

SEC. 13. For the purposes of the first election under this act, the village council of the village of New Prague shall perform and discharge all duties respecting the designation of places of holding elections, the appointment of judges and clerks of election, the conduct of election, and the canvassing, determining and declaring the result of such election imposed by this charter upon the city council of said city, and in case said election cannot be called and held, pursuant to the provisions of this act, at the time and in the manner by this act provided, then such election shall be called and held at such time as such village council of said village of New Prague may appoint, and within ten (10) days after this act shall take effect, upon at least five (5) days' notice to be given by said village council, by posting in three (3) public places in each of the wards of said city.

SEC. 14. Whenever in the exercise of any of the powers conferred by this act upon the city council it becomes necessary or convenient for said city council to take and appropriate private property, said city council shall have power to, and shall, by ordinance, prescribe the manner in which said private property shall be condemned, and appropriated to such public use, and the manner of ascertaining and determining the damage and compensation therefor and making award thereof.

SEC. 15. The city council may, whenever deemed necessary or expedient, cause to be made, at the expense of the city, repairs upon any public highway leading into said city, beyond the limits of said city.

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

Approved April 4, 1891.

## CHAPTER 47.

[H. F. No. 911.]

AN ACT TO AMEND CHAPTER EIGHT (8) OF THE SPECIAL LAWS OF THE STATE OF MINNESOTA FOR THE YEAR EIGHTEEN HUNDRED AND EIGHTY SEVEN (1887), ENTITLED "AN ACT TO AMEND AND CONSOLIDATE THE CHARTER OF THE CITY OF MANKATO, STATE OF MINNESOTA," AS AMENDED BY CHAPTER TWELVE (12) OF THE SPECIAL LAWS OF THE STATE OF MINNESOTA FOR THE YEAR EIGHTEEN HUNDRED AND EIGHTY-NINE (1889), ENTITLED "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 the state 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, as amended by Chapter twelve (12) of the Special Laws of the state of Minnesota for the year eighteen hundred and eighty-nine (1889), being "An act entitled an act to amend the charter of the city of Mankato in the state of Minnesota," is hereby amended to read as follows:

## CHAPTER I.

## CITY AND WARD BOUNDARIES.

SECTION 1. All the district of country in the county of Blue Earth, State of Minnesota, 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 or county 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, and 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 a municipal corporation at common law; and in addition thereto shall possess the powers hereinafter specifically granted, and the authorities thereof shall have perpetual succession.

SEC. 2. The 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 southeast quarter ( $\frac{1}{4}$ ) of section six (6), lots one (1), two (2), three (3) and four (4), and the southwest quarter ( $\frac{1}{4}$ ) of the southeast quarter ( $\frac{1}{4}$ ), and the east half ( $\frac{1}{2}$ ) of the east half ( $\frac{1}{2}$ ) of the southeast quarter ( $\frac{1}{4}$ ), and the east half ( $\frac{1}{2}$ ) of the northeast quarter ( $\frac{1}{4}$ ) of section seven (7), and the southwest quarter ( $\frac{1}{4}$ ) of the northwest quarter ( $\frac{1}{4}$ ), and the west half ( $\frac{1}{2}$ ) of the southwest quarter ( $\frac{1}{4}$ ) of section eight (8), and the west half ( $\frac{1}{2}$ ) of the northwest quarter ( $\frac{1}{4}$ ) of section seventeen (17), and the northeast quarter ( $\frac{1}{4}$ ) of the northwest quarter ( $\frac{1}{4}$ ), and the west half ( $\frac{1}{2}$ ) of the southwest quarter ( $\frac{1}{4}$ ), and the northeast quarter ( $\frac{1}{4}$ ) of the southwest quarter ( $\frac{1}{4}$ ), and the north half ( $\frac{1}{2}$ ) of the southeast 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 one-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), 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 fourteen (14) in township one hundred and eight (108), range twenty-seven (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 centre of the Minnesota river where the north line of town one hundred and eight (108), range twenty-seven (27), crosses said river, opposite the northwest 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 ( $\frac{1}{4}$ ) 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 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 section 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 ( $\frac{1}{4}$ ) 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 centre 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 centre of the Blue Earth river to its junction with the Minnesota river; thence along the centre 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 one-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 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), 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. The said city of Mankato shall be divided into six (6) wards, to be called the first (1st), second (2d), third (3d), fourth (4th), fifth (5th) and sixth (6th) wards, and shall be limited, bounded and described as follows, to-wit: All that portion of the city of Mankato commencing on the east bank of Minnesota river, in the centre of Plum street, thence along the centre of Plum street to the centre of Sixth (6th) street, thence southerly along the centre of Sixth (6th) street to the center of Marsh street, thence along the centre of Marsh street to the end of said street, and thence to the city limits in a direct line with said Marsh street, thence north along the east line of the city limits to Rhine street, thence westerly along the centre of Rhine street to the centre of Sixth (6th) street, thence southerly along the centre of Sixth (6th) street to the centre of Vine street, thence along Vine street to the east bank of the Minnesota river, thence up the east bank of the river to place of beginning, shall constitute the second (2d) ward of the city of Mankato.

All that portion of the city of Mankato lying northerly of said second (2d) ward, shall constitute the first (1st) ward of the city of Mankato.

All that portion of the city of Mankato lying between the southerly line of the second (2d) ward and a line commencing at a point on the east bank of the Minnesota river opposite the end of Hickory street, thence

running easterly along the centre of Hickory street to the centre of Hanover street, thence along the centre of Hanover street to the centre of Pearl street, thence along the centre of Pearl street to the centre of Hannah street, thence along the centre of Hannah street to the centre of Main street, thence easterly along the centre of Main street to the city limits, shall constitute the third (3d) ward of the city of Mankato.

All that portion of the city of Mankato lying southerly of the last described line and between said line and one commencing at a point in the center of "D" street, in Cumming's addition to the city of Mankato, where said "D" street intersects the Minnesota river, thence south along said "D" street to the south line of said addition, thence east along the south line of said addition to the township line between township one hundred and six (106) and one hundred and seven (107), thence south on said township line to the centre of Front street, thence northerly along the centre line of Front street to the centre of Liberty street, thence along the centre of Liberty street to the centre of Fourth (4th) street, thence northerly along the centre of Fourth (4th) street to the centre of Warren street, thence along the centre of Warren street to the centre of Fifth (5th) street, thence along the centre of the Bunker Hill road to the city limits, shall constitute the fourth (4th) ward of the city of Mankato.

All that portion of the city of Mankato lying south and west of the last described line and between said line and a line commencing on the south line of Cumming's addition to said city at the centre of "D" street, where said street intersects said south line, parallel to said "D" street, then south to the centre of Front street, thence westerly along the centre of said Front street to a point forty (40) rods east of the east line of the west half ( $\frac{1}{2}$ ) of section thirteen (13) in township one hundred and eight (108), range twenty-seven (27) west, thence south and parallel to the said east line till it intersects the north line of the southwest quarter ( $\frac{1}{4}$ ) of the southeast quarter ( $\frac{1}{4}$ ) of said section thirteen (13), thence east along said north line about forty (40) rods to the northeast corner of said southwest quarter ( $\frac{1}{4}$ ) of the southeast quarter ( $\frac{1}{4}$ ) of said section thirteen (13), thence south on government subdivision line to the city limits, shall constitute the fifth (5th) ward of the city of Mankato.

All that portion of the city of Mankato lying west of the last described line and west of the centre line of "D" street shall constitute the Sixth (6th) ward of the city of Mankato.

## CHAPTER II.

### ELECTIVE OFFICERS AND ELECTIONS.

SECTION 1. There shall be an election for electing such officers as are herein or otherwise by law made elective, on the first (1st) Tuesday in April, eighteen hundred and ninety-one (1891), and every two (2) years thereafter. Such election shall be held on the first (1st) 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 with the general election laws of the state, except as hereinafter provided.

SEC. 2. The elective officers of said city shall be a mayor, a municipal judge, a special judge, treasurer and recorder, all of which officers shall be residents and qualified voters of said city. Each ward shall elect one (1) alderman who shall be a resident within and a qualified voter of the ward for which he is elected and shall hold his office for the period of two (2) years and until his successor is elected and qualified; *Provided, however,* 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, special judge, treasurer and recorder shall be elected for two (2) years and until their successors are elected and qualified.

SEC. 3. The term of every officer elected or appointed under this law shall commence on the second (2d) 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; *Provided, however,* that the judges of election and the places of holding election named in and designated by resolution of the common council duly passed March second (2d), eighteen hundred and ninety-one (1891), appointing judges and designating places of holding election for the regular city election of eighteen hundred and ninety-one (1891), shall act and the places of holding election herein designated shall be the legal voting places for the year eighteen hundred and ninety-one (1891), and said resolution shall be sufficient, and the acts and doing of said judges shall have the same legal effect as though the ward boundaries of said city had not been changed.

SEC. 4. Every person appointed to any office by the common council, or elected to any office by the people, may be removed from said office by a vote of two-thirds ( $\frac{2}{3}$ ) of all aldermen authorized to be elected. But no officer elected by the people shall be removed except for cause, nor unless furnished with a written statement of the charges against him, nor until he shall have had a reasonable opportunity to be heard in his defense. The common council shall fix a time and place for the trial of such officer, of which not less than ten (10) days' notice shall be given, and have power to compel the attendance of witnesses and the production of books and papers and to hear and determine the case; and if said officer shall neglect to appear and answer the charges against him, the common council may declare the office vacant.

SEC. 5. Whenever a vacancy shall occur in the office of mayor or any other elective office of said city by death, removal or resignation, or otherwise, the common council shall have power and it shall be their duty to declare the office vacant by resolution entered upon their minutes. All such vacancies shall be filled by appointment by the common council.

SEC. 6. The person appointed to fill a vacancy shall hold his office and discharge the duties thereof until the next regular election for electing city officers and until his successor is elected and qualified. A plurality of votes shall constitute an election. When two (2) or more candidates for an elective office shall receive an equal number of votes for the same office, the election shall be determined by casting of lots in the presence of the common council at such time and in such manner as they shall direct.

SEC. 7. All persons entitled to vote for state or county officers, and who reside in the ward or election precinct where they offer to vote, shall be entitled to vote for any officer to be elected under this law and

to hold any office hereby created, provided their names shall have been duly inserted in the list of qualified electors of the ward or election precinct in which they reside, as in the election of state and county officers; and the different wards established by law or such election precincts as may hereafter be established by the common council shall constitute election districts for state and county, as well as city elections, and the mode of conducting all state and county elections in said city shall be in the manner herein provided in the city elections, except that the returns thereof shall be made by the judges of election to the auditor of the county of Blue Earth within the time provided by law.

SEC. 8. The judges of election in each election precinct shall meet to correct the poll list in the same manner and at the times and places provided for state and county elections, and shall act in accordance with and be governed in all things by the laws of the state relating to elections.

SEC. 9. When a city election shall be closed and the number of votes for each person voted for shall have been counted and ascertained, the said judges, unless their duties are modified by the appointment of auditing boards, shall make returns thereof, stating therein the number of votes for each person for each and every office, and shall deliver and shall cause to be delivered such returns to the city recorder within three (3) days after any election, and the common council shall meet and canvass said returns and declare the result as it appears from the same within three (3) days thereafter. The recorder shall forthwith notify the officer or officers elected of their election, by written notice served upon such officers in person, or left at his usual place of abode with some person of suitable age and discretion.

SEC. 10. Special elections for any purpose shall be held and conducted in the same manner, and the returns thereof made in the same form and manner, as in general and biennial elections, and within such time as may be prescribed by resolution, excepting as the duties of the judges of election may be modified or changed by the appointment of auditing boards as hereinafter provided.

SEC. 11. Any officers moving from the city or ward for which he is elected, or any officer who shall refuse or neglect, for ten (10) days after notice of his election or appointment, to enter upon the discharge of the duties of his office, shall be deemed to have vacated his office, and the common council shall proceed to fill the vacancy as herein prescribed.

SEC. 12. Should there be a failure by the people to elect any officer herein required to be elected on the day designated, the common council may order a new election to be held, ten (10) days' notice of the time and place being given, in the same manner as provided herein for general elections.

