the common council at the time of the acceptance of such petition and the time of hearing such petition shall be fixed within fifteen (15) days after the expiration of the time of publishing the same.

The common council at the time and place appointed shall investigate and consider the subject involved in said petition, and if they desire shall view the premises, and shall hear testimony on either side or on both sides if offered.

The common council after hearing such petition may by resolution passed by a two-thirds ($\frac{2}{3}$) vote of its members, grant the prayer of the petition and order and declare such street, alley, lane or highway vacated and discontinued.

Upon the passage of such resolution and the approval thereof by the mayor as in other cases, and upon the same being countersigned by the recorder, it shall be published once in the official paper of said city.

A copy of such resolution duly certified by the recorder shall immediately after such publication be filed with the register of deeds of the county of Blue Earth and duly recorded in his office.

CHAPTER IX.

TITLE II.

STREET SPRINKLING.

Section 1. The common council shall have power to sprinkle the streets, avenues, levees, lanes, alleys, parks, and other public grounds of said city or any part thereof.

Section 2. The board of public works shall annually cause proposals to be advertised for in the official paper of said city in the same manner, and for the same length of time as in the case of other public improvements, for the sprinkling of any and all streets, avenues, levees, lanes, alleys, parks, or other public grounds, or any part thereof which may be ordered sprinkled by the common council in each year. General plans and specifications applicable to all sprinkling that may be ordered done during the year by said common council shall be made and filed with the clerk of the board of public works at least ten (10) days before the day named for the receipt of said bids by the board of public works. And the sprinkling shall be let and placed under contract in the same way and manner as is now provided by law for other local improvements provided for in this act, except that the bid for sprinkling shall be accompanied by a bond to the city of Mankato in the sum of one thousand dollars (\$1,000) executed by the bidder and two (2) responsible sureties conditioned that he will enter into and execute a contract to perform the work for the price mentioned in his bid according to the plans and specifications, in case a contract shall be awarded him. And in case of default on his part to execute the contract and perform the work said bond may be sued and judgment recovered thereon by said city for the full amount thereof in any court having jurisdiction of the amount.

Section 3. Contracts for sprinkling shall be awarded to the lowest reliable and responsible bidder, reference being had solely to the reliability and responsibility of the bidder, to perform his contract, without regard to his sureties. *Provided* however, that the board of public works may reject any and all bids which they shall deem either unreasonable or unreliable. And *provided further*, that no contract shall be awarded except with the approval of a majority of the members elect of the common council. 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.

Section 4. The common council of said city may order sprinkling to be done whenever and wherever they deem the public interest for sanitation or other cause requires it without a reference to the board of public works for a report upon the necessity or propriety thereof.

Section 5. At any time after said contract is let for sprinkling as aforesaid, and before the first (1st) of September following the said board shall give at least ten (10) days notice by two (2) publications in the official paper of the city to the effect that at a certain time and place they will proceed to make an assessment for sprinkling. Said notice shall briefly describe the street or streets or parts thereof

sprinkled; the said board shall assess the amount as nearly as they can ascertain the same, which shall be required to defray the cost of such sprinkling including the necessary expense of making and collecting such assessments, upon the real estate or lots of land fronting on said improvement without regard to the cash valuation thereof or whether the same shall be improved or otherwise. *Provided* however, that the common council may pay fifty (50) per cent or any lesser amount of the cost of such sprinkling out of the general fund of said city, if so ordered by a majority of the aldermen elect before said assessment is made. In making said assessment the said expense and costs shall be apportioned pro rata upon the lineal feet of said real estate or lots of land fronting on said improvement aforesaid. When said assessment is completed, the said board shall give ten (10) days notice by two (2) publications in the official paper of the city to the effect that at a time and place therein specified said assessment will be confirmed unless cause is shown to the contrary, and that objections must be filed one (1) day before such time of meeting with the clerk of said board. Such objections must be made and filed in the same manner and said board shall proceed in hearing the same and have the same powers to revise, correct, confirm or set aside such assessment, or proceed de novo as provided in section fifteen (15) of chapter six (6) of this act. Said assessment when confirmed shall be final and conclusive and no appeal shall lie therefrom.