SEC. 13. Whenever an election precinct in said city is found by the number of votes cast at any election to contain more than four hundred (400) voters, the common council shall cause such election precinct or district, at least six (6) weeks before the next ensuing general election, to be divided into two (2) or more districts, each containing as nearly as may be an equal number of voters, as provided in the general election laws of the state. When every ward shall be divided into two (2) or more districts, or whenever a precinct shall be subdivided as above provided, the common council shall cause the same to be published by making a map or description of such division, defining it by known

boundaries and keeping such map or description open for public inspection in the office of the recorder of said city, and also by posting up copies of such map or description in at least ten (10) of the most public places in each election precinct, and the common council shall also, prior to the next election, furnish copies of such map or description to the judges of election in each election precinct.

SEC. 14. The common council may, at their discretion, by ordinances passed by said council, require and provide for an auditing board to act in connection with the judges of election in any one (1) or more wards or election precincts of this city at any general or special election to be held therein. The number of such board, the manner of their appointment and all their duties, and all the qualifications of such board, and all other matters and things necessary to fully equip, authorize and empower such auditing board to enter upon and perform all the duties that may be assigned them, shall be provided for in such ordinance, and in order to render such appointment effective the common council may, by such ordinance, add to the duties of judges of election as fixed by this act, or as provided by the general election laws of the state, in such wards or election precincts as such auditing boards are, by ordinance, provided for by virtue hereof; *Provided*, that all members of such auditing board shall be qualified electors of the ward in which they are called upon to act, whether it be in connection with the judges of election at any election precinct in such ward or not. The common council may, by resolution or otherwise, provide for such compensation to be paid the members of such auditing board as said council may see fit.

### CHAPTER III.

SECTION 1. Every person elected or appointed to any office under this act shall, before he enters upon the duties of his office, take and subscribe an oath of office, and file the same, duly certified by the officer administering the same, with the city recorder; and the treasurer, recorder and such other officers as the common council may direct, shall severally, before they enter upon the duties of their respective offices, execute to the city of Mankato a bond with at least two (2) sureties satisfactory to the common council; and such bond shall contain such penal sum and such conditions as the common council may deem proper, and they may, from time to time, require new or additional bonds, and remove from office any officer refusing or neglecting to execute the same.

SEC. 2. The mayor shall take care that the laws of the state and the ordinances of the city are duly observed and enforced and that all other executive officers of the city discharge their respective duties. He shall, from time to time, give the common council such information and recommend such measures as he may deem advantageous to the city. The mayor shall be the chief executive officer and head of the police of the city, and shall appoint such police officers not to exceed three (3) day police, including the chief of police, and watchmen not to exceed four (4), by and with the consent of the common council, and in case of riot or other disturbances, he may provide as many special or temporary constables as he may deem necessary, without the consent of the common council; any police officer or watchman

appointed by the mayor, as aforesaid, may be discharged from office by him whenever, in his opinion, the welfare of the city may demand it or a reduction of their number renders it necessary. All ordinances and resolutions shall, before they take effect, be presented to the mayor, and if he approve thereof, he shall sign the same, and such as he shall not sign he shall return to the common council with his objections thereto, by depositing the same with the recorder to be presented to the common council at their next regular meeting thereafter; and upon the return of any ordinance or resolution by the mayor, by the same vote by which the same was passed, said ordinance or resolution shall be reconsidered, and if after such reconsideration the council shall pass the same by a vote of two-thirds ( $\frac{2}{3}$ ) of all the members of said council it shall have the same effect as if approved by the mayor. And in such case the vote shall be by ayes and noes, which shall be entered in the record of the recorder. If any ordinance or resolution shall not be returned by the mayor within five (5) days (Sundays excepted) exclusive of the first (1st) day after it shall have been presented to him, the same shall have the same effect as if approved by him.

SEC. 3. The mayor shall have a salary of two hundred dollars (\$200) per year and shall be president of the common council, but shall not hold any other office under the authority of the city. The mayor shall have no vote at any meeting of the common council, excepting in case of a tie, at which time it shall be his duty to vote upon the question before the council upon which a tie vote is had. His duty as presiding officer shall be confined during all meetings of the common council to the enforcement of such parliamentary usages as the common council may adopt. While acting as such presiding officer he shall not be allowed to participate in any general debate at any meeting of said common council upon questions belonging exclusively to such common council to act upon and determine, unless by consent of said common council by a majority vote of those present. All contracts and appropriations shall, before they take effect, be presented to the mayor, and if he approves thereof he shall sign the same, and such as he shall not sign he shall return to the common council with his objections thereto, and the same proceeding shall be had thereto as provided in section two (2) of this chapter in relation to ordinances and resolutions. The mayor shall sign all orders drawn upon the treasurer. At the first (1st) meeting of the common council in each year they shall proceed to select by ballot from their members a vice president, and in the absence of the mayor from the city or his inability from any cause to discharge the duties of his office, the said vice president shall exercise all the powers and discharge all the duties of the mayor. The vice president of the common council while performing the duties of mayor shall be styled the acting mayor, and acts performed by him while acting as mayor as aforesaid shall have the same force and validity as if performed by the mayor. In case the mayor shall be absent from any meeting of the common council, the vice president shall act as presiding officer for the time being and discharge the duties of said mayor.

In case of the absence of the mayor and vice president from any meeting of the common council or the inability of both of them to act, the members thereof may elect one of their members present to preside at such meeting, and the acts of such member so presiding shall



have the same force and effect as the acts of the mayor, at all times during the inability of the mayor or vice president to act.

The mayor shall have authority to revoke and cancel for cause any license issued by the common council, by serving a written notice upon the person holding the same that such license is revoked and canceled, and the same shall thereafter be null and void, and he shall notify the common council at their next regular meeting thereafter of the cause of revoking and canceling said license.

The common council may, at any regular meeting, reinstate such license so revoked by a two-thirds ( $\frac{2}{3}$ ) vote of the members, and thereafter the same shall be valid until revoked and canceled again; *Provided*, said common council shall hear any person whose license has been thus revoked at such time and place as they shall see fit, upon an application to said common council for reinstatement of such license by the party deprived of the same as aforesaid, which application shall be in writing and filed with the city recorder within five (5) days exclusive of the first (1st) after the time of the revoking of such license.

SEC. 4. *City Recorder*.—There shall be a recorder of said city, styled the city recorder, who shall keep his office at the place of meeting of the common council, or such other place convenient thereto as the common council may determine. He shall keep the corporate seal and all the papers and records of the city, and keep a record of the proceedings of the common council, at whose meetings it shall be his duty to attend. Copies of all papers filed in his office, and transcripts from all records of the common council, certified by him under the corporate seal, shall be evidence in all courts as if the original were produced. He shall draw and countersign all orders on the treasurer in pursuance of any order or resolution of the common council, and keep a full and accurate account thereof in books provided for that purpose. The city recorder shall have power to administer oaths and affirmations and acknowledge all papers. It shall be the duty of the city recorder to report to the common council the financial condition of the city whenever the common council shall require. He shall make and keep a list of outstanding city bonds, to whom issued, for what purpose, when and where payable and the rate of interest they respectively bear, and recommend such action to the common council as will secure the punctual payment of the principal and interest of such bonds. He shall report annually on or about the first (1st) day of April to the common council an estimate of the expenses of the city, and likewise the revenue necessary to be raised for the current year. The fiscal year shall commence on the first (1st) day of April. He shall countersign all the contracts made in behalf of the city.

The city recorder shall keep regular books of accounts, in which he shall enter all the indebtedness of the city, and which shall at all times show the precise financial condition of the city, including the amount of bonds, orders, certificates, or other evidences of indebtedness which have been redeemed, and the amount of the same outstanding.

He shall countersign all bonds or other evidences of indebtedness of the city and keep accurate accounts thereof, stating to whom and for what purposes issued and the amount thereof. He shall keep accounts with all receiving and disbursing officers, showing the amounts they have received from different sources of revenue and the amount they have disbursed under the directions of the common council.

If before the first (1st) day of January in each year the amount expended or the amount to be expended, chargeable to any city fund, (adding thereto the current expenses estimated for the remainder of the fiscal year, and chargeable to such fund), shall be equal to three-fourths ( $\frac{3}{4}$ ) of the tax authorized to be raised or revenue estimated from such fund, he shall report at once the same to the common council, and he shall not sign any contract chargeable to such fund until the amount of taxes actually collected be ascertained; and during the remainder of the fiscal year, he shall not sign any contract the expenses of which shall exceed the revenue actually collected for the fund to which such expenses are properly chargeable; *Provided*, nothing herein stated shall prevent the common council from borrowing from one fund to aid and help out another fund at such times as in their judgment the public necessities shall require.

The recorder shall examine all the reports, books, papers, vouchers and the accounts of the city treasurer, and from time to time shall perform such duties as the common council may direct.

All claims and demands against the city, before they are allowed by the common council, shall be audited and adjusted by the recorder, and he shall keep a record of all his acts and doings, and keep a book in which he shall enter all contracts, with an index thereto. Such record shall be open to the inspection of all parties interested. He shall make a full and complete report of the finances and conditions of the city, which shall be kept on file, and a copy thereof he shall cause to be published in the official paper of the city at least fifteen (15) days prior to the annual election.

The city recorder shall perform all other services by law required of clerks of cities or townships within said city, but when such services are required of him by public law, for which compensation is made from the state or county treasury or individuals, such services shall not be regarded as services for said city, and he may retain such compensation, in addition to his regular salary, and shall keep an accurate account of fees so received and report the amount of the same to the common council at the close of each official year.

In addition to all other duties herein enumerated to be by the city recorder performed, he shall at the first (1st) regular meeting of the common council in the month of January, and the first (1st) regular meeting thereof in the month of June of each year, make an itemized report to the common council of all the funds received by the city during the preceding six (6) months, from fees or costs taxed and collected in the municipal court, which report shall contain a statement of the title of each action, civil or criminal, commenced therein, the amount collected in each action, by whom paid, and the amount turned over to the city treasurer in each case. He shall also make a report, at the same time at which the above report shall be made, of the amounts received from dog licenses, giving the amount paid for each license, by whom and when paid and the amount in each case paid over to the city treasurer. Also at said times in each year he shall report to the common council the amounts received by the city from licenses granted to auctioneers, circuses, shows, peddlers and all other amounts received from any source whatsoever, all of which report shall be itemized and after having been presented and adopted by the common council, shall be once published in the official paper of the city.

SEC. 5. *City Attorney.*—The city attorney shall perform all professional services incident to his office, and when required shall furnish opinions upon any subject submitted to him by the common council or its committees. He shall also advise with and counsel all city officers in respect to their official duties, and attend the meetings of the common council, and of such committees as shall request his assistance, and his salary shall be fixed by the common council, but the same shall not exceed the sum of six hundred (\$600) dollars per annum.

SEC. 6. *City Treasurer.*—The treasurer shall receive all the moneys belonging to the city, including license money and fines, and keep accurate and detailed account thereof, in such manner as the common council shall from time to time direct. The treasurer shall exhibit to the common council, at least twenty (20) days before the annual election, or sooner if required by it, a full and detailed account of the receipts and expenditures after the date of the last annual report, and also of the state of the treasury, which account shall be filed with the city recorder.

He shall also report to the common council at such times and such manner as they may require, and he shall give such bonds for the safe keeping of the funds of the city as the common council may require, and shall receive such salary as the common council may fix, not exceeding five hundred dollars (\$500) per annum, and no other fees or compensation whatever. Said treasurer may appoint a deputy, who may perform all the duties required of his principal, but shall receive no extra compensation for his services.

SEC. 7. *Chief of Police.*—There shall be a chief of police of said city, who shall be appointed by the mayor, by and with the consent of the common council, and who shall perform such duties as shall be prescribed by the common council for the preservation of the public peace, and shall receive for his services such compensation as the common council shall fix, not exceeding six hundred dollars (\$600) per annum; *Provided, however,* said chief of police may, in addition to his other duties, if required, serve all writs, warrants and processes of whatsoever kind issued by the municipal court of said city, and as compensation therefor shall receive the regular fees as provided by law in such cases, and shall receive also the regular fees for all arrests personally made by him, in addition to the sum of six hundred dollars (\$600) above named. All police of said city shall possess the power of constables at common law, or by the laws of the state, and it shall be their duty to execute and serve all warrants, processes, commitments and all writs and warrants whatsoever issued by the municipal court of said city, for any violation of the laws of the state of Minnesota or of the ordinances or by-laws of said city; and also to serve all writs and processes whatsoever issued by the municipal court of said city in civil actions, unless forbidden by the common council; *Provided,* said common council shall have no power nor authority to forbid the chief of police from serving warrants and processes as above set forth; and they shall have authority to pursue and arrest any person fleeing from justice, in any part of the state, and for these purposes shall have the power of constable at common law while on duty; *Provided,* that each police, before he enters on the duties of his office, shall take and subscribe to the oath of office prescribed by law for constables, and in addition thereto shall execute a bond to the mayor

of said city in such penal sum as the common council shall direct, with one or more sureties to be approved by the mayor, conditioned for the faithful discharge of his duties as such constable, and further conditioned to pay over to the party entitled thereto any money that shall come into his hands by virtue of his power and authority as such constable, which bond shall be filed with the city recorder. No policeman (excepting the chief of police) shall be authorized to perform the duties of constable at common law when forbidden by the common council. Under the supervision of the chief of police the day police shall, in addition to their other duties herein enumerated, perform the janitor work at the city hall in said city. Day police, excepting the chief, shall receive from the city for all their services as above set forth, a sum not to exceed forty-five dollars (\$45) per month.

SEC. 8. *Assessor.*—The common council shall, in the month of April every two (2) years, elect an assessor, who shall perform all the duties in relation to the assessing of property for the purpose of levying all city, county and state taxes, and upon the completion of the assessment roll he shall return the same to the city recorder. In all respects not herein expressly provided for, said assessor shall, in making such assessments, be governed by the rules, both in respect to the property to be listed and assessed and the manner of listing and assessing the same, which are or may be prescribed by the general laws of the state for the government of assessors.

Immediately after the assessment roll shall have been returned to the city recorder, as aforesaid, it shall be the duty of the common council to meet as a board of review and designate a time and place when they will meet as such board of review for the purpose of performing the duties hereinafter assigned them. Not later than the fourth (4th) Monday in June each year, they, as such board, shall proceed to examine and see that all taxable property in the city of Mankato has been properly placed on the list and duly valued by the assessor.

A majority of such board present shall constitute a quorum for doing business. The same notice of such meeting of such board shall be given by the recorder and the board of review shall be governed by the same rules and regulations in the performance of their duties as is or shall be prescribed in the general statutes and laws of this state for town boards of review.

The assessor shall, after such review of said assessment, and not later than upon the second (2d) Monday of July in each year, make out a tabular statement of all the assessments of property in said city made by him as directed by said board, and return the same to the county auditor of Blue Earth county, the same having been verified by said assessor, as provided in the general laws of the state for town assessors. The assessor shall hold his office for two (2) years, or until his successor is elected and qualified. The assessor may also, whenever he shall deem it necessary, appoint a deputy assessor to aid in making the city assessment; which deputy shall act under direction of the assessor, and shall report to him all his doings as such deputy, and be responsible to such assessor for all his acts, but shall receive no compensation from the city for said service.

SEC. 9. *City Printing.*—The common council, at their first (1st) regular meeting after each biennial election, or as soon thereafter as may be, shall advertise for proposals to do the city printing, giving public no-

tice of not less than one (1) week, in such manner as the council may direct, that sealed bids will 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 public printer for the ensuing one (1) year; 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 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 common council may require to be published, at a rate not exceeding that now prescribed by statutes for legal advertisements or notices, the common council may make such provisions for publishing its ordinances, by-laws and matters requiring publication as it may think fit, anything herein contained to the contrary notwithstanding; *And provided further,* that no paper shall be designated as the official paper unless the same be printed and published in the English language.

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

SEC. 11. The common council shall have power at any time to require other and further duties to be performed by any officer whose duties are herein prescribed, not inconsistent with this act, and to appoint such other officers, excepting as herein provided, as may be necessary to carry into effect the provisions of this act, and to prescribe their duties, unless otherwise provided for; but no officer elected or appointed by the common council, or appointed by the mayor, as hereinbefore provided, shall be appointed for a longer term than two (2) years, and until his successor is elected or appointed, and duly qualified. The common council shall have the power, unless herein otherwise provided, to fix the compensation of all officers elected or appointed under this act, and such compensation shall be fixed by resolution, except the city recorder, who shall receive the sum of five hundred dollars (\$500) per annum, which shall be in full for all his

services, including that of clerk of the common council and all duties imposed upon him in behalf of the said city, excepting as provided in the municipal court act for the city of Mankato, and as hereinafter provided, and shall be paid monthly at the termination of each month; and excepting the city assessor, whose compensation shall be fixed as hereinafter provided. Unless otherwise provided for in this act, salaries shall be fixed by the common council at the second regular meeting thereof in the month of April, after each biennial election, except for such offices as may hereafter be created, in regard to which compensation shall be fixed at the time of the creation of such office; nor shall the compensation of any officer, after having been fixed, be increased or diminished during the term for which such officer was elected or appointed. No officer elected or appointed to office under the provisions of this charter shall be a party to or interested in any contract in which the city is interested, made while such officer is holding office; *Provided*, that each alderman shall receive compensation for his services as such officer the sum of two dollars (\$2) for each meeting of said common council during his term of office, whether such meeting be regular or special, at which such alderman is in actual attendance thereon.

SEC. 12. *Peace Officers.*—The mayor, or acting mayor, and sheriff of the county of Blue Earth, or his deputy or deputies, coroner, and each alderman, judge of the municipal court, police officers, and watchmen, shall be peace officers, and may command the peace, suppress in a summary manner all rioting and disorderly behavior within the limits of the city, and for such purposes may command the assistance of the bystanders, and if need be all the citizens and military companies in said city; and if any bystander, military officer or private shall refuse so to aid in maintaining the peace when so required, each person so refusing shall forfeit and pay a fine of fifty (\$50) dollars in case of the prosecution for such offense, and in default of such payment he shall be committed to the common jail not to exceed sixty (60) days. In case the civil power may be required to suppress riots or disorderly behavior, the superior or senior officer present, in the order mentioned in this section, shall direct proceedings.

SEC. 13. *Health Officer.*—The mayor shall, by and with the consent of the common council, appoint a health officer, who shall be a physician of regular practice in said city, in good standing in his profession and a graduate of some college of medicine.

It shall be the duty of the health officer to make a regular inspection of the city as to the matters affecting the health of the citizens. He shall make reports to the state board of health of such facts as may be required by said board.

He shall be *ex-officio* president and executive officer of the board of health established by said city, and perform all duties required of him by any ordinance of this city.

SEC. 14. *Health Inspection.*—The mayor shall, by and with the consent of the common council, appoint three (3) health inspectors for said city, who shall have the same authority as police officers in enforcing the ordinances of said city designed to protect the public health, and they, together with the health officer, shall constitute the board of health of said city.

SEC. 15. *Deputy Recorder.*—The common council shall, whenever it is deemed necessary, have the power to appoint a deputy recorder

upon the nomination of the recorder, at such time and for such period as it may see fit, who shall have authority, in the absence of the recorder, to transact all business that the recorder is authorized to transact, and may administer oaths and take acknowledgments and affix the corporate seal to all the papers and documents which, under the law, shall require said seal, and all acts of said deputy shall have the same validity as those of the recorder, but such deputy recorder shall receive no compensation for his services from the city.

SEC. 16. The special judge shall act in place of the municipal judge when said municipal judge shall for any cause be disabled or unable to perform the duties of his office, and the acts and doings of said special judge while so acting shall be valid, and in all respects binding.

## CHAPTER IV.

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

SECTION 1. The aldermen shall constitute the common council of the city, and the style of all ordinances shall be: "The common council of the city of Mankato do ordain," etc.

The common council shall meet at such time and place as they, by resolution, may direct. A majority of the aldermen chosen shall constitute a quorum for doing business.

SEC. 2. The common council shall hold stated meetings, and the mayor may call special meetings, by notice to each of the members, to be delivered personally or left at their usual place of abode. The common council shall be the judges of the election and qualifications of its own members, and in such cases shall have the power to send for persons and papers, and shall also determine the rules of its own proceedings and have power to compel the attendance of absent members.

SEC. 3. The common council shall have the management and control of the finances and all the property of the city, and shall likewise, in addition to the power herein vested in them, have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify, amend and repeal all such ordinances, by-laws, rules and regulation for the suppression of vice and intemperance and for the prevention of crime as they shall deem expedient. They shall have power to establish and maintain a city prison; *Provided*, that until otherwise ordered by the common council, the county jail of Blue Earth county shall be used as a city prison; and it shall be the duty of the sheriff or jailer of Blue Earth county to take in custody and safely keep in said jail all persons committed thereto, until discharged according to law.

The common council shall have full power and authority to declare and impose penalties and punishments, and to enforce the same against any person or persons who may violate any of the provisions of any ordinance or by-law passed or ordained by them, and all such ordinances, rules and by-laws are hereby declared to have the force of law; *Provided*, that they be not repugnant to the constitution and laws of the United States, or of this state, and for these purposes shall have, by ordinance, resolution or by-laws, the exclusive right to license and

regulate hawkers and peddlers, and also public halls and all other buildings and inclosures used for places of public resort and amusement, and also that class of stores known as "dollar stores," and all stores of similar character and purposes, and to license and regulate the exhibitions of common showmen and shows of all kinds, or the exhibitions of caravans, circuses, concerts or theatrical performances, billiard, pool tables, nine or ten pin alleys, bowling saloons; to grant licenses to and regulate auctions and auctioneers; to license tavern keepers and victualing house keepers, and all persons dealing in spirituous, vinous or fermented liquors and to designate the places and conditions upon which all such liquors may be sold; *Provided*, that all licenses for so dealing in spirituous, vinous or fermented liquors shall not be less than the minimum sum allowed by the laws of the state, and no licenses shall be granted for a less term than one (1) year, and all licenses shall commence and terminate on the first (1st) day of May of each year.

*Second*—To restrain and prohibit all description of gambling and fraudulent devices and practices, and all playing of cards, dice or other games of chance for the purpose of gambling in said city, and to restrain any person from vending, giving or dealing in spirituous, vinous or fermented liquors, unless duly licensed by the common council.

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

*Fourth*—To compel the owner or owners of any cellar, tallow chandler shop, soap factory, tannery, stable, barn, privy, sewer, or other unwholesome structure or place, to cleanse, remove or abate the same from time to time, as often as may be deemed necessary for the health, comfort and convenience of the inhabitants of said city.

*Fifth*—To regulate or prohibit the slaughter of animals within said city, or the location or operating of soap or candle factories therein; to direct the location and management of markets, breweries and distilleries, and to establish rates for and license venders of gunpowder, and regulate the storage, keeping and transportation or removal of gunpowder or other combustible materials.

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

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

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



*Ninth*—To tax and license dogs; to regulate or prohibit dogs running at large; to impose a penalty upon the owners and keepers of dogs who allow them to be at large in violation of ordinance, and to authorize the impounding or summary killing of dogs found running at large, whether such dogs have been taxed or not.

*Tenth*—To prevent any person from bringing, depositing or having within said city any putrid carcass or other unwholesome substance, and to require the removal of the same by any person who shall have upon his premises, any such substance, or any putrid or unsound meat, flesh, or hides or skins of any kind and to authorize the removal of the same at the expense of the owner.

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

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

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

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

*Fifteenth*—To prevent the discharging of firearms or crackers, and to prevent the exhibition of any fireworks in any locality which may be considered by the common council dangerous to the city or any property therein, or annoying to any of the citizens thereof.

*Sixteenth*—To prevent open and notorious drunkenness, brawling and obscenity in the street or public places of the city, and to provide for the arrest and punishment of all persons who shall be guilty of the same; *Provided*, all theatres, saloons, public halls, and all other places to which the public are invited for purposes of business, pleasure, or any other purposes, are, in addition to all other public places, to be considered public places within the meaning of this act.