Section 6. The said board shall make a detailed statement duly certified to by the president and clerk of said board and under seal thereof for the tax or assessment described above for sprinkling streets, alleys and public grounds and deliver the same to the auditor of Blue Earth county before the first (1st) day of November of each year. It shall be the duty of the county auditor to extend the same on his rolls against the said property in said statement as aforesaid for collection, and if not paid within the time prescribed by law, then the same shall become a lien upon said real estate, and said real estate shall be subject to all the penalties and charges as property delinquent for taxes for county and state purposes. All moneys collected or paid into the treasury of Blue Earth county on account of said assessment or tax shall be paid over from time to time to the city treasurer of Mankato to be placed to the credit of the sprinkling fund.

Section 7. Whenever the said contractor shall fail to do and perform the sprinkling contract to be done by him within the time designated by said board of public works, or in accordance with the terms and provisions of his contract, or in any other respect fail to comply with the terms of his said contract, the said board of public works shall have power to furnish and use men and material to complete the work and charge the expense to the contractor, and the same shall be deducted from any money due him, or to become due such contractor, or may be collected from him in a suit by said city, or said board of public works may re-advertise for bids for the completion of the unexpired term of said contract, and let a contract in the same manner as hereinbefore provided in the original contract. In case the said contractor shall proceed to properly perform and complete his said contract and all the provisions, clauses, matters and things therein

contained, the said board of public works may, upon said contractor filing with the city engineer an affidavit that all the work and labor for which an estimate is asked is fully paid for, from time to time, as the said work progresses, grant to said contractor every thirty (30) days an estimate of the amount already earned, reserving however fifteen (15) per cent therefrom. *Provided* however, that said fifteen (15) per cent shall be included in the final estimate allowed said contractor.

SEC. 12. Chapter eight (8) of said charter is hereby amended by adding the following section:

Section 3. The common council may erect and maintain an electric plant, and erect poles in the streets, alleys and public grounds and string wires thereon, and light the city and public buildings and furnish light for private parties upon such terms and conditions as shall be prescribed by said council.

In order to carry out said system of lighting said city, and putting in said electric plant, if authorized to do so by a majority of the electors of said city, who at any general or special election may have voted on the question of issuing such bonds, may issue the bonds of the city in amount not exceeding ten thousand (10,000) dollars to run such length of time and to bear such rate of interest as the common council may determine. Any such election for voting on said question may be called by the common council at any time when in their judgment the public necessities require it.

SEC. 13. Chapter eleven of said charter is hereby amended to read as follows:

CHAPTER XI.

SINKING FUND.

Section 1. The mayor, recorder, treasurer and chairman of the committee of ways and means of the common council of the city of Mankato shall constitute a board of sinking fund commissioners, of which the mayor shall be president, the recorder secretary, and the treasurer treasurer.

Section 2. There is hereby created a sinking fund for the said city, the proceeds of which shall be appropriated exclusively to the purchase of bonds issued by the city. Said fund shall consist: 1st, Of the surplus remaining in the treasury at the end of each fiscal year after the payments are made, or appropriate amounts set aside for the payment of either principal or interest on bonds issued by said city of the moneys received for that purpose. 2d, The proceeds of all delinquent taxes levied for the same purpose. And the common council may from time to time direct the treasurer to place said money so derived to the credit of the sinking fund, and shall in the month of April in each year, if not sooner done, cause said money mentioned in this section to be so placed. And 3d, The common council are hereby required to levy annually on all the taxable property of said city, not more than two (2) mills on a dollar of the assessed valuation, which money as fast as received shall be placed to the credit of the sinking fund.