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

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

*Nineteenth*—To license and regulate butcher shops and stands for the sale of game, poultry, butchers' meats, butter, fish and other provisions.

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

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

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

*Twenty-third*—To provide for watchmen and to prescribe their number, not exceeding four (4), and duties, and regulate the same, and to create and establish the police of said city, and to prescribe the number of police officers, not exceeding three (3), including chief of police, and their duties, and to regulate the same.

*Twenty-fourth*—To compel the owners and occupants of buildings or grounds to remove snow, dirt or rubbish from the sidewalks, streets or alleys opposite or adjacent thereto, and to compel such owners or occupants to remove from the lots owned or occupied by them all such substances as the board of health shall direct; and in case of default of such owners or occupant, to punish them for such default and to authorize the removal or destruction of such substances by some officer at the expense of such owner or occupants.

*Twenty-fifth*—To regulate the inspection of flour, pork, beef, fish, salt, whisky and other liquors and provisions; and to appoint inspectors, measurers, weighers and gaugers, to regulate their duties and prescribe their compensation.

*Twenty-sixth*—To direct and regulate the planting and preservation of ornamental trees in the streets, alleys, highways and public grounds of the city.

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

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

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

*Thirtieth*—To restrain and punish tramps, vagrants, mendicants, street beggars, and provide for the punishment of the same.

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

*Thirty-second*—To license and regulate all peddlers doing business within said city.

*Thirty-third*—To compel the owners of low grounds, when water collects or is liable to collect and become stagnant thereon, to fill or drain such low places, and in their default to authorize the filling or draining at the expense of such owner or owners.

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

*Thirty-fifth*—To regulate the movement and speed of railroad locomotives and cars; to require the maintenance of flagmen or the construction and maintenance of gates, and to maintain lights at the crossings of railway tracks over such streets or avenues as said city council deem necessary to require such precautions.

*Thirty-sixth*—To provide for and regulate the erection of hitching posts or rings for fastening horses, or to prohibit them in any part of the city, in its discretion.

*Thirty-seventh*—To regulate the opening of hatchways and compel proper guards about the same, and to provide for the method and manner of constructing balconies and awnings.

*Thirty-eighth*—To regulate the numbering of houses and lots and compel the owners of houses and other buildings to have the numbers of such houses or buildings designated thereon.

*Thirty-ninth*—The common council of the city of Mankato shall have power in its discretion, within the limits of said city, to alter the name of any street heretofore or hereafter opened which is not named and to number lots and blocks which have no number.

*Fortieth*—That the common council shall have power to order the board of public works to expend the highway labor and highway moneys beyond the city limits in the same manner as hereinafter provided for highways within the city limits.

*Forty-first*—The common council is authorized to permit the construction and operating of street railways within said city, and may prescribe the street or streets on which the same may be constructed, and may impose such restrictions and limitations on the same as to the common council may seem proper; but no such privilege shall be granted to any individual, individuals or corporation for a longer period of time than twenty (20) years, and the said common council may also provide for the introduction and use of electric lights within said city, or any other method of lighting the streets of said city, under such regulations as the common council may prescribe.

*Forty-second*—The common council shall have the care, supervision and control of all the highways, avenues, streets, alleys, levees, public parks, public squares and public grounds within the limits of the city, and shall have power to build and keep in repair bridges, to lay out, open, alter, vacate and reduce public squares, levees and grounds, highways, streets, lanes and alleys, and to extend, narrow, widen or straighten all streets, lanes and alleys, within said city, and to take grounds from the site of public buildings and public parks, subject to the assessment of damages as hereinafter provided.

*Forty-third*—To pass ordinances for the prevention of cruelty to animals.

*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.

*Forty-eighth* — The common council shall also have power to vote a sum not exceeding one thousand dollars (\$1,000) per annum for the establishment and maintenance of a public library and reading room.

SEC. 4. All ordinances, regulations, resolutions and by-laws shall be passed by an affirmative vote of a majority of the members of the common council by ayes and noes, and such ordinances, regulations and by-laws shall be signed by the mayor and countersigned by the recorder, and published in the official paper of the city at least one (1) week before the same shall be in force. They shall be recorded by the city recorder in books furnished for that purpose. No appropriation shall be made without a majority of the votes of all the members of the common council in its favor, which vote shall be taken by ayes and noes and entered upon the record among the proceedings of the common council.

SEC. 5. The powers conferred upon the common council to provide for the abatement or removal of nuisances shall not bar or hinder suits, prosecution or proceedings in the courts according to law.

SEC. 6. The common council shall examine, audit and adjust the accounts of the treasurer, recorder, municipal court, and all other officers and agents of the city, at such times as they deem proper, and also before the terms for which the officers of said city were elected or appointed shall expire. The common council shall require each and every such officer and agent to exhibit his books, accounts and vouchers for such examination and settlement, and if any such officer or agent shall refuse to comply with the orders of said council, in the discharge of his said duties in pursuance to the provisions of this section, or shall neglect or refuse to render his account or present his books and vouchers to said council or committee thereof, it shall be the duty of said council to declare the office of such person vacant. And the common council may institute suit and proceedings at law against any officer or agent of said city who may be found delinquent or defaulting in his account or in the discharge of his official duties. The common council shall cause to be made a full record of all such settlements and adjustment.

SEC. 7. The common council may, during the fiscal year, by a vote of two-thirds ( $\frac{2}{3}$ ) of the members thereof, issue the bonds of said city, bearing interest at not exceeding seven (7) per cent per annum and for a term not exceeding one (1) year, in such amounts and under such regulations as the common council may prescribe, in anticipation of the taxes and revenues of such fiscal year; *Provided*, that the amount of such bonds outstanding shall not at any one time exceed one-third ( $\frac{1}{3}$ ) of such taxes and revenues; *And provided further*, that said bonds or the proceeds shall be applied to the same purposes as the taxes and revenues in anticipation of which such bonds may have.

SEC. 8. The fiscal year of said city shall commence on the second (2d) Tuesday of April each year.

SEC. 9. The common council may provide by ordinance that any one convicted of any offense before the municipal court of said city, thereby subjecting such offender to punishment by imprisonment under the charter and ordinances of said city, may be kept at hard labor during this term of punishment in such workhouse or upon the public improvements of said city, or both, and may also provide by ordinance that any one convicted of an offense before said municipal court and committed upon non-payment of fine imposed may be kept at hard labor in any workhouse of said city aforesaid, or in case of a male offender, may be kept at hard labor either in such workhouse or upon the public improvements of the city, or both, until such person shall work out the amount of such fine at such rate of compensation as said council may prescribe, for a time not exceeding the time mentioned in such commitment, and the common council shall have full power to establish by ordinance all needful regulation for the security of such persons thus employed, and to prevent escapes and secure proper discipline, and shall have power to establish a proper workhouse in said city, for the purposes aforesaid and under such regulations as the common council may prescribe; *Provided*, that the common council aforesaid is hereby authorized to use the county jail as the workhouse of the city of Mankato provided for in this act; the prisoners of the city to be, as at present, in the custody of the sheriff of Blue Earth county except while working on the improvements of said city, when they shall be under the control of the police force of said city; *And provided further*, that the municipal judge of said city shall have power, for the offense of vagrancy, to commit any person to the city prison or workhouse or county jail, or to order any such person to work on the public improvements of said city for a term not exceeding ninety (90) days.

SEC. 10. A copy of the record of any ordinance or resolution heretofore passed and recorded, or that may be hereafter passed, certified by the recorder and verified by the seal of the city, and any copy thereof published in the official paper of the city, or printed in the books containing the official proceedings of the common council, or published in any compilation of ordinances made under the direction of the common council, shall be *prima facie* evidence of the contents of such ordinances and the regularity of all proceedings relating to the adoption or approval thereof and shall be admitted as evidence in any court in this state without further proof. The common council shall have power and authority to cause any ordinance, notice or other proceeding authorized to be published in the official paper of said city to be published in the German newspaper published in said city of Mankato at an expense not exceeding the sum paid for publishing such ordinance, notices or proceedings in the official paper of said city; *Provided, however*, that no such publication shall be made in said German newspaper unless authorized, before such publication is made, by a two-thirds ( $\frac{2}{3}$ ) vote of the members of said council. In all actions, prosecutions and proceedings of every kind before the municipal court of said city, such court shall take judicial notice of all ordinances by said city, and it shall not be necessary to plead or prove such ordinances in said court.

## CHAPTER V.

## LEVYING OF TAXES.

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, 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. 2. The common council shall have power to levy a tax upon the taxable property of the city for the purpose of constructing and maintaining bridges and culverts, and opening, constructing, maintaining and repairing roads, highways, streets and alleys. No debt in behalf of said city shall be incurred or any money expended for any purpose or in any manner, excepting by express authority of this act, either by the city at large, the common council or any officer or officers of the same, and no order or orders shall be issued upon the treasurer exceeding the amount of tax collected or assessed or in process of collection.

SEC. 3. The common council shall have power, and it shall be the duty of the common council, to levy annually upon the taxable property of said city, taxes sufficient to pay all bonds or other indebtedness due and payable in any year, and the interest on bonds or other indebtedness due or payable in any year, unless that previously to the first (1st) day of September in each year, some other adequate provision has been made for the payment of the same. The common council shall have the power to issue bonds and levy taxes exceeding the amount authorized by other sections of this act for the purchase of public parks or other purposes; *Provided*, the same be authorized by a majority of the voters present and voting at any election to be held for that purpose. The amount of said bonds, rate of interest, not exceeding five (5) per cent per annum, and time they shall run; also, the time, place and manner of holding such election, to be prescribed by the common council by resolution, the same notices to be given as at other elections. And no bonds for any purpose shall be issued by the common council unless so authorized, except as hereinbefore provided in, and no such bonds shall be sold at less than par; *Provided*, the common council of said city may issue and negotiate the bonds of said city for the purpose of redeeming and paying bonds heretofore issued by said city. Such bonds and the interest thereon to be payable at such times and places as the common council may determine, but said bonds in this proviso mentioned shall not be made payable more than thirty (30) years from the date thereof, nor shall they draw a greater rate of interest than five (5) per cent per annum, interest to be payable at such times as the common council shall direct; nor shall said bonds be negotiated for less than cost; said bonds to have interest coupons attached, and shall be signed by the mayor and countersigned by the recorder; *Provided further*, said bonds or the proceeds thereof shall not be used for any other purpose than is herein specified.

SEC. 4. Taxes may be levied by resolution of the common council, and no tax shall be invalid by reason of any informality in the manner of levying the same or because the amount levied shall exceed the amount required to be raised for the special purpose for which the same is levied, but in such case the surplus shall, if the tax be a general tax, go into the general fund of the city; if it be a bond or interest tax, it shall be kept and used for the future payment of the principal or interest of the same class of bonds, or the purchase thereof before due; if it be for improvements, it shall be kept and used for future improvements of the same character.

SEC. 5. The common council shall cause to be transmitted to the county auditor of the county of Blue Earth, on or before the first (1st) day of October of each year, a statement of all taxes by them levied, and such taxes shall be collected and the payment thereof enforced in like manner as state and county taxes are paid, and the payment thereof enforced; and the county treasurer of said Blue Earth county shall pay such taxes over as fast as collected to the treasurer of said city.

SEC. 6. No moneys shall be paid out of the city treasury unless such payment be authorized by a vote of the common council, and these shall be drawn out only upon orders signed by the mayor and countersigned by the recorder, which orders shall specify the purpose for which they were drawn, and the fund out of which they are payable, and the name of the person in whose favor the same are drawn, and may be made payable to the order of such person or to the bearer, as the common council may determine.

SEC. 7. When any such order shall have been paid or received by the treasurer, it shall not again be issued, but he shall immediately cancel the same, and file the same away in his office, keeping the orders drawn upon each fund separate.

SEC. 8. The common council shall have the power, for the purpose of aiding in the construction or equipment of any railroads, to issue or cause to be issued, the bonds of said city, with interest coupons attached, in such amounts, of such denominations, payable at such time and in such place, and bearing such rate of interest, not exceeding five (5) per cent per annum, and payable annually or semi-annually, as the common council may by resolution determine; *Provided, also*, that no such bonds shall be issued until the issuing of the same shall have been approved by the vote in favor thereof of the majority of those electors of said city who shall vote upon the question of the issuing of such bonds at an election at which such question shall be submitted, as hereinafter provided.

SEC. 9. Whenever it shall be desired to submit to the vote of the electors of said city the question of the issuing of any bonds authorized by the preceding section, the same may be done in such form and manner, upon such conditions, and at such time and place as the common council may by resolution prescribe; *Provided*, that previous notice of such election shall be given in the same manner as notices of general or special election are by law required to be given, which notice shall state that the questions of the issuing of such bonds will then be submitted.

SEC. 10. All bonds issued in pursuance of sections eight (8) and nine (9) of this chapter shall be under the seal of said city, and shall be signed by the mayor and countersigned by the city recorder, and shall

upon their face express the object for which they were given; *Provided*, that nothing herein contained shall be construed to authorize the issue to one railroad company bonds exceeding thirty thousand dollars (\$30,000), excepting in refunding bonds now outstanding.

## CHAPTER VI.

### TITLE I.

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.

SEC. 2. The board of public works of the city of Mankato shall consist of three (3) reputable freeholders and qualified electors of said city. The term of office of the members of said board shall be two (2) years, and until their successors shall be appointed and qualified, and shall commence on the second (2d) Tuesday in May succeeding their appointment; *Provided, however*, the first (1st) term of the president of said board shall be but one (1) year and until his successor is appointed and qualified, and that thereafter the term of said president shall be two (2) years as above provided. The members of said board shall be appointed by the mayor and confirmed by a majority vote of the members of the common council, except as hereinafter provided. The incoming mayor, by and with the consent of the majority of the common council as above provided, shall, after each biennial election and before the first (1st) Monday in May, in the year one thousand eight hundred and ninety-one (1891), and every alternate two (2) years thereafter, appoint two (2) and one (1) of said members respectively as their term shall expire. The first (1st) term of the president of said board shall be one (1) official year as above provided. One (1) of the members of said board shall be a civil engineer, and the mayor, by and with the consent of the common council, shall appoint some competent civil engineer as such member thereof, who shall be civil engineer of said board and shall be *ex-officio* city engineer, and shall be known as and called the second (2d) member of said board, and shall receive a salary of one thousand dollars (\$1,000) per annum for his services as city and civil engineer and member of the board of public works. The mayor, by and with the consent of the common council, shall appoint and designate in his certificate of appointment some suitable and qualified person as president of said board of public works, who shall receive a salary of seven hundred and fifty dollars (\$750) per annum. The city assessor shall be *ex-officio* one of the members of the said board of public works, and shall receive a salary of seven hundred and fifty dollars (\$750) per year for all his duties performed for the city of Mankato. In case the office of any member (except the *ex-officio* member) shall become vacant during his term, the mayor shall in like manner as above, so soon as practicable thereafter, appoint a person of like qualifications as aforesaid to fill such vacancy for the unexpired term and until his successor shall be appointed and qualified. The president and second member of said board of public works shall be required to give all the time and attention to the proper and efficient discharge of the duties imposed



upon them by the provisions of this act, and the other member of said board shall be required to give all the necessary time for the proper and efficient discharge of his duties under this act.

SEC. 3. The mayor shall deliver to each person appointed by him and confirmed as aforesaid, *pro tem.* or otherwise, a certificate of his appointment. Each of the members of said board 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 perform his duties to the best of his ability, and cause such certificate and oath, within fourteen (14) 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, and in addition to the making and filing of said certificate as aforesaid the president of said board of public works shall make and execute to the city of Mankato, within fourteen (14) days after his appointment, a bond with good and sufficient sureties, in the sum of two thousand dollars (\$2,000), for a faithful and impartial discharge of his duties, which bond shall be approved by the common council and filed with the city recorder.

SEC. 4. In case any person so appointed fails for the space of fourteen (14) days, after receiving said certificate of appointment, to deposit the same, with his oath as aforesaid, in the office of the register of deeds as aforesaid, his office shall be deemed to be vacant. In case said president of said board shall fail to furnish and file his bond as aforesaid within fourteen (14) days after his appointment, said office shall be declared vacant by the mayor. Any member wishing to resign his office shall tender his resignation, in writing, to said mayor, who shall be at liberty to reject or accept the same.

SEC. 5. No member of the board of public works, nor the clerk thereof, 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 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 of said board interested in any contract shall thereby forfeit his office and be removed therefrom, on proof of such delinquency; and it is thereby 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, the clerk of said board, who shall be interested directly or indirectly in any such contract or contracts as aforesaid, or any contractor or other person who shall take any such contract or contracts with knowledge of such interest of such member or the clerk of said board in said contract or contracts, or who shall corruptly influence or attempt to influence the action of any member or clerk of said board in the letting or entering into any contract, or in the performance of any official duties, or [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 dollars (\$1,000), or both such imprisonment and fine in the discretion of the court.

SEC. 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 regulation as provided by this act in relation to elective officers of said city, and not otherwise.

SEC. 7. 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 one hundred dollars (\$100) per annum, in addition to his salary as recorder and clerk of the municipal court.

SEC. 8. It shall be the duty of the city engineer and the civil engineer of said board to superintend and to do or cause to be done all the civil engineering required by the board of public works in the management and prosecution of the public improvements committed to their charge, and all such other surveying as may be directed by said board. He shall devote his whole time to the duties of his office as member of said board and civil engineer thereof. Said engineer shall possess the same powers in making surveys and plats within said city that are given by law to county surveyors, and the like validity and effects shall be given to his acts, and to all plats and surveys made by him, as are or may be given to the acts, plats and surveys of county surveyors; he shall keep a record of all his official acts and doings, and shall keep on file a copy of all plats of the lots and blocks and sewers and water mains embraced in the city limits, of profiles of streets, alleys and sewers, and the grade thereof, and of all drafts and plans relating to bridges and to any public buildings belonging to the city of Mankato; all of which such records and documents shall be the property of the city, open to the inspection of parties interested, and shall be delivered over by said engineer at the expiration of his term of service, to his successor in office or to the board of public works. He shall make an annual report of all acts and doings of the engineer's department to the board of public works on or before the first (1st) day of February each year, which report shall be filed and kept among the records of the clerk of said board. Said engineer shall employ such workmen, by and with the consent of the common council, as shall be necessary in the discharge of his duties, subject, however, to such regulation respecting the number of workmen to be employed and their compensation, as the common council may by resolution prescribe.

[The part of a sentence following appears in both the engrossed and enrolled bills. It is evidently part of a section to be struck out, and which ought to have been omitted from the enrolled bill.]

as may be lawfully passed by the common council, of all the streets, alleys, highways, sidewalks, crosswalks; bridges, public grounds, and all other public buildings and grounds belonging to the city, except as otherwise specially provided in this act; of all sewers and works pertaining thereto, and of all public works commenced or undertaken by the city, except as otherwise provided in this act.

SEC. 9. The said board of public works shall have the exclusive power to grant permits, subject to such regulation and restrictions as may be prescribed by the ordinances of the common council, for the moving of houses along or across the streets, alleys or walks, and to regulate the building of vaults under streets, alleys or sidewalks, and to issue permits therefor; to control and regulate the placing of building material or other temporary constructions upon the streets, alleys, walks or other public grounds of said city, and to issue permits therefor; to issue or refuse to issue permits for the erection of buildings in

conformity with the ordinances of the common council. They shall have power, subject to such ordinances as may be lawfully passed by the common council, to regulate and control the manner of using streets, alleys or walks for laying down gas or water pipes, sewer, drains and service connections therewith, and to determine the location and depth thereof, and to issue permits therefor, and to cause the prompt repair, in such time and manner as they shall direct, of streets, alleys and walks, wherever such pipes or sewers, drains or connections may be put down, taken up or altered or repaired; and in case any corporation or individual shall neglect to repair or restore to its former condition any street, alley or sidewalk interfered with, or excavate for any of the purposes aforesaid, within the time and in the manner directed by said board, and said board shall cause the same to be done, and the expense thereof shall be paid out of the general fund; and such corporation or individual so delinquent shall be liable to the city of Mankato for the amount of such expense, with costs, to be sued for and recovered as in action of debt in any court having jurisdiction, and in addition thereto shall be subject to such fines and imprisonment, or penalties and forfeitures as may be provided by ordinances of the common council.

SEC. 10. All contracts entered into, and all public notices required by law to be given by the board of public works of the city of Mankato, shall be signed by the president of the board of public works on the part of the city, and countersigned by the city recorder. All contracts entered into by said board and all bonds taken by them shall be entered into in the name of and shall be executed to the city of Mankato, and all such bonds or contracts, when executed, shall be examined and approved as to form of execution by the city attorney, and as to substance by the common council.

SEC. 11. The said board of public works shall have no power, by contract or otherwise, to exceed, in the doing of any work in any one year, the sum appropriated for such work by the said common council or by law for such year.

SEC. 12. 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.

SEC. 13. The president and the second member of the said board, in addition to all other duties and authority by this charter conferred upon them as members of said board, shall have the charge, control and management of the water works system of the city of Mankato, and it shall be their duty to keep the reservoir, all hydrants, water mains, taps, connections and other apparatus and paraphernalia of said water system in repair and working order at all times; for the performance of which duties they may, by and with the approval of the common council, employ such assistance and labor, and purchase such material, as may be necessary for the purposes contemplated in this section. Said president and second member of said board may, with the concurrence of the other member of said board, hire such engineer or engineers as shall be necessary to run the water works pumping station, and shall require such engineer or engineers, before he or they shall take charge of the engineering department of said station, to execute to the said city of Mankato a good and sufficient bond in the sum of two thousand dollars (\$2,000), with such

conditions as shall be determined upon by the common council; said bond to be approved by the city attorney as to form and filed with the city recorder.

The president and second member of the board of public works shall also at all times keep an exact indexed and alphabetical list of consumers of city water; the number or exact location at which each consumer shall be using city water; the number of taps in use by each consumer; the floor or exact place of each tap; the price or rate to be paid by each consumer as established by proper authorities; the time when each water rental shall become due; the exact amount of all delinquencies charged to each delinquent, and shall make all other entries in suitable books, to be provided by the city for that purpose, which shall be necessary for keeping a proper, convenient and available record of the consumption of city water.

SEC. 14. The president of the board shall have the exclusive authority to grant permits to applicants for the introduction of city water into premises or places named by said applicant, whenever said applicant shall have complied with all the rules, by-laws and ordinances, regulations and resolutions in force relating to the furnishing of city water to consumers, and whenever said applicant shall have obtained from the city engineer, or other proper authority, a permit such as is required by the charter, ordinances or resolutions of the city; *Provided*, that such applicant for city water, before the president of the board of public works shall grant the use thereof to him, said applicant shall make and file with the said president an application for the introduction of water into any premises named by him, addressed to said president, which application shall be in the handwriting or with the consent of the owner of said premises, and shall specify the street and number, or other definite description at which the introduction of said water is desired, and shall state truly and fully all purposes and uses for which it is required, and no different or additional use shall be allowed, except upon application in like manner as above.

SEC. 15. The board shall regulate the distribution and use of the water throughout the city, and shall establish scales of prices, terms or rates upon which the water shall be furnished to consumers, subject to the approval of the common council of said city. They shall regulate the time of payment of all water rents, and may fix additional rents for the use of the water whenever extra quantities shall be used exceeding the quantities estimated for the same class of buildings or purposes in the tariff of rates by them adopted; and shall regulate the price of water for all special rates, and in case prompt payment for the same shall not be made within ten (10) days they shall shut off the water from such buildings, place or premises, and shall not turn on the same until such arrears, with interest thereon, together with the costs and expenses of turning said water on and off, shall be fully paid; and it is hereby declared to be a misdemeanor, punishable by fine not exceeding five hundred dollars (\$500), or by imprisonment in the county jail not exceeding one (1) year, or both, at the discretion of the court, for said board knowingly to omit the property of any person from assessment for water rates or to neglect or refuse to make proper bills for the same, or to give any person other or different credit for the use of water than that given to the whole public.