Section 3. The board shall from time to time, when money in suitable amounts is placed to the credit of the sinking fund invest the same in the outstanding bonds of the city, *provided* the same can be purchased at not more than the market price not exceeding the par value thereof. And if at any time such investment cannot be made at par or less, then the said board shall be authorized to invest said moneys in bonds of the state of Minnesota or in United States bonds; and whenever the said board shall have invested any part of said fund in the purchase of the bonds of the state or of the United States, and shall at any time thereafter be enabled to purchase any of the bonds of the city at such prices as they may best judge for the public interest, within the restrictions above provided, they shall forthwith sell and dispose of the same and invest in city bonds. *Provided, however,* that no such purchase, investment or sale shall be made until the same shall have been first authorized by the common council of said city.

Section 4. Whenever the said board shall purchase any city bonds, they shall proceed to cancel the same in the presence of the common council at their next regular meeting, and such cancellation shall be entered on the records of the common council noting the number, character and amount of each bond and the number and amount of coupons attached thereto.

Section 5. Any three of the board, of whom the recorder shall be one, shall be and are hereby authorized and required to discharge the trusts and duties vested in them by this act, and shall not be entitled to receive any additional compensation or salary for such services.

Section 6. Whenever any of the moneys constituting the sinking fund shall be required for any such purchase or investments as are in this chapter mentioned, the amount of money required shall be paid by the treasurer of said city upon a warrant signed by the said board or any three (3) of them, the recorder being one, who shall affix the seal of the city thereto.

Section 7. The said board shall meet at any time upon the call of the mayor or any two (2) members thereof. The mayor shall preside at such meetings. It shall be the duty of the recorder to keep a correct journal of the proceedings of said board, to be verified by the board, and once a year, or oftener if required, they shall render to the common council a full and detailed report of the proceedings of said board.

SEC. 14. Section six (6) of chapter seven (7) is hereby amended to read as follows:

Section 6. The members of the board of public works shall act as fire marshals of said city, and may divide the city into fire districts for their own convenience and see that the ordinances of the city relating to the building and care of chimneys and restricting all other precautions against dangers from fire are not violated, and each member shall have power, and be fully authorized to enter any dwelling house or other building at all hours between seven (7) o'clock in the morning and six (6) o'clock in the evening and examine all chimneys, stoves, furnaces, pipes, and other parts of such building and see that the ordinances of the city respecting the same are enforced.

SEC. 15. Chapters six (6), twelve (12), thirteen (13), fourteen (14) and fifteen (15) of said charter are hereby repealed and all other parts of said charter conflicting with this act are hereby repealed.

SEC. 16. This act shall take effect and be in force from and after its passage.

Approved March 23, 1889.

CHAPTER 13.

[S. F. No. 408.]

AN ACT TO AMEND THE CHARTER OF THE CITY OF WABASHA.

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

SECTION 1. That the act entitled an act to incorporate the city of Wabasha, approved March 5, A. D., 1869, and the several acts amendatory thereof, be amended so as to read as follows:

CHAPTER I.

Section 1. All that part of the county of Wabasha, in the state of Minnesota, contained within the limits and boundaries in the next section described, shall be a city, and the inhabitants thereof shall be and form a municipal corporation, under the name and style of "The City of Wabasha." The said corporation shall have the powers generally possessed by municipal corporations at common law, and in addition thereto shall possess the powers hereinafter specially granted. It shall be capable of contracting and being contracted with, of suing and being sued, and of pleading and being impleaded in all courts of law or equity; and it shall have a corporate seal which it may change or alter at pleasure; and it may purchase, lease, take and hold such real, personal and mixed property as may be required for city uses or purposes within or without the limits of the city, and may sell and convey the same.

SEC. 2. The boundaries of said city shall be as follows: Beginning at a point on the Mississippi river at the dividing line between Wisconsin and Minnesota at the mouth of a small creek between Wabasha and Read's Landing, thence up said creek to the west line of township number one hundred and eleven (111) north, range ten 10) west, thence along the said township line to the north east corner of section number thirty-six (36) township number one hundred and eleven (111) north, range eleven (11) west, thence along the north line of section number thirty-six (36) to the northwest corner of said section, thence on the west line of said section to the southwest cor-