SEC. 16. That the said board of public works may prosecute any action in the name of the city of Mankato against any person or persons or corporation for money due for the use of city water, for the breach of any contract expressed or implied, touching the execution or the management of the works or distribution of the water, or any contract or promise made to or for them; and also for any injury or trespass or nuisance done or caused or procured to the water, wells, reservoir, pump house, pump, pipes, machinery, or any apparatus belonging to or connected with any part of the water works system, or for any improper use or waste of water.

SEC. 17. All extensions of water mains shall be laid by the said board when ordered by the common council of said city.

SEC. 18. Any person who shall willfully and without authority of said city, break, remove or damage any conduit, main pipe, valve or culvert, or raise or open any gate, break down or force open any doors of said city, including the pump house and reservoir, or shall willfully and without authority injure, break open or destroy any of the connections or apparatus belonging to or connected with the water works of said city, shall, on conviction thereof, be punished by imprisonment in the state prison for a term not more than five (5) years nor less than one (1) year, or by a fine not exceeding one thousand dollars (\$1,000) nor by less than fifty dollars (\$50), or both fine and imprisonment, in the discretion of the court.

SEC. 19. Any person who shall, without authority from the said board, lay any main or service pipe, or take water therefrom, or open or shut any service cock or fire hydrant, or remove or unscrew wholly or partially the cup from such fire hydrants, or enter or form any connection with, or turn water into any tunnel excavated or used by said city for the purpose of laying its pipes, or who, being authorized by the said board to take water from a main or service pipe into any specified building or upon any specified premises, or to be used for any specified purpose, shall, without authority from said board, use such water for any other purposes other than such specified purpose or any other place other than such specified place, or permit any other person to use the same for any other than such specified purpose or at any other than such specified place, or to take the same out of such building; and such other person so using or taking such water or who, without lawful authority, shall dig or excavate within six (6) feet of any main, pipe, gate, hydrant or blow-off of said works, shall be deemed guilty of a misdemeanor and shall be punished by a fine not more than one hundred dollars (\$100) and not less than ten dollars (\$10), or by imprisonment in the county jail for a term not more than three (3) months, nor less than ten (10) days, or both such fine and imprisonment upon conviction thereof.

SEC. 20. That, if any person or persons shall maliciously or willfully divert the water or any portion thereof from the said works, or shall corrupt or render the same impure, or shall destroy or injure any pipe, machinery or other property used or required for procuring or distributing water, such person or persons and their aiders and abettors shall forfeit to the city of Mankato, to be recovered in a civil action in the name of said city, treble the amount of damages, besides cost of suit, which shall appear on the trial to have been sustained, and all such acts are hereby declared to be misdemeanors, and the parties found guilty thereof may be further punished by fine not ex-

ceeding one thousand dollars (\$1,000), or by imprisonment not exceeding one (1) year, or both such fine and imprisonment.

SEC. 21. The president of the board of public works shall, two (2) weeks prior to the time when the water rents shall fall due, or when the rent of any consumer shall fall due under any special arrangement or contract hereinafter provided, make out a statement of said water rents, containing the name of the consumer, the location at which city water has been consumed, the amount due, and shall transmit the same to the city treasurer, who shall thereupon proceed to collect said water rent when the same is due as provided by law, and the city treasurer shall, upon the collection of any water rent or part thereof, immediately notify said president of the board of public works of the same, who shall thereupon make proper entry thereof in his records; and in case of a failure to collect said water rents, said treasurer shall make like reports as above.

SEC. 22. It shall be the duty of the board of public works to make and transmit, at the second (2d) regular meeting of the common council in the month of January, at the second (2d) regular meeting in the month of July in each year, to said council, an itemized statement, containing an alphabetically arranged list of consumers of city water, the place and location where each consumer shall, at the time of the presentation of such statement, be using city water, the number and location of taps in use and the price or rate paid, the name of each delinquent and the amount and time of such delinquency; which statement or report, if approved and adopted by the common council, shall be published once in the official paper of the city.

SEC. 23. The books of the board of public works shall be open at all proper times to the inspection and examination of any person or persons appointed by the common council for that purpose or to any committee of the common council.

SEC. 24. The president and second (2d) member of the board of public works shall have the care, control and be responsible for the safe keeping, careful and economic usage of all the materials and tools purchased by the city of Mankato, for the repair or construction of sidewalks, for the repair or grading or construction of streets, for the excavation of street, laying of water mains, sewers or for the repairing of the same, or for the running or repair of the water works system and for any other purpose in connection with the public works or improvements of the city of Mankato, except such materials as shall be purchased for the use of the city hospital and the fire department, and it shall be the duty of said president, from time to time, as may be necessary or as the common council may require, to present estimates and recommendations to the common council of said city as shall aid them in the purchasing of materials and tools for the public works and improvements of said city; *Provided, however*, that the board of public works without the consent of the common council shall have the power and authority to purchase materials for the repair and construction of improvements in said city, and shall have the power and authority to repair and purchase tools and implements in and for the use of said city, but shall not, during any one (1) month, expend altogether in purchasing materials or in purchasing or repairing tools, as above set forth, a sum to exceed one hundred dollars (\$100). And whenever said common council or said board of public

works shall have purchased any material or tools for any purpose whatever, it shall be the duty of the president of the board of public works to make a correct and itemized entry of the same in suitable books to be provided for that purpose by the city and to keep a correct and itemized account of all materials used in the construction, repair or building of any public improvement (except the city hospital and fire department) within said city, and at the first (1st) regular meeting of the common council each month to present an itemized report of the amount of materials and wood on hand at the beginning of the month, the amount of materials and wood used since the last monthly report, the value of such materials and the public improvements in the construction of which such material may have been used, and whenever required by the common council to present to that body an itemized report of all the tools and implements belonging to the city of Mankato.

SEC. 25. The president and second member of the board of public works shall have the exclusive care and control of the implements and tools belonging to the city of Mankato, and he shall keep and properly care for the same in some suitable place or places to be designated by the common council, and no person or persons shall have any right or authority to use, cause or direct to be used, loan or rent to any person whomsoever any of said tools or implements except with the consent and order of the said president or second member of the board of public works, and no person or persons shall have any authority or right to use, order or direct to be used, loan, sell or rent any materials of any kind whatsoever belonging to the city of Mankato except with and by order of the said president or said second member of said board; *Provided, however,* this section shall not apply to materials purchased for the use of the city hospital and fire department of the city.

SEC. 26. The board of public works shall have the power, and it shall be its duty, subject to the approval of the common council, to establish rules and regulations in regard to cleaning sidewalks from snow, and all such rules and regulations shall have the same force and effect as though set forth in this charter, and said board shall have the power, in case of a failure of any person or owner of property to comply with said rules and regulations so established, to assess the expense of cleaning any sidewalk or sidewalks in said city against the property adjacent thereto, and after said improvement has been made the costs thereof may be levied and collected from abutting property in like manner as other special improvements.

## 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 laying out any street, 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.

SEC. 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, [straightening] or laying out 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 side walks, 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.

SEC. 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 fund 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.

SEC. 4. All assessments or 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.

SEC. 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 case of sidewalk 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 common 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 it shall determine that such improvement is necessary and proper, it 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 its discretion (unless otherwise provided for in this charter), 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 expenses, may make such modifications 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 necessarily to be incurred thereby, except as hereinafter provided. Two or more improvements, upon one or more streets, neither grading, sewerage or paving, or either or any of them, may be done at the same time under one (1) 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 expenses out of the general fund as said council, by a two-thirds ( $\frac{2}{3}$ ) 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.

SEC. 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, it shall furnish the said common council, as a part of its 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 the majority of the property to be assessed for such improvement, and if it appear by such report that the owners of the 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.

SEC. 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 to 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.

SEC. 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 interest of the 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 and papers and to compel the attendance of witnesses, and shall have authority to issue subpoenas under the seal of the board.

SEC. 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 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 any 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.

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

SEC. 11. In the assessment of damages and benefits for the opening of any streets, levee, lane, highway or alley, it shall be lawful for 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, and 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.

SEC. 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 the building necessary to be taken, if it be the property of the owners 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 a 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 owners 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 as 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.

SEC. 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.

SEC. 14. Having ascertained the damages and expenses for such improvement, as aforesaid, the said board of public works shall thereupon apportion and assess the same, together with the costs, and of the proceedings upon the real estate by them deemed benefited, in proportion to the benefits resulting thereto from the improvements, 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 costs of the improvement submitted to the common council by the board of public works.

SEC. 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 of 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 assessment 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 accidentally 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 of the board 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 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 order 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 con-

firmed 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.

SEC. 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 objection 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 therein 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, and shall be filed in the office of the clerk of the court to which the 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, and may be tried in vacation upon eight (8) days' notice. 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, as a fair and impartial assessment. If it shall have been found that said board had 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 damage 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.

SEC. 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 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 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 shall 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 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.

SEC. 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 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 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.

SEC. 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.

SEC. 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.

SEC. 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 to *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 received for such services by the clerk of any court of record in this state.

SEC. 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 construction or repairing of 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 common council, 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 costs 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 clerk of said board. Such objections shall be made and filed in the same manner, and the 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 eleven (11), 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 sidewalks 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 sidewalks, 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.

SEC. 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 or laying out 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 or 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 costs of such improvement, including the necessary expenses 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 (200) dollars, may be done under the direction of said board, and the cost 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.

SEC. 24. When in any case any portion of the cost and expenses 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 amounts so chargeable may be assessed upon such railroad 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.

SEC. 25. Before proceeding to make an assessment for any improvement mentioned in section twenty-three (23) said board of public works shall give at least 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 board shall also give at least four (4) days of personal notice to the same effect to all property holders interested, or their agent resident in the city of Mankato, known to said board and found; but the failure to give such personal notice shall in nowise affect the validity of such assessment or 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 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 the city of 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.

SEC. 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 objec-

tions and for the confirmation of such assessment, as hereinbefore required in relation to assessments for the condemnation of real estate; and objections shall be made in like manner and under the same regulations and conditions and all parties in interest shall have the same rights (except the right to 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 allowed or set aside, the board of public works shall proceed *de novo* to make another or new assessment in like manner and give notice as herein required in relation to the first.

SEC. 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 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 a 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 contracts 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 bid shall be opened by the board at the next regular 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 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, or who shall have defaulted in any contract awarded by the board of public works under the amendment to the charter of the city of Mankato passed in eighteen hundred and eighty-nine (1889), except as to time, or who shall have refused to enter into contract after the same has been awarded to him or them.

SEC. 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 most satisfactory, all things considered, and the decision of said 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 of 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 the city by the president of said board or such of their members as 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*, the said board may reject any bid which they deem unreasonable or unreliable, and that said board, in determining the reliability of said other 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 upon 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 ( $\frac{2}{3}$ ) vote of the members elect thereof; *Provided further*, that if, during any year at any 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 seven (7) 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.

SEC. 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 works 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 or allowed, except final estimates, which may be given and allowed at any time after the allowance of the preceding estimate.

SEC. 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 this 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 which may be or which are to be given under this act, by publication in the official paper, shall be deemed sufficient and legal if published on their regular publication day of said official paper.

SEC. 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.

SEC. 32. All warrants issued for the collection of special assessments shall be delivered by the recorder to the city treasurer within five (5) days thereafter, taking his receipt therefor.

SEC. 33. Upon the receipt of any warrant for the collection of special assessments the city treasurer shall forthwith give notice, by two (2) publications in the official paper 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 person liable for the payment of such assessment.

SEC. 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.

SEC. 35. If the assessment 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 reassessment, 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.

SEC. 36. It shall be the duty of the city treasurer, immediately after the expiration of the thirty (30) days, or after ten (10) days on a reassessment 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, or in vacation, all assessments 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 court at the time designated in said notice.

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.

SEC. 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 publications 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.

SEC. 38. The clerk of said court, upon the filing of such report 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 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 paper shall be filed, and how kept and preserved.

SEC. 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 a 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 are [due] severally thereon. The owner of any property described in said report, 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 city 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 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 said improvement, or the board of public works had no authority to have 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 shall issue for the same [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 appropriations 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 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.

SEC. 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, 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. One dollar and fifty cents (\$1.50) 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.

SEC. 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 the 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 whereon 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 the 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.

SEC. 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.

SEC. 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.

SEC. 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) witnesses, 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, interest 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 certificate 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 ( $\frac{1}{5}$ ) 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.

SEC. 45. The person purchasing any lot or parcel of land shall forthwith pay the treasurer the amount of the judgment due thereon, and on failure so to do, the said property shall again be offered for sale in the same manner as if no sale had been made, and in no case shall the sale be closed until the 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 sale.

SEC. 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.

SEC. 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 provisions of section forty-four (44) of this act, and upon terms and conditions as to installments therein provided, and any other assessment 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 the 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 of 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 (6) 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 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 the 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 thereof so paid, is in the city treasury subject to his disposal.

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

SEC. 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.

SEC. 50. All deeds made to purchasers of lots or parcels of lands 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 same have been complied with, and of title shall be in the grantee herein 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, or 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 one (1) year 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 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.

SEC. 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.

SEC. 52. All sales of property for the non-payment of assessments, provided for in this chapter, shall be made in the daytime at public vendue in the city of Mankato at the time and place stated in the notice of sale as 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.

SEC. 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 proceeding 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 of any court having jurisdiction of the amount thereof.

SEC. 54. No error or omission which may heretofore 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 concern-

ing 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.

SEC. 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, 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 payments 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.

SEC. 56. After any real estate shall have been bid in or struck off to the city of Mankato, and the time of redemption has expired, said city may enter upon such real estate and take possession thereof, and by its treasurer sell the same or 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.

SEC. 57. 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.

SEC. 58. 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 indorsement 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 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 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.

SEC. 59. 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, as 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 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, cost 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 reassessed 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 improvement as near as may be to the benefits derived, or to be derived from such improvements. In case the amount of such reassessment shall be less than the first (1st) assessment upon the lots and parcels of land reassessed, the deficit shall be paid out of the local improvement fund or general fund.

SEC. 60. 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 reassess the same upon the property benefited, or which will be benefited until a sufficient amount is realized to pay 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 reassess 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 amending the charter of the city of Mankato passed in eighteen hundred and eighty-nine (1889), and no error or omission, whether jurisdictional or otherwise, shall prevent a reassessment to the extent of the benefits conferred by such improvement.

SEC. 61. 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 proceedings 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; *provided*, 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.

SEC. 62. 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 relet 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.

SEC. 63. Property owners may be allowed to construct streets and other public improvements upon or through their own property at their own expense, in such case and upon such terms and under such regulations as the common council may prescribe from time to time by ordinance.

SEC. 64. 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 daytime, if such person is absent therefrom.

SEC. 65. If the board of public works of 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 if 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 (2/3) vote of the common council elect, and any additional expense occa-

sioned by such change or modification of the improvement may be included in the original assessment or raised by additional assessment upon the property benefited by such an improvement to the extent of such benefit; *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 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 expenses shall be incurred other than may be absolutely necessary to overcome such unforeseen obstacles. The said board of public works shall have the power to correct any error, omission or mistake in an assessment, either before or after the confirmation, up to the time the judgment may be obtained thereon, either as to the amount or as to the owner or description, so far 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 assessments; *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 costs which would be incurred in the work if such unforeseen obstacles 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 it may, in their discretion, by a two-thirds ( $\frac{2}{3}$ ) vote of the members elect, after such rescission, order the work to be relet as other work is let under this chapter, and the original contractor in such case shall be entitled to be paid for the portion of the work done by him, ratably, according to the contract price, as nearly as the same can be ascertained, and no more.

SEC. 66. When a 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 proceedings of the facts contained in such affidavit.

SEC. 67. 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 here-

tofore or to be hereafter made for local improvements, which are to be paid for by assessment under the provisions of this chapter, shall be paid for out of the 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 the benefits of the improvement shall have been finally confirmed and determined, the said assessment shall have not 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 assessment for such improvements which may be hereafter collected.

SEC. 68. 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 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 benefit; except that, in the case of sidewalks, the assessments shall be made as in such case provided.

SEC. 69. After judgment shall be ordered to be entered against any lot or real estate for the non-payment of assessment 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.

SEC. 70. It shall be the duty of the board of public works, in estimating the benefits of [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.

SEC. 71. 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 material 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 to such contractor, or may be collected from him in a suit by said city.

SEC. 72. The register of deeds shall not record any deed from a private person or private corporation unless there be indorsed 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.

SEC. 73. The following forms of orders shall be deemed sufficient:

FORM NO. 1.

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.

*First*—Is this improvement proper and necessary?

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

*Third*—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?

*Fourth*—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?

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

*Sixth*—Send the council a proper order directing the work to be done.

FORM NO. 2.

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 the said improvement to be done by day's 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 to be done by day's work. As soon as said work is placed under contract, or is commenced by day's work, 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 be benefited by said improvement, as provided by law, it being the opinion of the common 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 to said court, to-wit:.....

Wherefore, the board of public works of the city of Mankato are hereby ordered to reassess 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.

SEC. 74. 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 improvements, except orders for sidewalks and street sprinkling and for sewerage and laying a water main.

SEC. 75. 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 such building remain upon such land taken as aforesaid for such time after the recommendation [condemnation] as they may deem for the best interest 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 such building.

SEC. 76. In addition to the bonds required by the city charter of persons contracting with said city to do any work, labor, or furnish material, before any contract for the doing of any work, labor, or for furnishing any material to or for said city, shall be binding and valid as against said city, said contractors shall enter into a bond with the city of Mankato for the use of all persons who may do work or furnish material thereon, pursuant to any contract between said contractors and said city, conditioned for the payment of all just claims for such labor, work or material as they become due under said contract, which bonds shall be in such an amount not less than the contract price agreed to be paid for the performance of said 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.

SEC. 77. 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 thus exists by reason of any stagnant or impure water standing upon any lot, lots or parcels of land, and that the same is injurious to the public health, they shall report to the common council, accompanied by a plan for the abatement of said nuisance, together with an estimate of the expense, if real estate 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.

SEC. 78. 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 any unnecessary delay to the completion and confirmation of the assessments for the benefits, costs and expenses of said improvements.

SEC. 79. 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 any easement of land for slopes in cuts or fills, does not exceed the sum of two hundred dollars (\$200), the assessment therefor may be paid out of the general fund of the city.

## CHAPTER VII.

### FIRE DEPARTMENT.

SECTION 1. The common council, for the purpose of guarding against the calamities of fire, shall have power to prescribe the limits within which wooden buildings, or other buildings, the material or construction of which shall be regarded as dangerous to surrounding property, shall not hereafter be erected, placed or repaired, and to direct that any and all buildings within the limits prescribed shall hereafter be built and constructed in such manner, and of such material as, in the judgment of the council, shall not be dangerous to surrounding property, and to prohibit the repairing or rebuilding of wooden buildings within the fire limits, when the same shall have been damaged by fire or otherwise to the extent of fifty (50) per cent of the value thereof, and to prescribe the manner of ascertaining such damages. The common council shall have power by resolution to order any building, structure or material therefor hereafter erected, of which the construction or material may be dangerous to surrounding property, to be taken down or removed beyond the fire limits of the city, and shall have power to prescribe the notice to be given to the owner or agent to remove such building, and in case the same is not removed in pursuance of the notice given, to order the same taken down, removed by the police, or in such manner as the common council may

see fit. And the common council may prescribe penalties for the violation of any of the provisions of this section, of any ordinance made or enacted to carry out the provisions thereof, not exceeding one hundred dollars (\$100), which may be imposed by the judge of the municipal court of the city of Mankato upon the complaint of any citizen as prescribed by law.

SEC. 2. The common council shall have power to prevent the dangerous construction and condition of chimneys, fireplaces, hearths, stoves, stove pipes, ovens, boilers and fire apparatus used in or about any building, and to cause the same to be removed or placed in a safe or secure condition when considered dangerous.

To prevent the deposit of ashes in unsafe places, and the throwing of ashes in the streets and alleys.

To require the inhabitants to provide as many fire buckets and in such manner and time as they shall prescribe, and to regulate the use of them in time of fire.

To regulate and prevent the carrying on of manufactories dangerous in causing or promoting fires.

To regulate and prevent the use of firearms and fireworks.

To compel owners or occupants of buildings to have scuttles in the roofs, and stairs or ladders to the same.

To authorize the mayor, aldermen, fire wardens and other officers of the city to keep away from the vicinity of any fire all idle and suspected persons, and to compel all bystanders to aid in the extinguishing of fires and the preservation of property exposed to danger thereat, and generally to establish such regulations for the prevention and extinguishing of fires as the common council may deem expedient.

SEC. 3. The common council shall have the power to purchase fire engines and all other apparatus which may be required for the extinguishing of fires, and to authorize the formation of fire engine, hook and ladder and hose companies, and to provide for the support and regulation of the same, and to order such companies to be disbanded, their public meetings prohibited and their apparatus to be given up. Every member of each company, which may be authorized to be formed, shall be exempt from highway work and poll tax, from serving on juries and from military duty during the continuance of such membership. The common council may make such provisions for the compensation of firemen, or for the purpose of supporting and keeping up organizations of firemen, as they may see fit.

SEC. 4. The common council shall annually appoint a chief engineer of the fire department of said city, and provide by ordinance for such other officers and men as may be deemed necessary for such department, and define the respective works and duties of such chief engineer and other officers and men and their compensations. The chief engineer shall nominate for the approval of the common council all other officers and men connected with such department, and may at any time, by and with the consent of the standing committee on fire department of the common council, remove or discharge such officer or men as he may deem it for the interest of the city to discharge.

SEC. 5. Whenever any person shall refuse to obey any lawful order of any engineer, fire warden, mayor or alderman at any fire, it shall be lawful to the officer giving such order to arrest, or to direct any constable, police officer, watchman, or any citizen, to arrest such person, and to confine him temporarily in any safe place until such

fire shall be extinguished, and in the same manner may arrest or direct the arrest and confinement of any person, at such fire, who shall be intoxicated or disorderly; and any person who shall refuse to arrest or aid in arresting any person so refusing to obey shall be liable to such punishment as the common council may prescribe, not exceeding a fine of fifty dollars (§50).

SEC. 6. The chief of police and such other police officers as he shall designate 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 of and care of chimneys, and the taking of all other precautions against danger from fire are not violated. And the chief of police, and such other police officers as have been by him designated, shall have power and be fully authorized to enter any dwelling house or other public buildings 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.

## CHAPTER VIII.

### LIGHTING STREETS.

SECTION 1. The common council shall have authority to contract with any persons or corporations for the lighting of such streets or parts of streets and public places as they shall deem proper for the convenience and safety of the inhabitants.

SEC. 2. The common council may permit the laying of such gas pipes in any and all streets, alleys, highways and public grounds of the city, but in all cases the common council shall regulate the laying of the same so that said gas pipes may not at any time interfere with the construction of common sewers or the lateral branches thereof or with the proper and convenient location of water mains and pipes, and may at any time require the location of any gas pipes to be changed, if the same shall be found to interfere with the proper and convenient location of common sewers or water mains and pipes.

SEC. 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 (and not to exceed five 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.

## 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.

SEC. 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.

SEC. 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.

SEC. 4. The costs of constructing, altering or repairing any of the sewers or improvements herein provided for or referred to, as nearly as can be ascertained, together with the necessary expenses 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.

SEC. 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 sewers, 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 written and 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 sewer 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 (\$10) dollars nor more than fifty (\$50) dollars; *Provided however*, that gaslight 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.

SEC. 6. 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.

SEC. 7. In addition to all the 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 and in front of which water pipes or mains 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; *Provided, however*, that lots or parcels of land situated in the corner of any block in said city shall in no case be assessed per lineal foot as above, but upon the frontage of but one side of said lot or parcel of land, and it shall lie in the discretion of said board of public works in each case as to which frontage of said lot or parcel of land said tax or assessment shall be levied; *And provided further*, should water pipes or mains be laid along but one side on any corner lot or parcel of land the board of public works shall have the power and is hereby authorized, in its discretion, to levy said annual tax per lineal foot, either upon the side or end frontage of the same, as to them may seem equitable and just in the premises, all things considered.

SEC. 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 by the president and clerk of said board and under the seal thereof, for the tax or assessment described in the foregoing assessment 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 assessment for 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.

SEC. 9. The common council, in order to carry out the 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 bonds, may issue the bonds of said city for an amount not exceeding thirty-five thousand dollars (\$35,000), and the like amount for water works. Such bonds to run such length of time and to bear such rate of interest (not exceeding five (5) 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 necessity require it.

SEC. 10. It shall be the duty of the board of public works to see that proper drains or sewers are constructed from every lot in said city, and that proper connections are made with the water mains from every lot in said city in front of which sewers and water mains are laid, which in their judgment requires it, and that such private drains and sewers and water connections are made to communicate with the public sewers and water mains in a proper manner; and that they shall have power to require such number of private drains and sewers to be constructed as, in the interest of health and cleanliness, they shall deem necessary.

SEC. 11. Said board shall prescribe the location, arrangement, form, materials and construction of every drain and sewer for every lot in the city emptying into public sewers, and shall determine the manner and plan of connection of the same. The work of construction shall be in all cases subject to the superintendence and control of said board, and shall be executed strictly in compliance with their orders, but the costs of such private sewers shall not be included in the estimate of the cost of the general plan of sewerage in any district, and shall be charged upon the lot or lots for the benefit of which such private sewers shall be constructed.

SEC. 12. The said board shall have at their office, ready for the parties interested, the specifications of any private drain or sewers so ordered to be constructed, and they shall give to the lot owners six (6) days' notice in the official paper to construct the same, designating therein a reasonable time within which the work shall be completed, and in case any lot owner neglects to do the work required of him to be

done, within the time specified in said notice, they shall advertise for proposals and let the same by contract.

SEC. 13. Any person who has taken such contract from said board to construct a private drain or sewer from any lot shall be authorized to enter upon such lot and construct thereon such drain or sewer, and shall have free ingress and egress upon the same men and teams for that purpose, and to deposit all the necessary building material, and generally to do and perform all things necessary to complete the execution of the work.

SEC. 14. No private drain shall be connected with any sewer, nor shall any private connection be laid [made] with any water main or pipes, without the said board first issuing their order or permit for such connection.

SEC. 15. 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, sidewalks or thoroughfare in said city; unless the grade of such street or highway, upon which such injury happened, has been 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 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.

SEC. 16. 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.

SEC. 17. 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 omissions 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 or corporation, so injured 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 be first issued against the defendants whose negligence first caused injury, or against such defendant and his bondsmen alone, and the city shall not be required to take any steps to pay such judgment 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 of the [other] proceedings as judgment creditors are entitled to take in such actions.

SEC. 18. The common council shall have the 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 a 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 reason 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 be 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 two (2) 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 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 X.

### MISCELLANEOUS PROVISIONS.

SECTION 1. No vote of the common council shall be reconsidered or rescinded at a subsequent meeting, unless, at such subsequent meeting, there be present as large a number of aldermen as were present when the vote was taken.

SEC. 2. No penalty or judgment recovered in favor of the city shall be remitted or discharged, except by the vote of two-thirds (2/3) of the aldermen elect.

SEC. 3. In all prosecutions for any violation of this act, the first process shall be by warrant or complaint being made; *Provided*, that no warrant shall be necessary in any case of the arrest of any person or persons while in the act of violating any law of the state of Minnesota, or ordinance or by-law of the city of Mankato, but the person or persons so arrested may be proceeded against, tried, convicted, and punished or discharged, in the same manner as if the arrest had been made by a warrant. All warrants, processes or writs by the municipal court, for the violation of any ordinance and by-laws of said city, shall be directed by to the sheriff or any constable of Blue Earth county or chief of police or any police officer of said city.

All actions or proceedings for any violation of the provisions of this act, or of the ordinances, by-laws or police or health regulations made in pursuance thereof, or to recover any penalty or forfeiture thereunder, shall be brought in the corporate name of the city; *Provided*, that the style of all processes shall be: "The State of Minnesota."

SEC. 4. In all cases of the imposition of any fine or penalty by the municipal court of said city, pursuant to any statutes of the state of Minnesota or pursuant to an ordinance or by-law of the said city of Mankato, as punishment for any statutory offense, or for the violation of any ordinance or by-law as aforesaid, upon default of payment of such fine, the offender shall be forthwith committed to the city prison or, if there be no city prison, to the common jail of Blue Earth county and be there imprisoned for a term not exceeding ninety (90) days, in the discretion of the municipal court, and from the time of the arrest of any person or persons for any offense whatever until the time of trial, the person or persons so arrested not giving bail may imprisonment in the city prison, or, if there is no city prison, in the common jail of the county of Blue Earth.

SEC. 5. No person shall be an incompetent judge, witness or juror, by reason of his being an inhabitant of said city, in any proceeding or action in which the city shall be a party in interest.

SEC. 6. All ordinances and regulations heretofore made by the common council of said city of Mankato, not inconsistent with the provisions of this act, shall be and remain in force until altered, modified or repealed by the common council of said city, after this act shall have gone into effect.

SEC. 7. Any and all moneys, fines and properties in the hands of any officer of the city of Mankato, or belonging to said city, shall continue the property of said city, anything herein to the contrary notwithstanding.

SEC. 8. When any suit or action shall be commenced against said city, service of the process may be made by the proper officer, by leaving a copy of such process with the mayor or acting mayor; and it shall be the duty of the mayor forthwith to inform the common council thereof, and take such other proceedings as by the ordinances or resolutions said council may have in such case provided.

SEC. 9. The said city may purchase and hold real and personal estate for public parks, city hall, engine houses, and for all other public purposes, sufficient for the convenience of the citizens and inhabitants of said city, and may sell and convey the same, and the same shall be free from taxation.

SEC. 10. No law of the state concerning the provisions of this act shall be considered as repealing, amendatory or modifying the same, unless said purpose be expressly set forth in such law.

SEC. 11. The city of Mankato shall be liable for the board and jail fees of any person who may be committed by any officer or magistrate of said city to the jail of the county of Blue Earth, for the violation of any ordinance or by-law of said city; but such board and jail fees shall not be more than allowed by law for other prisoners confined in said jail.

SEC. 12. The mayor, by and with the advice of the common council, shall appoint a poundmaster, who shall have the same authority as police officer in enforcing the ordinances of said city against cattle or other animals running at large and for impounding the same.

SEC. 13. The common council may, from time to time, provide for the compilation and publication of the ordinances of the city and such resolutions as may be designated, and for the distribution or sale of copies of such compilation, in its discretion; and may also provide for exchange of such printed compilations for similar publications of other cities.

SEC. 14. The common council of said city may employ such attorneys or counselors, from time to time, as they may see fit, to assist the city attorney and to perform any professional business in behalf of said city that may be assigned them by the common council, and may provide for paying for all such services, so heretofore or hereafter rendered to said city.

SEC. 15. All bonds for the payment of money issued by said city shall be under the seal of said city, and shall be signed by the mayor and countersigned by the city recorder, and shall upon their face express the object for which they are issued.

SEC. 16. Whenever any party is joined with said city as codefendant in any action for personal injury, or otherwise, brought against said city, and for which provision has been made in this act, and such a party is not a resident of and cannot be found within the state, service of summons in such action may be made upon such defendant by publication, upon like evidence and in the same manner as prescribed by general law for service by publication in other actions.

SEC. 17. No railway company or street railway company shall have any right, in cleaning their tracks through any part of the city, to pile up snow or other material and leave the same piled on any traveled portion of any street in said city. Any such company shall be liable, to any person who shall be injured because of any such obstruction so left by such company or its servants, for all damage sustained and in case of any damages shall be recovered against said city for injury caused by such construction, the city shall have the right to recover such damages from the company by whom the obstruction was caused.

SEC. 18. The common council shall have power to prohibit the construction of wooden sidewalks within the fire limits of said city whenever it shall deem the safety of the city requires it.

SEC. 19. The common council shall have power to establish grades of streets, and, by a two-thirds ( $\frac{2}{3}$ ) vote of all its members, change the grade of any street now established or that shall hereafter be established. It shall keep accurate profiles of the grades of all streets so made in the office of the city engineer.

SEC. 20. The salaries of all officers of said city shall be payable monthly.

## CHAPTER XI.

## 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.

SEC. 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 (\$1,000) dollars, 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.

SEC. 3. Contracts for sprinkling shall be awarded to the lowest reliable and responsible 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 the said city, for the full amount thereof, in any court having jurisdiction of the amount.

SEC. 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; *Provided,* that every such order for sprinkling shall be by resolution, and that every such resolution shall lie over until the next regular meeting next held after its introduction; and if after that time a remonstrance against the passage of such resolution shall be presented to the common council, signed by a majority of the owners of lots or parcels of land fronting or abutting on the street or part of street proposed to be sprinkled, actually occupying such lot or lots, parcel or parcels of land, then such resolution shall be indefinitely postponed, unless passed by a two-thirds ( $\frac{2}{3}$ ) vote of all the members of said council.

SEC. 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 costs of such sprinkling, including the necessary expense of making and collection 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 expenses and costs shall be apportioned *pro rata* upon the lineal feet of said real estate or lots of land fronting on said improvement aforesaid; *Provided, however*, the Board may apportion an amount not exceeding one-half (½) the costs of sprinkling cross streets upon all the lots bounded by such cross streets.

SEC. 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.

SEC. 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, 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 readvertise 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.

## CHAPTER XII.

## SINKING FUND.

SECTION 1. The mayor, recorder, treasurer and chairman of the committee of the 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.

SEC. 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: *First*—Of the surplus remaining in the treasury at the end of each fiscal year after the payments are made, or appropriated amounts set aside for the payment of either principal or interest on bonds issued by said city of the moneys received for that purpose. *Second*—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 the 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 placed. And, *third*—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.

SEC. 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 have been first authorized by the common council of said city.

SEC. 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 cancelation 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.

SEC. 5. Any three (3) of the board, of which 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.

SEC. 6. Whenever any of the moneys constituting the sinking fund shall be required for any such purchase or investment 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.

SEC. 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.

## CHAPTER XIII.

### THIS CHARTER TO BE A PUBLIC LAW.

SECTION 1. This charter shall be a public act and need not be pleaded or proved in any case.

SEC. 2. All acts and parts of acts inconsistent with this act are hereby repealed, but nothing herein contained shall be construed as affecting any act of the city of Mankato or the common council of said city, or any official act of any officer thereof done prior to the passage of this act, or as modifying or affecting any resolution or ordinance of the said city now in force.

SEC. 3. This act shall take effect and be in force from and after its passage.

Approved March 25, 1891.

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## CHAPTER 48.

[S. F. No. 702.]

AN ACT TO AMEND "AN ACT TO REDUCE THE ACT INCORPORATING THE CITY OF ROCHESTER, IN THE COUNTY OF OLMSTED AND STATE OF MINNESOTA, AND THE SEVERAL ACTS AMENDATORY THEREOF, AND THE ACT TO ORGANIZE A BOARD OF EDUCATION FOR THE CITY OF ROCHESTER, AND THE SEVERAL ACTS AMENDATORY THEREOF, TO ONE ACT, AND TO AMEND THE SAME," APPROVED MARCH NINTH (9TH), ONE THOUSAND EIGHT HUNDRED AND SIXTY-SEVEN (1867), AND ALL ACTS BY THE LEGISLATURE AMENDING THE SAME SUBSEQUENTLY PASSED, AND TO REDUCE THE SAME INTO ONE ACT, AND TO AMEND THE SAME.

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

SECTION 1. That the act entitled "An act to reduce the act incorporating the city of Rochester, in Olmsted county, Minnesota, and the several acts amendatory thereof, and the act to organize a board of education for the city of Rochester, and the several acts amendatory thereof, to one act, and to amend the same," approved March ninth (9th), one thousand eight hundred and sixty-seven (1867), and the several acts amendatory thereof, be and the same are hereby reduced to one act and amended to read as follows: