

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 All acts and parts of acts inconsistent with this act are hereby repealed, but nothing herein contained shall be construed as affecting any act of the city of Mankato or the common council of said city, or any official act of any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.

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:

CHAPTER I.

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

SEC. 2. *Boundaries.*—The territory included within the following boundaries and limits shall constitute the city of Rochester: Beginning at the southeast corner of section one (1), in township one hundred and six (106) north of range fourteen (14) west, and running thence to the southwest corner of the southeast quarter ($\frac{1}{4}$) of said section one (1); thence south to the southeast corner of the north one-half ($\frac{1}{2}$) of the northwest quarter ($\frac{1}{4}$) of section twelve (12) of said town and range; thence west to the southwest corner of said north one-half ($\frac{1}{2}$); thence north to the southwest corner of said section one (1); thence west to the southwest corner of section two (2) in said town and range; thence north on the west line of said section two (2) to the point of intersection with the south line of College street in said city; thence west on a line continuous with the south line of College street to the point of intersection of said line, if continued, with the west line of the east twenty (20) acres of the north one-half ($\frac{1}{2}$) of the northeast quarter ($\frac{1}{4}$) of section three (3) in said town and range; thence north to a point where such north and south line would intersect with the north line of Zumbro street, if continued westwardly; thence east on a line continuous with the north line of Zumbro street to the west line of section thirty-five (35) in township one hundred and seven (107) north of range fourteen (14) west; thence north to the northwest corner of the southwest quarter ($\frac{1}{4}$) of section twenty-six (26) in township one hundred and seven (107) north of range fourteen (14) west; thence due east to the northeast corner of the southeast quarter ($\frac{1}{4}$) of section twenty-five (25) in the same township; thence south to the northwest corner of the southwest quarter ($\frac{1}{4}$) of section thirty-one (31) in township one hundred and seven (107) north of range thirteen (13) west; thence east to the northeast corner of the southwest quarter ($\frac{1}{4}$) of said section thirty-one (31); thence south to the southeast corner of the southwest quarter ($\frac{1}{4}$) of said section thirty-one (31); thence west to the southwest corner of the southwest quarter ($\frac{1}{4}$) of said section thirty-one (31); thence south to the place of beginning; containing sections one (1) and two (2), in township one hundred and six (106) north of range fourteen (14) west, sections thirty-five (35) and thirty-six (36) and the south one-half ($\frac{1}{2}$) of sections twenty-five (25) and twenty-six (26) in township one hundred and seven (107) north of range fourteen (14) west, and the southwest quarter ($\frac{1}{4}$) of section thirty-one (31) in township one hundred and seven (107) north of range thirteen (13) west.

SEC. 3. *Ward Boundaries*—The said city shall be divided into three (3) wards, called the First, Second and Third wards.

The First ward shall comprise all that part of the city which lies east of the Zumbro river and between the southern limits of said city and a line drawn east and west along the centre of Third street to the eastern limits of said city; also, that part of said city which lies west of the Zumbro river and between the southern limits of said city and a line drawn east and west along the centre of College street to the western limits of said city.

The Second ward of said city shall comprise all of that part of said city lying north of the First ward and east of the Zumbro river to a line drawn along the centre of the main track of The Winona & St. Peter Railway Company in said city; also that part of the southwest quarter of section thirty-one (31) in township one hundred and seven (107) north of range thirteen (13) west lying south of the centre line of said main track of said railway; also, that part of said city lying north of the First ward and west of the Zumbro river to a line drawn east and west along the centre of Sixth street to the western limits of said city.

The Third ward of said city shall comprise all of that part of said city lying north of the Second ward.

CHAPTER II.

ELECTIONS.

SECTION 1. There shall be an annual election for elective officers hereinafter provided, which election shall be known as the "Charter Election," and shall be held on the second (2d) Tuesday in March of each year, at such place within each ward as the common council shall designate, and the polls shall be kept open from nine (9) o'clock in the forenoon until seven (7) in the afternoon, and ten (10) days' previous notice shall be given by the city clerk of said city, of the time and place of holding such election and the officers to be elected, by posting notices thereof in three (3) of the most public places in the city and by publishing the same in the official paper of said city.

SEC. 2. All elections shall be held according to the general laws of the state, except as otherwise provided in this act.

SEC. 3. Special elections to fill vacancies, or for any other purpose, shall be held and conducted in the same manner as in the general or charter elections, and within such time as the common council may prescribe by resolution.

It shall not be necessary to appoint judges or clerks for special elections to fill vacancies or for any other purpose, but the judges and clerks of election at the last general or charter election in any precinct shall continue to be judges and clerks of election for such special election, and vacancies of judges and clerks may be filled the same as in general or charter elections.

SEC. 4. As soon as the polls are finally closed, of which closing proclamation shall be made by one of the judges thirty (30) minutes previous thereto, the judges shall proceed to canvass the votes cast at such election, in the same manner as is provided by the general statutes of this state, and, after the canvass is thus completed, the

judges of election shall, before they disperse, make return thereof, stating the number of votes cast for each person for each and every office, and inclose the same in an envelope and duly seal the same, and, within twenty-four (24) hours, deliver or cause to be delivered such returns, together with the ballot boxes and ballots cast at such election, to the city clerk. Within one (1) week after any election the common council shall meet and canvass said returns and declare the result as it appears from the same, and the city clerk shall forthwith give notice to each of the persons so elected of their respective elections.

SEC. 5. 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 the casting of lots, in the presence of the common council, at such time and in such manner as they may direct.

CHAPTER III.

OFFICERS—THEIR POWERS AND DUTIES.

SECTION 1. The elective officers of said city shall be mayor, justice of the peace for the city, who shall be styled city justice, assessor, treasurer, city marshal and alderman at large, all of whom shall hold their respective offices for the term of one (1) year, and until their successors are elected and qualified, except the city justice and alderman at large, whose terms of office shall be two (2) years, and until their successors are elected and qualified.

SEC. 2. The officers elected in each ward shall be two (2) aldermen, one (1) justice of the peace and one (1) constable. The term of office of the justice of the peace and aldermen shall be two (2) years, and until the successor of each is elected and qualified. The term of office of the constable shall be one (1) year, and until his successor is elected and qualified; *Provided*, that, in case of a vacancy for any cause in the office of alderman, during the first year of his term, his successor elected at the ensuing annual election shall hold his office for one (1) year, and until his successor is elected and qualified.

SEC. 3. *Appointment of City Officers.*—Each common council shall, at the first (1st) regular meeting in each year, appoint a city attorney, city clerk, city engineer, poundmaster, fire warden and such number of assistant marshals as such council may deem necessary for the good order of the city, who shall hold their respective offices until the successor of each of them shall have been appointed and qualified, unless sooner removed. The common council shall have the power to remove any of said appointive officers, at any time, by a four-sevenths ($\frac{4}{7}$) vote of said council in favor of such removal.

SEC. 4. No person shall be eligible to any office provided for in this act who shall not be a qualified elector of the state of Minnesota, and who shall not have been a resident of the city for thirty (30) days next preceding his election.

SEC. 5. All the city officers elected by the people shall enter upon the duties of their respective offices on the first (1st) Monday in April in the year of their election, and the officers to be appointed by the common council shall enter upon the duties of their respective offices on the second (2d) Monday in April in the year of their appointment.

All the aforesaid officers of said city whether elected or appointed shall hold their respective offices for the term of one (1) year, and until their respective successors shall be elected or appointed and qualified, except as otherwise provided herein; *Provided*, that all present officers of said city shall continue in office, exercising the same powers and performing the same duties as heretofore until the time of their respective successors shall begin, and until their respective successors shall be elected or appointed and qualified.

SEC. 6. Every person elected or appointed to any office under this act shall, before he enters upon the duties of his office, take and subscribe his oath of office, and file the same, duly certified by the officer taking the same, with the city clerk of the city, and the treasurer shall, before entering upon the duties of his office, execute to the city a bond, with at least two (2) sureties to be approved by the common council, in such penal sum and upon such conditions as the common council shall direct; and the city marshal and city justice shall, before entering upon the duties of their respective offices, execute to the city a bond in the penal sum of one thousand dollars (\$1,000) respectively, conditioned for the faithful discharge of the duties of their respective offices; and the ward justices of the peace, constables, city engineer and assistant city engineer, city clerk, city attorney, assistant marshal and assessor shall severally, before entering upon the duties of their respective offices, execute to the city a bond, with two (2) sureties to be approved by the common council, in the penal sum of five hundred dollars (\$500), conditioned for the faithful discharge of the duties of their respective offices; and the common council may require bonds from the other officers of the city in such penal sums and such conditions as they may deem best. And the common council may also, from time to time, require a new or additional bond from any officer aforesaid and remove from any office any officer refusing or neglecting to give the same. All bonds shall be filed in the office of the city clerk before the officer enters upon the duties of his office.

SEC. 7. Any officer removing from the city or ward for which he was elected, or any officer who shall neglect or refuse, 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. 8. Whenever a vacancy shall occur in any office, either elective or appointive, excepting the office of mayor, it shall be the duty of the common council, at its next regular meeting, or at a special meeting called for that purpose, to fill such vacancy by appointing, by warrant under their hands and seal of the city, certified by the acting clerk or city clerk, and the person so appointed shall hold his office until the next annual election and until his successor is elected and qualified, and shall have and possess the same powers and be subject to the same liabilities as if he had been duly elected at the annual election.

SEC. 9. The mayor shall take care that the laws of the state and the ordinances of the city are duly enforced and observed within the city. The mayor shall be the chief executive officer of the city, and shall have general supervision and control of all the officers and departments of the city government. He shall take care that all other officers of the city discharge their respective duties, and, to that end,

may maintain an action of mandamus or other appropriate action against any delinquent city officer. He shall, from time to time, give the common council such information and recommend such measures as he may deem advantageous to the city. He may, whenever he shall deem it necessary, require of any city officer an exhibit of his books and papers, and he shall possess such further powers and perform such further duties as may be conferred or prescribed by this or any other act of the legislature of this state, or by any city ordinance or regulation duly passed or adopted in pursuance thereof. In case the mayor knowingly or willfully neglect or refuse to perform any of the duties of his office, or shall be guilty of oppression or of corruption in office, he shall be liable to indictment, and, on conviction thereof, shall pay a fine of not more than five hundred dollars (\$500), and the courts shall have power to further adjudge that he be removed from office.

The alderman at large shall serve as president of said council, and as mayor, in case of the absence of the mayor from the city, or in case he is unable, from sickness or other cause, to perform the duties of his office, and while so acting as mayor, he shall be styled the acting mayor, and his acts in that capacity shall have the same force and validity as if performed by the mayor. As president of said council he shall act as its presiding officer and have no vote, except in case of a tie; but in case of his absence from any meeting of said council they shall elect a president *pro tem.* who shall have the same authority while so acting.

SEC. 10. *Signature of Mayor.*—The mayor shall sign all appointments, commissions, licenses and permits granted by the common council, and all warrants and orders drawn on the treasurer by order of said common council for the payment of money, and all bonds issued by authority of the common council, or any statute of this state.

SEC. 11. The city clerk shall keep the corporate seal and all the papers and records of the city and keep a record of the proceedings of the common council, whose meetings it shall be his duty to attend, and copies of all papers filed in his office and transcripts from the records of the common council, certified by him under the corporate seal, shall be evidence in all courts as if the originals were produced. He shall draw and countersign all orders on the treasurer, in pursuance of any order or resolution of the common council, and all bonds issued by authority of said common council or statute of this state, and keep a full and accurate account thereof in books provided for that purpose. The city clerk shall have power to administer oaths and affirmations, and take the acknowledgments of deeds and other writings. The city clerk shall keep a record of all his acts and doings, which record shall be at all times open to the inspection of all parties interested. The city clerk shall retain in his possession all records, files, books and papers incident to his office, and shall not allow them to pass from his possession, except under the direction of the common council. He shall receive for his services such sum as the common council shall deem proper. In case of the absence of the city clerk or of his inability to perform his duties, the common council may appoint an acting city clerk.

SEC. 12. The treasurer shall receive all moneys belonging to the city, and keep in separate funds as in this act provided an accurate and detailed account thereof, in books to be pro-

vided at the expense of the city, which books shall be subject to the inspection of the mayor or any member of the common council or any committee thereof or any person by said common council appointed, showing at all times the amount standing to the credit of any fund.

He shall pay no money out of the treasury otherwise than upon warrants or orders drawn upon him in the manner required by this act.

He shall, on the first (1st) day of each month, file with the city clerk a report of the amount to the credit of each fund, and at least fifteen (15) days before the annual charter election, or sooner, if required by the common council, file with the city clerk a full and detailed account of all receipts and expenditures after the date of the last annual report, and also the state of the treasury. He shall be entitled to such compensation for his services as the common council deem proper.

SEC. 13. It shall be the duty of the city attorney to appear for the city in the prosecution of all suits for the violation of any city ordinance or general law of this state, within the limits of said city, of which the city justice has jurisdiction to try, when the fine for the punishment of said offense would, if paid, go to said city. He shall represent the city in all legal proceedings in which the city is a party, and shall attend the meetings of the common council and give his opinion upon any legal question which may be submitted to him officially by the common council or any of its committees, or any officer of said city, respecting their official duties. He shall draw all ordinances and legal instruments for the city, and perform such other professional services as properly appertain to his office. He shall receive such compensation for his services as the common council shall deem proper.

SEC. 14. *City Marshal—Duties, Powers and Compensation of.*—The city marshal shall execute such orders as are made and perform such duties as are prescribed by the common council or mayor or any ordinance of said city. He shall have the powers of a constable at common law and under the statutes of this state, and receive like fees. It shall be his duty to enter complaint to the city justice of all violations of any ordinance, by-law, rule or regulation of said city, and of all assaults, batteries and affrays, not indictable, committed within the limits of said city, and shall keep a permanent record of all arrests, imprisonments and punishments, in a book furnished by the common council for that purpose, and shall collect and immediately pay to the treasurer all tolls and license money due to the city, and pay over all fees, collected as constable, into said treasury, and shall be keeper of the city prison. He shall execute all orders of the board of health or the health officer thereof, and shall receive such compensation as the common council shall direct.

SEC. 15. *City Engineer and Assistants—Duties and Compensation of.*—The city engineer shall, under the direction of the common council, or the chairman of the street and alley committee, superintend the grading, repairing and improving of streets and alleys, and the building and repairing of sidewalks and crosswalks, gutters, sewers, bridges and public grounds, and the expenditure of taxes, levied and collected for such purposes, and shall have the supervision of the highways in said city, and discharge the same duties as are by law required of overseers of highways generally, and perform any other duties re-

quired of him in this act. At least fifteen (15) days before the annual charter election the city engineer shall file with the city clerk a full and detailed account of all receipts and expenditures after the date of the last annual report, together with an inventory of all the tools belonging to the city in his possession. It shall be his duty to inspect all streets, alleys, sidewalks, crosswalks, sewers, gutters and bridges and public grounds, and immediately report any defect or need of repair therein to the chairman of the street and alley committee, and, under the direction of the common council or chairman of the street and alley committee, to remove snow or any other obstruction from the sidewalks, crosswalks and bridges in said city.

He shall have immediate supervision and direction of all persons employed to work on the streets, alleys, bridges, sidewalks, crosswalks and public grounds, with power to engage and, in his discretion, to discharge such persons; *Provided*, that no greater number of persons shall be employed or any higher wages paid or promised them than may, from time to time, be authorized by the common council. He shall keep a strict account of the time during which every laborer is employed and every team used under his supervision, in a book provided for that purpose, which book shall be subject to the inspection of the chairman of the street and alley committee, and shall require each person, upon being paid for such work, to sign a receipt in such book, acknowledging payment of such sum. He shall not pay or expend any greater sum in the employment of men or teams each month than the sum authorized by the common council for that month. He shall also keep a separate book in which he shall keep an itemized account of the amount expended for material used by him on the streets, alleys, bridges, sidewalks, crosswalks, sewers, water mains, conduits and public grounds. Said book shall also be open to the inspection, at all times, of the chairman of the street and alley committee. He shall report to the common council in writing, at their first meeting in each month, the amount expended for labor and teams and the amount of material used during the preceding month, with a recommendation as to the amount needed in his department for the ensuing month.

It shall be the duty of the city engineer to make all surveys, plans and estimates required of him by the common council or by any provisions of this act, and establish all grades of streets, when required by said council, and perform such other and further duties pertaining to his office as the common council may, from time to time, require. All surveys, plans and estimates made by him for the city shall be the property of the city, and shall be carefully preserved in the office of the city clerk, or such other place as the council may designate, and the same shall be open to the inspection of all parties interested. He shall receive such compensation for his services as the common council may direct.

The city engineer shall appoint, by and with the consent of four-sevenths ($\frac{4}{7}$) of the members of the common council, given by vote at a regular meeting of such council or at a special meeting called for that purpose, such assistant engineer or engineers as may be needed to carry out the duties of his office. Such assistants shall receive such compensation for their labor as the common council shall determine, and shall be under the control of said council and its street and alley committee in like manner as is prescribed for said city engineer.

SEC. 16. *City Justice — Powers and Duties — Inability — Fines.*— The city justice shall possess all the authority, power and rights of a justice of the peace, and shall have sole, exclusive jurisdiction to hear all complaints and conduct all examinations and trials in criminal cases within the city, cognizable before a justice of the peace, but warrants returnable before the said city justice may be issued, in criminal cases, by any justice in the city, but no fee shall be received therefor by said justice. The said justice shall have exclusive jurisdiction in all cases cognizable before a justice of the peace, in which the city is a party, and shall have cognizance and exclusive jurisdiction of all suits, prosecutions or proceedings for the recovery of any fine, forfeiture or penalty under any by-law, ordinance or regulation of the said city of Rochester or its charter, or for the breach or violation of any such by-law, ordinance or regulation, and in all cases of offense committed against the same.

In all prosecutions for any violation of this act or of any by-law or ordinance of the city of Rochester, the first process shall be by warrant, and the same proceedings shall be had in civil and criminal suits before said city justice, when not otherwise herein directed, as are established and required to be had in civil and criminal actions by the laws of this state before a justice of the peace. All warrants, processes or writs issued by the city justice for violation of any ordinance or by-law of said city shall run in the name of the state of Minnesota, and shall be directed to the city marshal or any constable of said city; *Provided*, that no warrant shall be necessary in any case of the arrest of any person or persons while in the act of violating any law of the state of Minnesota or ordinance of the city of Rochester, but the person or persons so arrested may be proceeded against, tried, convicted, and punished or discharged, in the same manner as if the arrest had been by warrant; *Provided further*, that, in case of prosecution for a breach or a violation of any ordinance, by-law or regulation of said city or its charter, or for any assault, battery or affray not indictable, committed within the city limits, no appeal shall be had or allowed when the judgment or fine imposed, exclusive of costs, shall not exceed twenty-five (25) dollars; and the same proceedings shall be had in civil and criminal suits before said justice, when not otherwise herein directed, as are established and required to be had in civil and criminal action by the laws of this state before a justice of the peace. In all cases of conviction for assault, batteries and affrays within said city, and in all cases of conviction under any ordinance of said city for breach of the peace, disorderly conduct, keeping houses of ill-fame or frequenting the same, and of keeping or maintaining disorderly or ill-governed houses, the said justice shall have power, in addition to the fine or penalty imposed, to compel such offenders to give security for their good behavior and to keep the peace for a period not exceeding six (6) months, in a sum not exceeding five hundred dollars (\$500). The said justice shall have the same power and authority in case of contempt as a court of record; *Provided*, that nothing herein contained shall be deemed to divest the district judges of their authority as conservators of the peace nor to affect in any manner the jurisdiction or powers of the district courts or supreme courts of this state; *Provided further*, that when it shall be shown by affidavit that the said city justice is of kin to the defendant, or when it shall be made to appear

by affidavit that the said city justice is a necessary and material witness, without whose evidence either party cannot safely proceed to the trial of said action or the examination of the offense charged in the complaint (the relationship of the said city justice and the evidence to be elicited from said city justice shall be set out in full in the said affidavit), then the said city justice shall transfer said action, examination or proceeding, with the complaint, warrant, recognizance, and all other papers relating to said cause, with the defendant, to some justice of the peace in said city who is not of kin to the defendant or a material witness to either party; and such justice of the peace shall, upon such transfer, have jurisdiction to hear, try and determine the same as said city justice might have done but for his said disqualification; *Provided further*, that but one such removal shall be allowed in any action, examination or proceeding, and no action, examination or proceeding shall be removed from the said city justice except for the causes herein specified, and any person or persons making or causing to be made a false affidavit, for the purpose of obtaining the removal of any such action, proceeding or examination from said city justice, shall be deemed guilty of perjury, and upon conviction thereof shall be subject to all the pains and penalties prescribed by law for perjury. In case of the absence, sickness or other disability of said justice, or for any sufficient reason, the mayor by warrant may authorize any other justice of the peace within said city to perform the duties of said city justice, and it shall thereupon be the duty of the mayor to inform the city attorney and city marshal of such substitution and make report thereof to the common council, and they may confirm or set aside such appointment or appoint some other justice of the peace, and the justice of the peace so appointed shall for the time being possess all the authority, rights and powers of said justice of the peace for the city. All fines and penalties imposed by the city justice, for offenses committed within the city limits or for violations of any ordinance, by-law or regulation of said city, shall belong to and be a part of the finances of said city.

In all cases of the imposition of any fine or penalty by the city justice of said city, for the violation of any ordinance or by-law thereof, or for any assault, battery or affray committed within the limits of said city, the offender may be forthwith committed to the city prison, and may be there imprisoned and compelled to perform hard labor, under the direction of the city marshal, for the benefit of the city, not exceeding ninety (90) days, in the discretion of the city justice, unless such fine or penalty be sooner paid, and from the time of the arrest of any person for any such offense until the time of his trial he may be imprisoned in said city prison. In all cases of the conviction of any person before the city justice of said city of any offense committed within the limits of the city, of which offense said city justice has jurisdiction, and is or may be punishable by imprisonment in the county jail, the city justice may sentence such person to confinement in the city prison instead of the county jail.

The city justice shall make a quarterly report to the common council of all the proceedings instituted before him in which the city is interested, and shall at the same time account for and pay over to the city treasurer all fines and penalties collected by him belonging to said city and receive his receipt therefor, and said justice shall be entitled to receive from the county of Olmsted such fees, in criminal

cases occurring without the city, as are allowed to other justices in the county for similar services.

SEC. 17. The justices of the peace and constable elected in each ward shall have the same powers, authority and rights as are possessed by other justices and constables of the county of Olmsted; *Provided*, that the ward justices of the peace elected in said city may hold their office and hear and conduct all trials, examinations and proceedings cognizable by them at any place within the limits of said city; *And provided*, that for the removal of any trial, examination or proceeding from any one of the said justices of the peace the city of Rochester shall be considered as one (1) election precinct.

SEC. 18. The assessor of the city of Rochester shall perform the duties pertaining to his office in accordance with the laws of this state in regard to township assessor. He shall be subject to all liabilities and perform all the duties of a township assessor, and shall receive such compensation as the common council shall direct. No assessment of property within the city of Rochester shall be made by any other than the city assessor, except as in this act otherwise provided.

SEC. 19. *Assistant Marshals—Duties of.*—It shall be the duty of all assistant marshals appointed under the provisions of this act to obey all lawful orders and directions of the mayor or city marshal of said city, maintain the peace and good order of said city, arrest all persons found disturbing the public peace or violating the ordinances of said city, and shall, when designated by the city marshal, act as keeper of the city prison, and perform all the duties imposed upon the city marshal of said city by the charter or ordinances thereof; except that no assistant marshal shall serve any civil process.

SEC. 20. The mayor of said city is hereby authorized and empowered to appoint as many assistant marshals as he may deem necessary for the maintenance of good order in said city, who shall take the oath required by law, but need not give the bond required by this act, and they shall perform all the duties required of assistant marshals appointed by the common council; *Provided*, that no assistant marshals appointed by the mayor shall hold office for longer period than one (1) week at any one time.

SEC. 21. The common council shall, at their first (1st) regular meeting in each year, designate one (1) newspaper printed in the city in the English language as the official newspaper of said city for the period of one (1) year then beginning, in which shall be published all ordinances, official notices and all reports, proceedings of the common council and other matters required by this act or other act of the legislature to be published, and all other matters as the common council may from time to time direct.

It shall be the duty of the city printer, immediately after the publication of any ordinance, resolution or other matter which by this act is or by city ordinance or act of the legislature shall be required to be published, to file with the city clerk a copy of such publication, with his affidavit or the affidavit of his foreman, of the length of time the same has been published, and such affidavit shall be conclusive evidence of the publication of such notice, ordinance, resolution or other matter. He shall receive compensation at a rate not exceeding that now prescribed by statute for legal advertisements or notices.

SEC. 22. The mayor, sheriff of Olmsted county and each and every alderman, justice of the peace, marshal and assistant marshal and con-

stable shall be officers of the peace, and may command the peace and suppress in a summary manner all rioting and disorderly conduct within the limits of the city, and for such purpose may command the assistance of all bystanders; and if any person so commanded shall refuse to aid in maintaining the peace, every such person, on conviction thereof, shall pay a fine of not more than twenty-five (25) dollars nor less than five (5) dollars, or in default shall be imprisoned in the city prison until such fine is paid, not exceeding thirty (30) days.

SEC. 23. *Further Duties of City Officers.*—The common council shall have power to require, from time to time, other and further duties to be performed by any officer whose duties are herein prescribed, and to appoint such other officers as may be necessary to carry into effect the provisions of this act, and to prescribe their duties and compensation. Such compensation shall be fixed at the time the office is created or at the commencement of the official year, and shall not be decreased or diminished during the time such officer shall remain in office. The common council may at any time fix the compensation of any officer or committee for any extraordinary service by them performed.

SEC. 24. *No Member of the Council to be Interested in Any Contract.*—No member of the common council shall be a party to or interested in any job or contract with the city, and any contract in which any member of the common council may be so interested shall be null and void.

SEC. 25. Any person having been an officer in said city shall, within ten (10) days after notification and request, deliver to his successor in office all property, books, papers and effects of every description in his possession, belonging to the city or pertaining to the office he may have held. If he fail to do so after such notification and request, he shall forfeit and pay to the use of the city one hundred (100) dollars, besides all damages caused by his neglect or refusal so to deliver, and such successor may recover the possession of such books, papers and effects in the manner prescribed by the law of this state in cases of the unlawful detention of personal property.

CHAPTER IV.

THE COMMON COUNCIL—ITS POWERS AND DUTIES.

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

SEC. 2. The alderman at large or president *pro tem.*, as hereinbefore provided, shall preside at the meetings of the common council, and shall possess all the powers usually vested in the presiding officers of similar bodies, but shall have no vote therein, excepting a casting vote when there is a tie.

The common council shall be the sole and exclusive judge of the qualifications, elections and returns of its own members, and shall have sole and exclusive power to determine all contested elections in such case, and shall have power to send for persons and papers, as otherwise provided in this act.

SEC. 3. There shall be one (1) regular meeting of the common

council in each month, at such time and place as shall be prescribed by ordinance, and the mayor, alderman at large, or any two aldermen, may call a special meeting at any time, by serving or causing to be served upon the several members, personally, a written notice thereof in which the particular object of such special meeting shall be stated. At such special meeting no other business shall be transacted than such as is designated in the call, unless by unanimous consent of all the members present. In case of the attendance of less than a quorum at any stated meeting, the members present may adjourn to any special time they may designate, and all business transacted at such adjourned meeting shall have the same validity as if done at a regular meeting.

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

SEC. 5. The common council shall have power to determine the rule of its proceedings, punish its members for disorderly conduct, and, with the concurrence of five-sevenths ($\frac{5}{7}$) of the members elected, expel a member, and also remove from office any officer of the city elected by the people; *Provided*, that no member or officer shall be so expelled or removed except for due cause nor unless the specific charges are made in writing against the member or officer, a copy of which shall be furnished him, and he shall be allowed to be heard in person or by counsel in his own defense. The common council shall have power to compel the attendance of witnesses and the production of books and papers for the trial, and shall proceed within fifteen (15) days to hear and determine the case. A notice in writing specifying the time and place of hearing shall be served on the member or officer charged, at least ten (10) days before the day of hearing. If such member or officer fails to appear and answer to such charges, the common council may declare the office vacated. When charges are thus preferred the member or officer may be suspended until the disposition of the charges.

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

SEC. 7. No alderman shall be appointed to any office under the authority of the city which shall have been created, or the emoluments of which shall have been increased, during the time for which he shall have been elected.

SEC. 8. *Power to Enact Ordinances and Their Force.*—The common council shall have the management and control of the finances, subject to the provisions of this act, and all the property of the city, and shall likewise, in addition to the power herein vested in them, have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify, amend and repeal all such ordinances, rules and by-laws for the government of the city, for the suppression of vice and intemperance, and for the prevention of crime and preservation of health, as they shall deem expedient; they shall have power to establish and maintain a city prison and watchhouses for the imprisonment, custody and safe keeping of all persons arrested for or charged with any offense whatever, in any way cognizable before the city justice; to make all rules and regulations for the government and management

of such prison and watchhouses, to appoint keepers and other officers for the same, and prescribe their duties and fix their compensation. The keepers of said prison and watchhouses shall have and possess all the powers and authority of jailers at common law or by the laws of this state.

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

First—To license and regulate the exhibition of common showmen and shows of all kinds, and the exhibition of caravans, menageries, circuses, concerts, roller skating rinks, museums, places of amusement and all other devices and theatrical performances for which charge is made; also, to license and regulate all auctioneers, pawn-brokers, billiard tables, pigeon hole tables, bagatelle tables, nine or ten pin alleys, bowling saloons, shooting galleries, taverns, victualling houses, cane racks and other games and devices.

Second—To license and regulate all persons vending, dealing in or disposing of spirituous, vinous, fermented, malt, mixed or intoxicating liquors within said city, and to restrain, prevent and prohibit any person or persons from vending, dealing, giving or disposing within said city of any liquors unless thereto duly licensed by the common council, and to revoke any license granted by said council for any malfeasance, misfeasance or non-feasance of the person holding the same; *Provided*, that the license for dealing in or vending spirituous and fermented liquors shall not be less than two hundred (200) dollars per year, and for dealing in and vending fermented liquors alone it shall not be less than one hundred (100) dollars per year, unless otherwise provided by the state law.

Third—To restrain and prohibit all description of gambling and all 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 provide by ordinance for the seizure, condemnation and destruction of any devices, apparatus or other things used for gambling or gambling purposes.

Fourth—To prevent any riots, noise, disturbance and disorderly assemblages in said city, and to provide for the arrest and punishment of any person or persons who shall be guilty of the same; to suppress disorderly houses, houses of ill-fame, and to provide for the arrest and punishment of the keepers thereof.

Fifth—To compel the owner or occupant of any grocery, cellar, tallow chandler's shop, soap factory, tannery, stable, barn, privy, sewer or other unwholesome or nauseous house or place, to cleanse, remove or abate the same, from time to time, as often as may be necessary for the health, comfort and convenience of the inhabitants of the city, and to remove and abate any other nuisance injurious to the public health or safety, and remove or require to be removed any building or structure which, by reason of dilapidation, defects in structure or other causes may have or shall become imminently dangerous to life or property, and to provide for the punishment of all persons who shall cause or maintain such nuisances.

Whenever it shall become necessary to remove or abate any such nuisance, or remove any such building or structure, or cleanse, remove or abate any of the places above set forth, the said council shall cause a written or printed notice to be served on the owner or occupant of the lot or lots upon which said nuisance, building or structure is situated, requiring the owner or occupant, within a specified time, not less than three (3) days from the date of service, to remove or abate the same at his own cost and expense; and if the premises are vacant and unoccupied, the council shall cause a notice to be posted at or near the nuisance, building or structure, requiring the owner of said lot or lots to remove the nuisance, building or structure within a specified time, not less than three (3) days from the day of posting, proof of which shall be filed with the city clerk of said city. If such nuisance, building or structure is not removed and the premises and place cleansed within the time specified, the council may cause the same to be removed or cleansed, and the expense thereof shall be assessed by the common council upon the lot or lots. Said assessment shall be a lien on the lot or lots the same as city, county or state taxes, and shall be returned with and collected in the same manner as the other city taxes.

Sixth—To direct the location, mode of construction and management of stock yards, slaughter houses, and markets, breweries and distilleries, and to establish rates for and license venders of gunpowder and regulate the storage, keeping and conveying of gunpowder or other combustible materials, and to direct a place where, and the manner in which kerosene oil, gasoline oil and other explosive and combustible materials or articles shall be stored, or kept or conveyed within said city.

Seventh—To prevent the incumbering of streets, sidewalks, alleys, lanes or public grounds with carriages, carts, wagons, sleighs, boxes, barrels or kegs, lumber, firewood, posts, suspended or swinging signs, awnings or other materials or substances whatever, and to prohibit persons from gathering in crowds or groups or standing singly on the streets or sidewalks in such manner as to obstruct passage thereon or to annoy other persons passing along the same; to authorize the police to disperse any such crowd or group, or to cause the removal of any such person and to arrest the offender or offenders, in case of refusal on the part of such person or persons to obey any reasonable direction given for the purpose of clearing the way to prevent annoyance to passers by.

Eighth—To regulate the movement of railroad locomotives and cars, and to prevent and punish immoderate riding or driving in the streets; to compel persons to fasten and to care for their horses or other animals, attached to vehicles or otherwise, while standing in the street, and to regulate places of bathing and swimming in the waters within the city limits.

Ninth—To restrain the running at large of horses, mules, cattle, swine, sheep, poultry, geese and other animals, and to authorize the distraining, impounding and sale of the same, and to impose penalties on the owners of such animals for violation of such ordinances, and to define the territorial limits within which swine may be kept in said city.

Tenth—To prevent the running at large of dogs, and to require a license for keeping the same, and to impose fines upon their owners,

and to authorize the destruction of said dogs in a summary manner when at large contrary to the ordinance.

Eleventh—To prevent any person from bringing, depositing or having, within said city, any putrid carcass or other unwholesome substance, and to require the removal of the same by any person who shall have upon his premises any such substance, or putrid or unsound beef, pork, fish, hides or skin of any kind, and, on default, to authorize the removal thereof by some competent officer at the expense of such person or persons, and to impose fine upon such person or persons for such default.

Twelfth—To make and establish public pumps, wells, cisterns, hydrants, reservoirs and fountains, and to provide for and conduct water into and through the streets, avenues and public grounds, and to provide for the erection of water works for the supply of water to said city and its inhabitants, and to grant a right to one (1) or more persons, companies or corporations to erect water works to supply said city with water and to authorize and empower such person or persons, company or corporation, to lay water pipes and mains into, through and under the streets, avenues and public grounds of the said city of Rochester; and to provide for the erection and operation of gas works, electric light or other works or means for lighting the streets, avenues, alleys and public grounds and buildings of said city and supplying light or power to the inhabitants thereof, and to grant the right to erect, maintain and operate such works, with all rights incident or appertaining thereto, to one (1) or more persons, companies or corporations, and to authorize and empower such person or persons, company or corporation, to lay pipes, mains and wires into, through and under the streets, avenues and public grounds of said city of Rochester, and the erection of poles, masts and towers, and the running of wires thereon over, in, upon, under and across the streets, avenues and public grounds; and to provide for the erection and operation of works for heating the public buildings of said city by steam, gas or other means, and supplying heat or power to the inhabitants of said city; *Provided*, that said city may, if it deems it for the best interests of the city, reserve the right to purchase any of the works hereinbefore mentioned, at any time after ten (10) years from the commencement of such grant, at a valuation to be agreed upon or determined in a manner prescribed in the grant.

Thirteenth—To regulate and control or prohibit the placing of telegraph, telephone, electric light or other poles or posts now or that hereafter may be placed, and the suspension of electric or other wires now or that may hereafter be suspended along or across the streets of said city, and to require any or all already placed or suspended, either in limited districts or throughout the entire city, to be removed or to be placed, in such manner as the common council may designate, beneath the surface of the street or sidewalk.

Fourteenth—To provide for sprinkling any street or part of a street within said city, and upon petition of the owners of two-thirds ($\frac{2}{3}$) of the amount of frontage abutting upon any such street or part of a street, to assess the expense of such sprinkling upon the real property abutting upon such street or part thereof in proportion to frontage.

Fifteenth—To establish the powers and duties of boards of health, subject to the general statutes of this state in such case made and provided; to regulate the burial of the dead and to prohibit such

burial within the city limits, and to provide for the registration of births and deaths within said city and for keeping and returning the record of mortality and causes thereof.

Sixteenth—To license and regulate hackmen, expressmen and all other persons engaged in carrying passengers or freight, and to regulate their charges therefor; to prescribe standing places or stations within the street where such hacks, drays or other vehicles used for such carrying may stand or remain while waiting for business or orders, and to designate such standing or waiting places in the licenses of such draymen, hackmen or other persons, and to prohibit them from standing or waiting in any other place within such street, and to regulate and prescribe standing places for all vehicles going to or waiting at any railroad depot or station in such city, and to authorize the mayor or city marshal of said city to regulate and direct the location of vehicles at such railroad depots or stations.

Seventeenth—To compel railroad companies and all other corporations and persons to do all needful and proper grading, draining and filling upon lands owned or occupied by them within the limits of said city; to compel railroad companies to construct and keep in repair suitable street crossings, bridges, viaducts and carriageways over their several tracks, and to maintain lights, gates or flagmen at such street crossings of their tracks as the common council may require; to prevent the obstruction of streets, lanes and highways by engines or cars of such companies, and to provide for the punishment by fine or imprisonment of any officer, agent or servant of any such railroad company found guilty of a violation of any ordinance, resolution or by-law passed pursuant to this subdivision.

Eighteenth—To grant the right of way over, through or upon any of the public streets of said city to any person, company or corporation to build, maintain and operate a street railway for the carriage of passengers only, the cars of which are to be drawn by horses, mules or electricity only; *Provided*, that this subdivision shall not authorize said common council to grant any such right or privilege over, upon or through any alley of said city, nor to grant any exclusive right; *Provided further*, that such right or privilege shall not be granted to any person, company or corporation unless upon condition that such street railway shall be built and in operation within two (2) years from the time of the granting of such right, and that the gauge of such street railway shall not be to exceed four (4) feet.

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

Twentieth—To prevent the shooting of firearms, firecrackers, rockets or other projectiles, and to prevent the exhibition of fireworks in any situation which may be deemed by the common council dangerous to the city or any property therein, or annoying to any citizen thereof.

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

Twenty-second—To authorize the arrest, fine and imprisonment of vagrants and all persons not having visible means of support and without employment, idly loitering or rambling about, or staying in

groceries, drinking saloons, billiard halls, houses of ill-fame or houses of bad repute or gambling houses; also, those who shall be found trespassing in the night time upon private premises, or begging or placing themselves in the streets or (other) thoroughfares or public grounds to beg or receive alms; also, those keeping, exhibiting or visiting gaming tables or gambling houses; also, all who go about for the purpose of gaming, or shall have in their possession any article or thing used for obtaining money by false tokens or pretenses; also, any person who shall disturb any concert, theatre, or other public or private entertainment or gathering, or any place where public or private school is kept, either on week day or Sunday, or any place where religious worship is held.

Twenty-third—To restrain, regulate and license porters, hackmen, and also runners, agents and solicitors for hacks, omnibuses, cars, public houses or other establishments.

Twenty-fourth—To establish and maintain public markets and market houses for the display and sale of meats, vegetables, fruits and other articles of food; to designate places for and to prescribe the manner of selling hay, straw, coal and firewood; to provide for the inspection of hay, coal and the measuring of firewood and other fuel, and to appoint suitable persons to inspect, superintend and conduct the same; to establish and maintain public market places for the sale of horses, sheep, cattle, mules and other animals, and to regulate and control the same.

Twenty-fifth—To compel the owners or occupants of buildings or lots to remove snow, dirt or rubbish from the sidewalk, street or alley opposite thereto, and to compel such owner or occupant to remove from any lot owned or occupied by him all such substances as the board of health shall direct, and, on his default, to provide for his punishment. The common council may compel the owners or occupants of buildings and lots to remove the substances herein named, or cause the same to be removed, and charge the expense thereof up to the lot or lots, in the same manner as is provided in subdivision fifth (5th) of this section and with like effect.

Twenty-sixth—To regulate the time, place and manner of holding public auctions or vendues, or to prohibit the same.

Twenty-seventh—To regulate the sale or traffic in merchandise and other commodities in the city of Rochester by transient traders or dealers in goods, wares and merchandise occupying stores or buildings in the city or engaged in the sale of such goods, and to license and regulate such transient trader and dealers and prohibit the same, if not so licensed, and to provide for the punishment of any such traders or dealers who shall within said city vend, sell or dispose of, or offer to vend, sell or dispose of any goods, wares or merchandise without first having obtained such license; *Provided*, that all merchants or dealers in goods or merchandise whose stock of goods has not been assessed and taxed within the city for the fiscal year during any part of which they shall be engaged in such business, and who shall not be *bona fide* residents of said city, shall be deemed "transient traders" or "dealers" for the purposes of this subdivision.

Twenty-eighth—To provide by ordinance for a standard of weights and measures; for the appointment of a city sealer, and to require all weights and measures to be sealed in accordance with the statutes of his state, such city sealer to be appointed in the absence of such

statutes, and he shall seal all such weights and measures; and also to provide for the punishment for the use of false weights and measurements.

Twenty-ninth — To regulate and license peddlers, hawkers and pawnbrokers, and to prohibit fakirs in said city.

Thirtieth — To provide for and regulate the inspection and sale of tobacco, beef, pork, flour, meal, lard, butter, fish and all other meats and provisions, and to provide against the sale of meat improperly slaughtered or cared for, or killed or hung up in a filthy or unwholesome place, or fed upon filthy refuse or offal, or in any way putrid, tainted or having been exposed to taint by reason of the surroundings in which it has been kept; and to provide for the punishment of any person or persons offering for sale any unwholesome meats, vegetables or other food products, or for the punishment of any person or persons offering for sale any meat, vegetables or other food products in an unwholesome place or building, or which have been hung up or kept in an unwholesome place or building.

Thirty-first — To regulate the construction of buildings; to prescribe the depth of cellars, material and method of construction of foundations and foundation walls, the manner of construction of drains and sewer pipes, the thickness, material and construction of party walls, partitions and outside walls, the size and material of floors, beams, girders, columns, roofs, chimneys, flues and heating apparatus; to apportion and adjust such regulations to the height and size of the building to be erected; to regulate the construction and location of privies and vaults in such buildings; to prohibit the construction of buildings not conforming to such prescribed standard, either in the whole city or within such building limits as it may prescribe; to establish, alter or enlarge such building limits from time to time; to appoint an inspector or inspectors of buildings, or to devolve the duties of such inspector on any city officer; to give such inspector or any officer authority to enter upon, examine and inspect all buildings in process of construction in said city, or within such building limits, and to direct the suspension of any such building operations as shall not conform to such regulations; *Provided, however,* that neither said common council or any inspector or any officer of said city shall have control or regulation of any building erected by the United States or the state of Minnesota.

Thirty-second — To prescribe the limits, and from time to time to alter or enlarge the same, within which wooden buildings, or buildings of other materials that shall not be deemed fireproof, shall not be erected, placed, enlarged or rebuilt, and within or into which such building shall not be moved, and to direct that any and all buildings within the limits prescribed shall be made and constructed of fireproof material and with such precautions against fire as the common council shall by ordinance prescribe, and to prohibit the repairing of wooden buildings within such fire limits without its consent, and to prescribe the manner of applying for such consent. Any building hereafter erected, placed, moved, enlarged, rebuilt or repaired in violation of the provisions of any ordinance of said city passed pursuant to this subdivision is hereby declared and shall be deemed a public or common nuisance, and the common council, in addition to other penalties, may provide for the abatement of such nuisance by the removal or destruction of such building.

Thirty-third—To provide for and regulate the erection of hitching posts and rings for fastening horses, and to prohibit them in any portion of the city, in its discretion; and to regulate the opening of hatchways, and compel proper guards about the same.

Thirty-fourth—To regulate the construction, location and care of chimneys, fireplaces, stoves, stove pipes, ovens, boilers, smoke-stacks, and the appurtenances thereto used, in or about any building or premises in said city, and to provide for the removal thereof, or for making the same safe when considered dangerous; also, to prevent the deposit of ashes in unsafe places, and to regulate and prevent the operation of manufactories or other establishments likely to cause or promote fire in said city.

Thirty-fifth—To provide for and regulate the numbering of dwelling houses and other buildings in said city, and to compel the owners of such houses or buildings to have the proper number designated thereon.

Thirty-sixth—To license and regulate bill posters, and to prevent the painting, drawing, marking or posting of any device or advertisement upon any sidewalk, bridge or other public property of said city, any building, fence or other structure without the consent of the or upon owner thereof.

Thirty-seventh—To direct and regulate the planting and cultivation of trees in the streets and public grounds and highways of the city, and to provide punishment for injury or destruction of the same, or to any street signs, lamps or monuments of said city.

Thirty-eighth—To do all acts and make all regulations which may be necessary and expedient to the preservation of health, 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 and within three (3) miles of the limits thereof.

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

Fortieth—To provide for the taking, from time to time, the enumeration of the inhabitants of the city.

Forty-first—To provide for the maintenance and government of a police [force] for said city, except as otherwise provided in this act; the city marshal, assistant marshals and special policemen shall constitute the police force of said city.

Forty-second—To provide for the maintenance and government of all public buildings for the use of said city already erected, and to provide for the erection, maintenance and government of such other public buildings as the common council may deem necessary for the use of said city.

Forty-third—To appoint one (1) or more fire wardens and prescribe their duties.

Forty-fourth—To grant authority to any person or persons, company or corporation, to erect, maintain and operate telephone exchange or telegraph line in said city and the right to string telephone or telegraph wires over, upon, across or under the streets, alleys and public grounds of said city, under the rules and limitations of this act; and to grant to any private party or parties, company or corporation, the right to string any such wires over, upon, across or under the streets, alleys and public grounds of said city, subject to the said rules and regula-

tions of this act, for private use, and to make such rules and regulations for the government of the same as may be necessary.

Forty-fifth—To require and provide for the removal in such manner, with private parties or associations or otherwise, throughout the city and in such districts or on such streets as the common council may direct, of any or all swill, offal, garbage, ashes, barnyard litter, manure, yard cleanings or other foul or unhealthy stuff, with authority to assess the expense of such removal upon the property from which such above named matter or thing shall be taken, in case of the default of the above named matter being removed by the owner or occupant of any premises upon which the same may be found.

Forty-sixth—To provide for the purchase of fire engines and other apparatus and appliances for the discovery, prevention and extinguishment of fires; to provide for and regulate the formation of fire engine, hook, ladder, patrol and hose companies, and provide for the due support, regulation and discipline thereof, and for the disbanding thereof and their apparatus to be delivered up when the common council shall deem such disbanding necessary or expedient, and for the care, keeping and preservation of the engine, apparatus, appliances, and other property belonging to the fire department; to prescribe the duties of firemen and their officers, and to regulate the conduct of firemen and their officers, and all other persons at or near the scene of fire in said city; to authorize the removal or destruction of buildings when necessary to arrest the progress or prevent the spreading of any fire, and, in general, to make such provisions as in the judgment of the common council may tend to promote the efficiency of said department and to secure all possible protection of property in said city from fire.

Forty-seventh—To grant a yearly license to the owner or lessee of any building, authorizing him to use the same as a theatre, concert hall, museum or other place of public amusement, recreation or instruction.

Forty-eighth—To regulate the manner of keeping and exhibiting stallions, bulls and jacks.

Forty-ninth—To regulate and require licenses to be obtained for the pursuit or prosecution of such other occupations or other kinds of business, not hereinabove expressly referred to and provided for, as in the opinion of the common council may require regulation; and, in general, to adopt all such measures and to establish all such regulations, in cases for which no express provision is hereinbefore made, as the common council may, from time to time, deem necessary for the promotion of the health, comfort and safety of the inhabitants, the preservation of peace and good order, the suppression of vice and the enhancement of public welfare in said city.

Fiftieth—To prohibit the playing by minors of pool, billiards or any other game in any billiard or pool room, or any saloon or any other place where billiard or pool tables are kept or other games allowed, and to provide for the punishment, by fine or imprisonment, of any person or persons owning, operating or having control of any of said game or games who permits such minor or minors to play said games in violation of this provision or any ordinance passed pursuant thereto.

Fifty-first—To establish and maintain a public library, in accordance with Chapter one hundred and six (106) of the Laws of one

thousand eight hundred and seventy (1870) of the State of Minnesota, and to assist or maintain a free reading room, and to make such rules and regulations regarding the government of the same as they may from time to time deem necessary.

Fifty-second—To provide for requiring the owners of buildings, or other structures which shall have been destroyed or partially destroyed by fire or otherwise, to take the same or any part thereof down to prevent accident; and, in case of refusal or neglect of said owner to so take down the same within the time prescribed by the common council, when ordered by the officer designated by said common council, then to cause the same to be done at the expense of the owner, the cost thereof to be paid by special assessment on the land on which the same stands.

SEC. 9. *Punishment for Breach of Ordinance.*—The common council may impose punishment for the breach of any ordinance of the city, to the extent of a fine not exceeding one hundred dollars (\$100), or imprisonment in the city prison or county jail not exceeding ninety (90) days, and may provide that offenders against such ordinances may be required to give security to keep the peace and for good behavior for a period not exceeding six (6) months, and in a sum not exceeding two hundred (\$200) dollars.

SEC. 10. The common council of the city of Rochester may provide by ordinance that any person convicted of an offense before the city justice, subjecting such offender to imprisonment under the charter and ordinances of said city, may be kept at hard labor in any workhouse established by said city for that purpose, or the city prison of said city, or in case of male offenders, may be kept at hard labor during the term of imprisonment in such workhouse or on the public streets and improvements of said city, and may also provide by ordinance that any one convicted of an offense before the city justice as aforesaid, and committed upon non-payment of a fine imposed, may be kept at hard labor in any workhouse of said city or the city prison as aforesaid, or, in case of a male offender, may be kept at hard labor either in such workhouse or upon the public streets or improvements in said city until such person shall work out the amount of such fine at such rate as such common council may prescribe—not less than one (\$1) dollar per day; and the common council shall have full power to establish by ordinance all needful regulations for the security of such prisoners thus employed, and prevent escape and preserve proper discipline, and shall have power to establish a suitable workhouse in said city for the purpose aforesaid and make all needful regulations for the government of the same.

SEC. 11. In all matters except those provided for in section eight (8) of this chapter, and in other cases mentioned in this act in which action is required to be by ordinance, the common council shall act by resolution in writing, or, in cases in which it is not otherwise provided in this act, by mere motion to be entered on the minutes; *Provided, however,* that every appropriation to the amount of two hundred dollars (\$200) or more, to be paid to any one (1) person, firm or corporation, and the letting of any job or work, or the authorizing of any contract or purchase, involving an expenditure from the city treasury of two hundred dollars (\$200) or more, and the affixing of any officer's salary or any employe's wages at the aggregate sum of five hundred dollars (\$500) or more a year, and every determination to issue the bonds of

the city or in any way to contract indebtedness exceeding two hundred dollars (\$200), and every provision for the sale of any real or personal estate for the city of the value of two hundred dollars (\$200) or more, and every determination to make any improvement or to take private property for public use, and every levy of taxes and every special assessment shall be by ordinance or resolution in writing.

SEC. 12. Every ordinance whatever and every resolution in writing, such as mentioned in the provision of the last preceding section, which shall be passed by the common council shall be signed by the president of the council and attested by the city clerk, who shall attach his official seal, and on the next day after the passage thereof the same shall be transmitted by the city clerk to the mayor for his approval. If the mayor approves the same, he shall append his signature, with the date of his approval, thereto, and return the same to the city clerk within five (5) days from the date of its transmission to him; and if he declines to approve the same, he shall, within said period of five (5) days, return the same to the city clerk with a statement of his objections thereto, to be presented to the common council at its next meeting thereafter.

Upon the return of an ordinance or resolution to the common council without the mayor's approval, the question shall again be put upon the passage of the same, notwithstanding the objections of the mayor, and if, upon such vote, which shall be taken by a call of the ayes and noes, four-sevenths ($\frac{4}{7}$) of all the members of the common council shall vote in favor of such ordinance or resolution, the same shall be declared enacted and shall have the same force and effect as if approved by the mayor. If any ordinance or resolution so submitted to the mayor shall not be returned by him to the city clerk within five (5) days (Sundays excepted) after presentation thereof to him, the same shall be deemed to be approved by him and he shall deliver the same to the city clerk on demand.

No ordinance shall be passed at the same meeting of the common council at which it shall have been presented, except on the unanimous consent of all the members present, which shall be noted in the record; but this shall not preclude the passage of ordinances reported by any committee of the common council to whom the subject of such ordinance shall have been referred at any previous meeting.

SEC. 13. The style of all ordinances shall be: "The common council of the city of Rochester do ordain."

All ordinances, when passed as aforesaid, shall be recorded by the city clerk in books provided for that purpose, and before they shall be in force they shall be published in the official paper of the city at least one (1) week; but before any of said ordinances shall be recorded, the publication thereof as aforesaid shall be proved by the affidavit of the foreman or publisher of such paper, and said affidavit shall be recorded therewith, and at all times shall be deemed and taken as sufficient evidence of such publication.

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

SEC. 14. The common council may repeal or amend any ordinance by it enacted, but every such repeal or amendment must itself be by ordinance, and the council shall have no authority to modify any ordinance or to make any exception to the operation thereof by a mere motion or resolution.

SEC. 15. *Adjustment of accounts of city officers.*—The common council shall examine, audit and adjust the accounts of the city clerk, street commissioner, justice of the peace, and all other officers and agents of the city, at such times as they may deem proper, and also at the end of each fiscal year and before the term for which the officers of said city were elected or appointed shall have expired; and the common council shall require 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 order of said common council, in the discharge of his said duties in pursuance of this section, or shall neglect or refuse to render his accounts or present his books or vouchers to said common council or a committee thereof, it shall be the duty of the common council to declare the office of such person vacant, and the common council shall order suits and proceedings at law against any officer or agent of said city who may be found delinquent or defaulting in his accounts or the discharge of his official duty, and shall make a full record of all such settlements and adjustments.

CHAPTER V.

FINANCES AND TAXATION.

SECTION 1. The fiscal year of said city shall commence on the first (1st) day of April in each and every year.

SEC. 2. All funds in the city treasury shall be under the control of the common council, and shall be drawn out upon the order of the mayor and city clerk, duly authorized by a vote of the common council, and all orders shall specify the purpose for which they are drawn, and the fund from which they are payable and the name of the person in whose favor they may be drawn, and shall be payable to the order of said person and may be transferred by indorsement.

No appropriation shall be made unless a majority of the members of the common council shall vote in favor of it.

SEC. 3. All moneys and securities belonging to the city shall be divided into the following funds, accounts of which shall be kept separate and distinct, viz.:

First—A general fund, in which all the revenues of the city shall be placed, except such as are herein directed to be placed in some other fund. The general fund may be used for any lawful city purpose in the discretion of the common council, and money may be transferred from the general fund to other funds by the common council.

Second—A street and alley fund, into which shall be placed all taxes levied especially for this fund for improving streets and alleys and public grounds, and for building and repairing of sidewalks and crosswalks, paving, macadamizing and grading streets, alleys and public grounds, and all special assessments collected on account of street grading and the construction and repairing of sidewalks ordered by the common council.

Third— A bridge fund, in which shall be paid all taxes levied by the common council for building and repairing bridges.

Fourth— A permanent improvement fund, in which shall be paid all taxes levied by the common council for purchasing ground and erecting and repairing buildings for city purposes.

Fifth— An interest fund, into which shall be paid all taxes levied by the common council for the payment of interest to become due during the next fiscal year on the bonded indebtedness of the city, and shall be used only for the payment of interest on the bonds for which the city is liable and for transfer to the sinking fund.

Sixth— A sinking fund, into which shall be paid all taxes levied by the common council for the purpose of providing for the certain payment of the bonded indebtedness of this city and all funds transferred to this fund from the other funds by the common council, and shall be used only for paying bonds on which the city is liable, which funds shall be managed and the money invested as hereinafter provided.

Seventh— A special fire department fund, into which shall be paid all moneys received by the city from the state for the benefit of the fire department by virtue of the statutes of this state and any amendment thereof, and said fund shall be subject to disbursement for those purposes only specified in said statutes or amendments.

Eighth— A sewer fund, in which shall be placed all taxes levied by the common council for the purpose of constructing or repairing sewers in said city. All assessments collected on account of the construction or repair of sewers ordered by the common council of said city, and all moneys arising from said or arising from city bonds or certificates issued by the common council for the purpose of constructing or repairing sewers shall be placed in this fund, and the same shall be disbursed only for the purposes for which the same was levied, assessed or paid.

Ninth— A fire protection fund, into which shall be paid all taxes levied by the common council for the purpose of paying a hydrant rental or maintaining fire protection for said city.

SEC. 4. *Property Subject to Taxation.*— All property, real and personal, within the city, except such as may be exempt from the laws of the state, shall be subject to taxation for the support of the city government and the payment of its debts and liabilities, and the same shall be assessed in the same manner provided by the general laws of this state for the assessment of taxes for town purposes, except as herein otherwise provided.

SEC. 5. *Levy of Taxes.*— The common council shall have power annually to levy taxes on all the taxable property in said city as follows:

For the General Fund— So much as they may deem necessary, not exceeding five (5) mills on the dollar of the assessed valuation of said city as shown by the last assessment.

For the Street and Alley Fund— So much as they may deem necessary, not exceeding five (5) mills on the dollar of such assessed valuation.

For the Bridge Fund— So much as they may deem necessary, not exceeding five (5) mills on the dollar of such assessed valuation.

For the Permanent Improvement Fund— So much as they may deem necessary, not exceeding five (5) mills on the dollar of such assessed valuation.

For the Interest Fund—So much as may be necessary to pay accruing interest on outstanding bonds on which the city is liable, not otherwise provided for.

For the Sinking Fund—So much as may be sufficient from year to year to pay all bonds at maturity on which the city is liable, not exceeding two (2) mills on the dollar of such assessed valuation.

For the Sewer Fund—So much as they may deem necessary, not exceeding three (3) mills on the dollar of such assessed valuation.

For the Fire Protection Fund—So much as may be necessary to pay the hydrant rental or maintaining fire protection for said city.

SEC. 6. No appropriation shall be made without a vote of a majority of all the members of the common council in its favor, which shall be taken by ayes and noes and entered on the minutes of the common council.

SEC. 7. The common council may provide for the examination from time to time of such canceled orders, and also canceled bonds or other obligations in the hands of the city treasurer, and for their destruction, preserving such record or vouchers thereof as the common council, or any committee thereof, may deem proper.

SEC. 8. All appropriations and expenses of the city, not otherwise provided for, shall be paid out of the general city fund.

CHAPTER VI.

THE SINKING FUND.

SECTION 1. In order to provide for the certain payment of the bonds and debts of the city the common council is authorized to create and maintain a sinking fund.

The mayor, the president of the common council and the chairman of the finance committee of said common council shall constitute and be known as "The commissioners of the sinking fund of the city of Rochester."

The common council shall by ordinance define the duties of said commissioners not herein enumerated.

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

SEC. 3. The said commissioners shall, from time to time, invest the money which shall constitute the sinking fund for the redemption of the city debt, or any surplus or interest to the credit of the interest fund, or as much as they can, in the purchase of bonds issued by said city, or bonds issued by the board of education of said city, at the market value thereof; and the said commissioners shall be authorized to invest the said moneys, or such part thereof as they see fit, either in the purchase of said bonds or in the bonds of the state of Minnesota, or in the United States bonds, notwithstanding the said state or United States bonds may be above the par value thereof, or deposit the same in a designated depository as hereinafter provided; *Provided*, that they shall at all times give the preference to the purchase of city bonds if the same can be procured at reasonable rates.

SEC. 4. In case said city bonds cannot be purchased at par value and said commissioners shall deem it desirable, they may deposit a

part or all of said interest and sinking fund in one (1) or more designated national banks, savings banks, state or private banks, in the name of the city of Rochester. Such bank or banks or banker shall be designated by said commissioners, after advertising in one (1) or more newspapers published in the city of Rochester for at least one (1) week for proposals, which proposals shall state what security will be given to said city for such funds as deposited and what interest will be paid on the amount so deposited; and said funds, with the accrued interest, shall be held subject to check and payment from and after a time designated by said commissioners at the time of depositing said funds.

SEC. 5. Before any national, state, private or savings bank or bankers shall be designated as such depository, such bank or bankers shall deposit with the city clerk of said city a bond payable to the said city of Rochester and signed by not less than six (6) freeholders of said city as sureties, which bond shall be approved by the common council of said city and shall be in such an amount as said council shall direct, which amount shall be at least double the amount of funds to be deposited with such bank or bankers.

Said council may at any time require from such depository further or additional security; and in case of the neglect or refusal to furnish such security to be approved by said council, said commissioners shall withdraw the amount deposited in any such depository, and such depository shall pay interest upon the amount so deposited up to the time of such withdrawal.

SEC. 6. Whenever the said commissioners shall have invested any part of said fund in the purchase of the several description of bonds mentioned in this act, and shall at any time thereafter deem it for the best interest of said city that any part, or all, of the bonds of any such description be sold and the proceeds invested in any other description of such bonds, or such proceeds covered into the city treasury or deposited as hereinbefore provided, they shall have power to sell any such bonds at not less than the market value thereof, and reinvest or deposit the proceeds thereof.

SEC. 7. Whenever any of the moneys constituting the sinking fund for the redemption of the city debt shall be required for any such purchase or investment, deposit, or for the redemption of city bonds at their maturity, the amount of money so required shall be paid by the city treasurer upon the warrant of said commissioners. The city clerk shall attest said warrant and affix the seal of the city thereto.

SEC. 8. Whenever any of the money constituting said sinking fund is on deposit in a designated depository the same shall be paid by said depository upon the warrant of said commissioners. The city clerk shall also attest said warrant and affix the seal of the city thereto.

SEC. 9. It shall be the duty of the city clerk to attend all the meetings of said commissioners and to keep a correct journal of all their proceedings, which said journal shall be verified by said commissioners and attested by said clerk; and once in each year, and oftener if required by the common council, said commissioners shall render to the common council a full and detailed report of the proceedings of said commissioners, and all investments or other acts of said commissioners shall be based upon resolutions duly entered in said journal.

SEC. 10. In the event of a vacancy in office or inability of any of said commissioners to attend to the trust hereby imposed, it shall be the duty of the common council, by resolution, to designate one (1) or more of their number to supply the place of such commissioner for the time being.

The said commissioners shall meet upon the call of any one of them, and the mayor, or, in his absence, the acting mayor, shall preside at all meetings of said commissioners.

SEC. 11. All bonds and securities purchased by said commissioners shall be held in safe keeping by the city treasurer.

Whenever city bonds are paid by warrant of said commissioners, a record thereof shall be made in the book of said commissioners, and the said bonds shall be carefully canceled and burned by said commissioners in the presence of the common council.

SEC. 12. It shall be the duty of said commissioners to protect the credit of the city, and direct and superintend the remission of funds for the payment of interest on the bonded indebtedness of the city to the place where said bonds or interest may be payable, and if, at any time, said commissioners shall find that the interest fund for the payment of the interest upon the bonded indebtedness of said city shall not be sufficient to meet and pay such interest the commissioners may, by resolution to be entered upon their record and signed by them, recommend to the common council that any surplus balance to the credit of the sinking fund, or so much thereof as may be necessary to meet and pay said interest, may be transferred to the credit of said interest fund; or, in case of a surplus of the interest fund for any one year, they may recommend in like manner that said surplus be transferred to the credit of the sinking fund; *Provided*, that before said resolution and recommendation shall become operative, the same shall be reported to the common council and shall be approved by a resolution thereof, and the said resolution shall be certified by the city clerk to the commissioners and entered upon the record of said commissioners, and the same shall authorize said commissioners to make said transfers; *Provided further*, that this section shall not be so construed as to permit the transfer of funds from the interest or sinking fund to the credit of any other fund of said city, and that any other transfer of said funds is hereby forbidden.

SEC. 13. Whenever the sinking fund provided for in this act shall be insufficient to pay all the bonds of the city that may at any time become due, the common council may issue the bonds of the city, to run not to exceed twenty (20) years, on such terms as to the place of payment and rate of interest as may be deemed advisable, and to such an amount as may be necessary to meet such deficiency; but neither the common council nor any officer or officers of said city shall otherwise, without special authority of law or the provisions of this act, have authority to issue any bonds of said city or create any debt or any liability against said city in excess of the amount of revenue actually levied and applicable to the payment of such liability; *Provided*, that the common council may provide for the issuing of orders, payable not more than one (1) year after the date thereof out of the general or any special fund of said city, with interest at a rate not exceeding eight (8) per cent; but no more than ten thousand dollars (\$10,000) of such orders shall be outstanding and unpaid at any one time.

SEC. 14. If the common council shall deem it advisable, they may issue the bonds of the city, to run not to exceed twenty (20) years, on such terms as to place of payment and rate of interest as may be deemed advisable, and to such an amount as may be necessary to pay the bonds now outstanding against said city; *Provided*, that the rate of interest shall not be to exceed seven (7) per cent.

CHAPTER VII.

BONDS FOR LOCAL IMPROVEMENT.

SECTION 1. The common council, for the purpose of defraying the costs and expenses of making such local improvements within said city or building sewers therein, as may from time to time be hereafter determined to be made by said council, may from time to time issue the bonds of said city, to be designated as follows:

Those for local improvements shall be known as "City of Rochester Improvement Bonds," and those for building and repairing sewers shall be known as "City of Rochester Sewer Bonds," which bonds shall not exceed twenty-five thousand dollars (\$25,000) outstanding at any one time, such bonds to bear interest at such a rate payable annually or semi-annually, either in said city or in the city of New York, and the principal thereof to mature at such time or times and to be payable at such place as may in each case be determined by the common council. The several installments of interest accruing upon any such bonds shall be evidenced by coupons thereto attached. All such bonds and coupons shall be signed by the mayor and the city clerk of said city and sealed with the corporate seal thereof.

No such bonds shall be sold or in any manner disposed of by said city or said common council at less than their par value; *Provided*, that no such bonds shall be issued until the legal voters of said city of Rochester shall, in the manner hereinafter provided, determine that the same be issued; *And provided further*, that the provisions of this section shall not apply to the construction of any railroad within said city, nor shall any bonds or other evidence of indebtedness of said city be issued to any railroad or railroad company under the provisions of this act.

SEC. 2. Whenever the common council shall determine to make any such improvements and issue any such bonds, it shall adopt and enter upon its record a resolution setting forth the purpose for which such bonds are to be issued, the amount of such bonds to be issued, the rate of interest thereon and how payable, the time or times when the principal of such bonds shall become due, the place where such bonds are to be made payable, and all other conditions of the issue of such bonds; and shall also determine the time when the question of the approval or rejection of such resolution and the issuing of such bonds will be submitted to the legal voters of said city for their determination; and shall order a special election to be held within said city, upon a designated day, for the purpose of submitting such question to such voters; *Provided*, that such question shall not be submitted to the voters of said city at any general or charter election thereof.

And thereupon the city clerk of said city shall cause a copy of such resolution, together with a notice of the time of holding such election

at which the question of approval or rejection of such resolution and of the issuing of such bonds will be submitted to the legal voters of said city of Rochester for their approval or rejection, to be published in the official paper of said city for at least two (2) successive weeks, once in each week, next preceding such election, and by posting copies of such notice in three (3) of the most public places of said city, and due proof of such publication and posting shall be made and filed in the office of the city clerk of said city.

SEC. 3. Such election shall be conducted and the votes canvassed and return thereof made in the same manner as is prescribed by law for the election of the officers of said city at the annual charter election.

SEC. 4. The voters at any such election casting their ballots in favor of the approval of any such resolution and for the issuing of any such bonds shall use ballots having distinctly printed or written or partly printed and partly written thereon the words: "For approval of the resolution of the common council of the city of Rochester, authorizing the issue of the bonds of said city (state object for which the bonds are to be issued), and for issuing such bonds. Yes."

And those casting their ballots against the approval of any such resolution and issuing of any such bonds shall use ballots having distinctly printed or written or partly printed and partly written thereon the words: "For the approval of the resolution of the common council of the city of Rochester, authorizing the issue of the bonds of said city (state purpose for which the bonds are to be issued) and for issuing such bonds. No."

SEC. 5. If three-fifths ($\frac{3}{5}$) of the votes cast at any such election shall be in favor of the approval of any such resolution and the issuing of such bonds, then said common council shall issue such bonds in the amount and upon the terms and conditions in said resolution specified, and not otherwise.

SEC. 6. The amount received from the sale of any such bonds shall be paid into the city treasury and placed to the credit of the proper fund for the benefit of which said bonds were issued.

SEC. 7. No proposition shall be submitted to the people under this chapter unless five-sevenths ($\frac{5}{7}$) of the members of the common council shall vote in favor of such submission.

CHAPTER VIII.

SEWERS.

SECTION 1. The common council of said city, in addition to the powers conferred on said common council by this act, shall have power to establish and maintain, at any time and from time to time, any general system of sewerage for said city or for any sewerage district into which said city, or any part thereof, may hereafter be divided, or for any part or portion of said city, in such manner and under such regulation as said council may deem expedient, and such system or systems of sewerage to alter or change from time to time as said council may deem proper; *Provided*, that the sewerage plans and systems heretofore adopted by said common council shall continue to be the sewerage plan and system of said city until changed or modified by said common council.

SEC. 2. The said common council, for the purpose aforesaid, shall have power, at any time and from time to time, divide the said city of Rochester or any such part or parts thereof, as said council may deem expedient, into sewerage districts and to change or alter the same from time to time and to create a district sewerage fund for each or any of said districts in such manner and under such regulations as the said common council may deem expedient.

SEC. 3. The said common council is authorized, whenever it may deem the same necessary, to cause sewers to be constructed in any street or alley within said city, and to levy and collect the cost and expense thereof, excepting street and alley crossings and catch basins, or such portion of cost and expenses as said council may deem just, by an assessment upon the properties abounding or abutting on the portion of such street or alleys along which such sewers may be constructed, or an equal sum per foot front of such properties, or such cost and expense may be assessed partly upon such abutting properties and partly upon the property not abutting upon such street or alley, but benefited by such sewer. In either case such assessment may be made without regard to the cash or assessed valuation of any such property, and said council shall determine what proportion of such cost and expense shall be assessed upon such abutting, and what proportion thereof upon such non-abutting property; in either case the assessment per front foot shall be equal upon all classes of property of the same class. The cost and expense of any such sewer may be assessed partly in the manner aforesaid, upon the two (2) classes of property above named or either of them, and partly by taxation upon the whole property of the city; but in no case shall more than one-half (½) of the cost of said improvements be assessed upon the whole property of the city or the sewerage district within which such sewer or sewers may be constructed.

The cost and expense of street and alley crossings and of all catch basins shall be paid out of the sewerage fund of the city, or out of the sewerage fund of the proper district.

SEC. 4. Whenever said common council shall vote to cause any such sewer as is mentioned in this act to be made, it shall determine and designate in a general way as nearly as may be practicable the character and extent of such improvement and the material to be used therein, and it shall thereupon be the duty of the city engineer of said city, or any other competent engineer designated by said council for that purpose, to make and present to said council an estimate of the cost of such improvement. Upon the reception of such report, said council may postpone action thereon to any regular or special meeting thereof, and may direct the city clerk of said city to advertise for and receive in the meantime bids for doing the work and furnishing the material, or either, required to construct or complete such improvement, and report the same to said council, or said council may, in any other manner, obtain information respecting the probable cost of such improvement.

SEC. 5. Whenever said council shall have obtained such information as it may deem necessary with reference to such improvement, it shall determine the manner in which the cost and expense thereof shall be assessed. If it shall determine that the whole or any part of such cost and expense shall be assessed upon any properties bounding or abutting upon such improvement, or partly upon such properties

and partly upon properties not so bounding or abutting but benefited thereby, it shall determine what properties are within each of said classes, and the proportion of such cost and expense to be assessed upon the properties in each of such classes, and shall appoint a meeting of such council, at which all persons interested in such improvement may be heard; and thereupon said city clerk shall prepare a list which shall contain the names of the owners, so far as the same are known, and a description of each and all of such properties, which list, together with the notice of the time and place of such meeting, he shall cause to be published once in the official paper of said city, and which publication shall not be less than ten (10) days prior to such meeting. At the time and place appointed for such meeting, said council shall meet and hear all persons interested in such improvements who may desire to be heard, and the council may adhere to its resolution to make such improvements, or modify the character thereof or manner of assessing the cost and expense thereof, or may abandon it.

SEC. 6. If said council shall determine to make such improvement it shall let the contract to the lowest responsible bidder, and shall enter into a written contract with him for the construction thereof, and said council shall require a bond on the part of the successful bidder, conditioned for the faithful performance of the contract, in such sum and with such sureties as the council may determine, which bonds shall be approved by the council.

SEC. 7. When such improvement shall have been completed the said council shall proceed to apportion and assess the expense of such improvement upon the principle and in accordance with its previous determination in the matter, and shall cause to be made and adopt an assessment of such cost and expense which may be in the following or any other form which said council may deem proper, viz.:

“The common council of the city of Rochester doth hereby assess and levy upon and against the several lots and parcels of land described below and situated in said city the respective sum of money set opposite each lot or parcel.

This assessment is made to defray the cost and expense of constructing a sewer along.....from.....to.....in said city.

Said lots or parcels of land abutting upon such improvement are assessed upon the basis of.....per foot front, and said lots not abutting upon but benefited by such improvement upon the basis of.....per front foot.

NAME OF OWNER, IF KNOWN.	DESCRIPTION OF LAND.	LOT.	BLOCK.	ABUTTING OR BENEFITED.	AMOUNT.	
					DOLLARS.	CENTS.

Done at a meeting of said common council held this.....day of
.....A. D. 18.....

Attest:

Mayor.

.....
City Clerk.

Such assessment shall be returned to the county auditor of the county of Olmsted on or before the first (1st) day of September next after the making thereof.

Said auditor shall extend the said assessment upon the tax list as a tax upon the several lots or parcels of land in said assessment described, and such taxes shall be collected and the payment thereof enforced in the same manner as may by law be provided for the collection of state and county taxes.

No error or informality in the levy of any such tax, or in the making of such assessment, or in any of the proceedings herein provided, shall in any manner vitiate or affect the legality of such tax assessment or prevent the collection thereof.

SEC. 8. Said common council is hereby authorized to prescribe the conditions upon and manner in which any sewer that now is or hereafter may be constructed within said city may be tapped or connected with by any person, and also determine the amounts to be paid said city for permits for so doing, as well as to prescribe such regulations and enact such ordinances in relation to such sewers and sewerage, and for the protection and maintenance thereof, as said council may deem expedient.

CHAPTER IX.

PUBLIC IMPROVEMENTS.

SECTION 1. The common council shall have the care, supervision and control over all public highways, bridges, streets, alleys and grounds within the limits of said city, and shall cause all streets, alleys or highways within the city to be kept open and in repair and free from nuisances, and shall have the same authority for laying out public roads in the unplatted part of said city as is given to supervisors in the townships by the general laws of the state. No street or alley which shall hereafter be dedicated to public use by the proprietor or proprietors of grounds within said city shall be recognized as a public street or alley of said city, unless the common council shall first approve of the plat thereof, or accept such dedication, or afterwards confirm the same by ordinance specially passed for such purpose. The common council of said city, by a vote of not less than a majority of all the members elect, shall have power to lay out, open, alter and vacate public squares, streets, grounds, highways and alleys, and to widen and straighten the same; *Provided*, that whenever it shall be required to take private property for the purposes above stated, they shall proceed in the manner hereinafter provided:

First—The common council, upon ordering an improvement above mentioned to be made, shall appoint as many commissioners as there may be wards to said city, selecting one (1) from each ward, who shall be a disinterested freeholder and qualified voter of said city, to view the premises and assess the damages which may be occasioned by the taking of private property or otherwise in making said improvements. Said commissioners shall be notified, as soon as practicable, by the city clerk of said city, to attend at his office, at a time to be fixed by him, for the purpose of qualifying and entering upon their duties; and in case any such commissioners, upon being so notified, shall neglect

or refuse to attend as aforesaid, he shall forfeit and pay a fine to said city not exceeding fifty (50) dollars, and shall be liable to be prosecuted before the city justice of said city, as in case of fines or a violation of an ordinance of said city, and the commissioners in attendance shall be authorized to appoint another commissioner or commissioners in place of any absentee or absentees as aforesaid, selected from the ward in each case not represented, and possessing the qualifications aforesaid. In all other cases of vacancy the common council shall fill such vacancy.

Second—The commissioners shall be sworn by the city clerk to discharge their duties as commissioners in the matter with impartiality and fidelity, and to make due return of their actions and doings to the common council.

Third—The said commissioners shall, with all reasonable speed, with the assistance of the city engineer of said city, cause a survey and plat of the proposed improvement to be made and filed with the city clerk, exhibiting, as far as practicable, the land or parcels of property required to be taken or which may be damaged thereby, and shall thereupon give notice, by publication in the official newspaper of said city, for at least ten (10) days, to the effect that such plat has been filed and that the said commissioners will meet at a place and time designated by them, and thence proceed to view the premises and assess the damages for the property to be taken or which may be damaged by such improvement.

Fourth—At the time and place appointed according to said notice, the said commissioners shall view the premises, and may hear any evidence or proof offered by the parties interested, and adjourn from day to day, if necessary, for the purpose aforesaid. When the view and hearing aforesaid shall be concluded, they shall determine and assess the amount of damages to be paid to the owner or owners of each parcel of property proposed to be taken, or which may be damaged by such improvement, and in so doing shall take into consideration the value of the property proposed to be taken, with such other damages as may be incident thereto, and also the advantages which will accrue to such owner or owners in making such improvement.

Fifth—If there should be any building standing in whole or in part upon the land to be taken, the said commissioners shall, in each case, determine and assess the amount of damages which should be paid to the owner or owners thereof in case such building, or so much thereof as might be necessary, should be taken, and shall also determine and assess the amount of damages to be paid to such owner or owners in case he or they shall elect to remove such building, and the damages in relation to buildings aforesaid shall be assessed separately from the damages in relation to the land upon which they are erected.

Sixth—If the land and buildings belong to different persons, or if the land be subject to lease, mortgage or judgment, or if there be any estate in it less than an estate in fee, the injury or damages done to such persons or interests respectively may be awarded to them by the commissioners, less the benefit resulting to them from the improvement.

Seventh—The said commissioners, having ascertained and assessed the damage aforesaid, shall make and file with the city clerk a written report to the common council of their actions in the premises, embracing a schedule or assessment of the damages in each case, a description

of the land and the name of the owners, if known to them, and also a statement of the cost of the proceeding.

Eighth—Upon such report being filed in the office of the city clerk, the said city clerk shall give at least ten (10) days' notice, by publication in the official newspaper of said city, to the effect that such assessment has been returned, and that the same will be confirmed by the common council at a meeting thereof, and be named in said notice, unless objections are made in writing by persons interested in any land required to be taken. Any persons interested in buildings standing, in whole or in part, upon any land required to be taken by such improvement, shall, on or before the time specified in said notice, notify the common council, in writing, of their election to remove such building according to the award of the commissioners. The common council, upon the day fixed for the consideration of such report, or at such subsequent meeting, to which the same may stand over or be referred, shall have power in their discretion to confirm, revise or annul the assessment, giving due consideration to any objections interposed by parties interested.

Ninth—The damages assessed shall be paid out of the general funds of said city, and shall be paid or tendered, or deposited and set apart in the treasury of said city, to and for the use of the parties entitled thereto, within six (6) months from the confirmation of such assessment and report, and the land or property required to be taken for the purposes aforesaid shall not be appropriated until the damages awarded therefor to the owner thereof shall be paid or tendered to the owner or his agent, or deposited and set apart for his use as aforesaid, and in case the said city should be unable to determine to whom the damages in any particular case so awarded should be paid, or in case of disputed claims in relation thereto, the damages in such case may be deposited by order of the common council in the district court of the county in the same manner as moneys are paid into court, until the parties entitled thereto shall substantiate their claim thereto.

Tenth—In case any owner or owners of buildings, as aforesaid, shall have elected, in manner aforesaid, to remove his or their buildings, he or they shall so remove them within thirty (30) days from the confirmation of said report, or within such further time as the common council may allow for the purpose, and shall therefor be entitled to payment from city of the amount of damages awarded in such case in case of removal. When such person or persons shall not have elected to remove such buildings, or shall have neglected (after having elected to remove) to remove the same within the time prescribed, such buildings, or so much thereof as there may be necessary, upon payment or depositing the damages awarded for such taking in manner aforesaid, may be then taken and appropriated, sold or disposed of, as the common council shall direct, and the same extra proceeds thereof shall belong to said city.

Eleventh—When any known owner of lands or tenements affected by any proceedings under this act shall be an infant or labor under legal disabilities, the judge of the district court, or, in his absence, the judge of any court of record, may, upon application of said commissioners or of said city, or such party of his next friend, appoint a suitable guardian for such party, and all notices required by this act shall be served upon such guardian.

Twelfth— Any person feeling himself aggrieved by such assessment may, by notice in writing served on the mayor of said city (a copy whereof, with proof of service, shall be filed in the office of the clerk of the district court of the county within twenty (20) days from the time of confirmation of said report or assessment), appeal from such assessment to the district court aforesaid, when such appeal shall be tried by the court and jury as in ordinary cases; but no pleadings shall be required, and the party appealing shall specify in a notice of appeal the grounds of objection to such assessment, and shall not be entitled to have any other objections than those specified considered; and a transcript of such report certified by the city clerk, or the original thereof, shall be *prima facie* evidence of the facts therein stated, and that such assessment was regular and just and made in conformity to law. The judgment of such court therein shall be final. Such appeal shall be entered and brought on for trial and be governed by the same rules in all other respects as appeal from justices of the peace in civil suits.

SEC. 2. *Contracts—How Made.*—The common council of said city shall have power to ordain and contract for the making, grading, repairing, cleaning, improving and adorning of the streets, alleys, highways, public grounds, reservoirs, gutters and sewers, and building and repairing sidewalks and crosswalks within said city and to direct and control the persons employed therein, and all such improvements shall be superintended by the city engineer or his assistants.

SEC. 3. *Cost of Improving—How Paid.*—The cost and expense of surveying streets, alleys and sidewalks and estimating work thereon shall be paid out of the general city fund, and repairing and cleaning streets and alleys shall be chargeable to and payable out of the street and alley fund of said city. Grading, guttering, graveling or planking streets and alleys to the centre thereof, including the intersections of streets and alleys intersecting the streets to be improved, shall be chargeable to and payable by the lots fronting on such street or alley so improved within the line of improvement, so far as the work extends, and each lot on the line of such improvement shall be assessed and chargeable with the cost of improvement made in, proportion to their fronts on such street or alley; *Provided*, that when the streets or alleys intersecting the street or alley to be improved are improved at the same time, the cost of improving intersections shall be chargeable in equal proportions upon the streets and alleys so improved in proportion to their frontage thereon, within the line of the improvement; *Provided further*, for the purpose of such assessment, the sides of all lots adjoining said improvements shall be deemed fronts.

SEC. 4. *Streets Graded—When.*—No grading of streets or alleys to be done at the expense of the lots fronting such improvements shall be ordered by the common council, except upon a petition of a majority of the owners of the lots chargeable with the expense thereof. On receipt of such petition the common council may, if they deem it for the best interest of the city, grant the prayer of the petitioners, by resolution passed to that effect, and shall require the city engineer to examine the premises and report a grade, if one be not already established, and an estimate of the whole expense thereof, and shall file in the office of the city clerk an accurate survey and profile of such grade.

SEC. 5. The common council of said city shall have power to pave or macadamize, or repave or remacadamize, any street or alley, or cause the same to be done by written contract, on the petition of a majority of the property owners abutting upon such street or alley upon which said improvement is made, and partly by taxation upon the whole property of the city; but in no case shall more than one-half (½) of said improvement be assessed upon the whole property of the city; or the whole of such cost and expense may be wholly by taxation upon the whole property abutting such improvement. The cost and expense of such improvement on all street or alley crossings shall be paid out of the street and alley fund of said city.

SEC. 6. The common council of said city shall prescribe the width of all sidewalks by them ordered to be constructed or repaired, and the material and construction thereof, and all sidewalks in said city shall be built upon an established grade.

SEC. 7. The common council or city engineer of said city shall have power to prevent the laying out or construction of any sidewalks which shall not be constructed in the manner or of the material, width, size or grade established by such ordinance, and may also require the repair, removal or reconstruction of any sidewalk now laid, and which may not be of the width, grade or material designated in such ordinance.

SEC. 8. Whenever the common council of said city shall deem it necessary to construct or rebuild any sidewalk in said city, they shall, by resolution, require the city engineer or his assistants to publish a notice to all owners or occupants of any lot or parcel of land adjoining such proposed sidewalks to construct or rebuild so much thereof as adjoins their several lots at his or their own expense and charge, within a certain time designated in such notice, not less than thirty (30) days from the first publication thereof. The said notice shall be published in the official paper of said city not less than two (2) weeks, and shall contain a substantial description of the locality where each sidewalk is to be constructed or rebuilt, the nature of the work to be done and the time within which the owners or occupants are required to do the same; and in said resolution said council shall order the city engineer, or his assistants, to build or reconstruct, as the case may be, such sidewalk, if the same is not built or reconstructed within the time aforesaid by the owners or occupants of the abutting property, at the expense of said property.

SEC. 9. If any such work or any part thereof is done by the city as provided in section eight (8), the common council shall assess the expense of the building or repair of said sidewalk, with interest on the cost thereof at the rate of two (2) per cent per month from the time of performing said work until the first (1st) day of June next thereafter, upon such lots or parts thereof so chargeable, in such manner that each lot or part thereof shall be charged with the whole expense, and interest as aforesaid, or of the cost of repair of said walk adjacent thereto; and such assessment shall be a lien upon said lot or lots, as in the case of the city, county and state taxes. And the common council shall cause a statement of such assessment to be returned to the auditor of Olmsted county at the same time with the city taxes levied by them, if any. And such assessment when so transmitted to said county auditor shall be collected and payment thereof enforced in like manner as city, county and state taxes are collected and payment thereof enforced.

SEC. 10. The expense of constructing or repairing sidewalks in said city shall include all stone work, excavation or filling to make the same upon established grades.

SEC. 11. All sidewalks constructed or repaired by the owner or occupant of any lot or parcel of land, in pursuance of notice under this act, or without such notice, shall be subject to the approval of the city engineer or his assistants of said city.

SEC. 12. No error or informality in the proceeding under this chapter shall vitiate the assessment made by virtue hereof, and any objection to any assessment shall be made to the common council before the return thereof to the auditor of the county of Olmsted; *Provided*, the notices hereinbefore provided for shall have been given and proof thereof filed with the city clerk of said city.

SEC. 13. No public grounds, streets, alleys or highways within said city shall be vacated or discontinued by the common council except upon a petition of three-fourths ($\frac{3}{4}$) of the owners of property on the line of such public grounds, streets, alleys or highways resident within the said city. Such petition shall set forth the facts and reasons for such vacation, accompanied by a plat of such public grounds, streets, alleys or highways proposed to be vacated, and shall be verified by the oath of at least two (2) of the petitioners. The common council shall, thereupon, if they deem it expedient that the matter should be proceeded with, order the petition to be filed of record with the city clerk, who shall give notice by publication in the official paper of said city for four (4) weeks, at least once a week, to the effect that such petition has been filed as aforesaid, and stating in brief its object and that said petition will be heard and considered by the common council, or a committee appointed by them, on a certain day and place therein specified, not less than ten (10) days from the expiration of such publication. The common council, or such committee as may be appointed by them for the purpose, at the time and place appointed, shall investigate and consider the said matter and shall hear the testimony and evidence on the part of parties interested. The common council thereupon, after hearing the same, or upon the report of such committee in favor of granting such petition, may, by resolution passed by a two-thirds ($\frac{2}{3}$) vote of all the members elect, declare such public grounds, streets, alleys or highways vacated, which said resolution, after the same shall go into effect, shall be published as in the case of ordinances, and thereupon a transcript of such resolution, duly certified by the city clerk, shall be filed for record and duly recorded in the office of the register of deeds for the county of Olmsted.

SEC. 14. Any person aggrieved thereby may, within twenty (20) days after the publication of such resolution, appeal to the district court of Olmsted county under the same regulations as in the case of opening streets and alleys, and the judgment of said court thereon shall be final.

SEC. 15. Whenever any public ground, street or alley shall be laid out, widened or enlarged under the provisions of this chapter, the common council shall cause an accurate survey and plat thereof to be made and filed in the office of the register of deeds for Olmsted county.

SEC. 16. The grade of any street now established, or which may hereafter be established, may be changed by the common council on a vote of five-sevenths ($\frac{5}{7}$) of all the aldermen elected in favor of such

change of grade. The common council shall cause to be established, under the direction of the city engineer or his assistants, the grade of all streets, sidewalks and alleys in said city which they may consider necessary to be graded, and shall cause an abstract of the same to be made, showing the points at which the said graded line begins, ends and changes; also, the elevation or depression, differences of these points as compared with the point from which the levels for all street grades are taken, the distance between each change and the ratio of inclination between the points of change. The city clerk of said city shall record said abstract in a book kept by him for that purpose, certifying to the same; also, certify to the time of its adoption. The city clerk shall furnish a certified copy of such abstract to the register of deeds of Olmsted county, who shall record the same in a book kept for that purpose. The city clerk shall also furnish to the register of deeds a certified copy of all abstracts of grades now on record in his office, who shall also record the same in a book kept by him for that purpose. Should the grade line so established be, at any time thereafter, altered, all damages, cost and changes arising therefrom shall be paid by the city to the owner of any lot or parcel of land or tenement which may be injured in consequence of the alteration of such grade.

CHAPTER X.

SCHOOL DISTRICT AND SCHOOLS.

SECTION 1. The city of Rochester, in the county of Olmsted, shall constitute one school district under the general school laws of this state, except so far as they are modified in their application to said district by this act, and hereafter all schools organized therein in pursuance to this act shall be under the control and direction of a board of education, and be free to all persons between the ages of five (5) and twenty-one (21) years, resident in said city.

SEC. 2. The board of education shall consist of one (1) member from each ward and two (2) members at large. The members from the wards shall serve for two (2) years and the members at large for two (2) years and until their successors are elected and qualified.

SEC. 3. The board of education shall possess all the powers of boards of directors in independent school districts under the general school laws of this state, and, in addition thereto, such powers as are conferred upon them by this act; *Provided*, that taxes shall not be assessed or levied except as in said act, to which this act is an amendment as provided.

SEC. 4. The board of education shall have power to levy a tax on all taxable property in said city each year sufficient, with the amount received from other sources, to maintain necessary schools in said district ten (10) months in each year, including the amount required for fuel and repairs of school buildings; *Provided*, that said board shall not levy a tax of more than five (5) mills on the dollar of the valuation of said property in any one (1) year, except by and with the assent and approval of the common council of said city; and such taxes shall be levied and collected as other taxes are or may be levied and collected in said city

SEC. 5. For the purpose of purchasing necessary ground, improving and ornamenting the same and erecting school buildings thereon, the board of education shall have power, by and with the assent and approval of the common council of said city, to levy taxes on all the taxable property in said city not exceeding in any one (1) year ten (10) mills on the dollar of the assessed valuation thereof, and may for like purposes and for the purpose of funding the present school debt, and with like assent and approval of said common council, issue the bonds of said district, payable on or before fifteen (15) years after date thereof, with interest not exceeding seven (7) per cent per annum, payable annually; *Provided*, that not more than fifteen thousand dollars (\$15,000) of such bonds shall be outstanding and unpaid at any one time.

SEC. 6. The board of education shall have full control of all the public schools in said district, and shall have power to direct where pupils shall attend school, what books shall be used in the several schools and may grade said schools, and make and enforce any reasonable rules or regulations pertaining to the management and government of such schools.

SEC. 7. Within fifteen (15) days after each annual election in said city, which shall be the annual election of said district, said board of education shall meet at the office of said board, and after being duly qualified, shall proceed to elect one of their number president and one of their number clerk. The clerk shall receive for his services such compensation, not exceeding one hundred dollars (\$100) per annum, as may be determined by said board.

The president shall preside at all the meetings of the board, but shall have only a casting vote in case of a tie; he shall sign all orders drawn on the treasurer voted to be paid by said board. A majority of said board shall constitute a quorum for the transaction of business, but the president of said board is not to be considered a member for the purpose of making such a majority. No money or tax shall be legal unless sustained by a majority of all the board elected, and in the making of such majority the president is not to be considered a member of said board.

SEC. 8. The clerk shall act as clerk of the district, as all district clerks are now required by law, and perform the duties required of clerks under the general school laws of this state, and make all necessary returns to entitle said district to the benefits of the appropriation of the common school fund; also, draw and attest all orders on the treasurer for money voted by said board, and keep all district accounts as required by law.

SEC. 9. The county treasurer of Olmsted county shall pay all orders signed by the president of the board of education of said city and attested by the clerk of said board, if there are sufficient funds in his hands belonging to said district, and shall deliver to the board of education the said orders so paid by him at the time of settlement with the said board; and the duties of the office of the district treasurer are hereby devolved upon the county treasurer of said county, and the office of district treasurer is hereby abolished, and the said county treasurer shall not receive any compensation for the services herein provided for.

SEC. 10. No money shall be drawn from the county treasury for or on behalf of said school district, except on an order signed by the

president of the board and attested by the clerk, stating in said order for what purpose the same is drawn; and the records of the district shall be so kept as to show the name of each member of the board of education voting for any appropriation, and no order shall be drawn on the county treasurer of said county of Olmsted on behalf of said district except upon the affirmative vote of a majority of said board.

SEC. 11. If a quorum of the members of said board shall not be present at any duly called meeting of said board, the members present shall adjourn from time to time until such a time as a quorum shall be present, and they shall have the same power to compel the attendance of absent members as are given by this act to the members of the common council of said city.

SEC. 12. The board of education shall annually, on the first (1st) Monday of September of each and every year, make a detailed report to the common council of said city of the receipts and expenditures of said board for the preceding year, ending July 31st, and showing such report the amount of outstanding indebtedness in orders or bonds, or both, and the accrued interest thereon.

SEC. 13. The board of education of school district No. 8 of Olmsted county, the same being the school district included in the limits of the city of Rochester, are hereby authorized to sell and convey any real estate not used for public purposes belonging to said school district or in which said school district has any interest; all conveyances for the same shall be executed by the president and clerk of said board on behalf of said school district.

SEC. 14. All acts and parts of acts in the general school laws and in the charter of the city of Rochester conflicting with the provisions of this act are hereby repealed, so far as they relate to the school district herein named.

CHAPTER XI.

JURY LAW—TO PROVIDE FOR THE SELECTING, DRAWING AND IMPANELING JURORS IN THE CITY OF ROCHESTER, IN THE COUNTY OF OLMSTED.

SECTION 1. The common council of said city shall, on the first (1st) Monday of May in each and every year, select from the qualified electors of said city, properly qualified to act as jurors in the district court, one hundred and sixty-eight (168) persons, and to make a list thereof, which list shall be signed by the mayor and certified by the clerk of said city, and shall deliver the said list to the said clerk, and the persons so elected shall constitute the jurors for the city justice's court for the year ensuing, unless there shall be a deficiency, which shall be supplied as hereinafter provided. In preparing such list the common council shall select such persons only as they know or have good reason to believe are possessed of the qualifications of jurors and not exempt by law.

SEC. 2. The city clerk of said city, on receiving the said list selected by the common council, shall file the same in his office, and write the names of the persons contained in said list on separate pieces of paper, and fold up such pieces of paper, each in the same manner, as nearly as possible, so that the name written thereon shall not be visible, and shall place the same in seven (7) envelopes, with

twenty-four names in each envelope, and securely seal the same and number the said envelopes from one (1) to seven (7), inclusive, and file and securely keep the same in his office, to be used in impaneling a jury, as hereinafter provided.

SEC. 3. Whenever, in any action before the said city justice, cognizable before said justice, a jury trial shall be demanded, the said justice shall, by written order, require the clerk to deliver to the officer of said court one (1) or more of said envelopes, as may be necessary, commencing with the one numbered one (1), and consecutively, in the order of numbering, until a jury is impaneled.

SEC. 4. In the trial of any action cognizable by the said city justice, the officer of the said court shall break the seal of said envelope and deposit the pieces of paper with the names written thereon in a box to be provided for that purpose, and shall draw out of the said box one (1) of the pieces of paper, and shall distinctly pronounce the name written thereon, and if no objection is made by either party, the name so drawn shall be one of the names of persons to comprise the jury, and he shall continue to draw out the said names until the panel is full, when the names shall be returned to the envelope and sealed up and returned to the city clerk to be by him securely kept until the same shall be again needed in impaneling a jury.

SEC. 5. In the trial of any action in the said city justice's court, the plaintiff and defendant shall be each entitled to six (6) peremptory challenges, and the defendant shall first take his challenge to an individual juror when the name is drawn from the box, as hereinbefore provided, and if not challenged by the defendant the plaintiff may challenge the said juror; but no more than six (6) peremptory challenges shall be allowed by either party in the trial of the action, but either party may challenge a juror for cause when the jury is summoned and appear in court before the jury is sworn, and upon each challenge for cause the city justice shall determine whether the juror challenged is indifferent between the two parties, and his decision thereon shall not be subject to exception or appeal, and if the juror is excused another name shall be drawn from the box by the officer, and if no challenge to the person so drawn, he shall be sworn as a juror. And in case the names in the box shall be exhausted before the impaneling of a jury, the names contained in another envelope shall be put into the box, and so on, until a jury is obtained for the trial of the action; *Provided*, in case there shall be more than one (1) defendant in the action, all the defendants shall join in the challenge of the juror, either peremptorily or for cause.

SEC. 6. The envelopes used to impanel a jury from shall not be again used in the impaneling of a jury until the whole number of envelopes have been used, when those first used may be again used during the year as often as necessary, commencing with number one (1) and using the same continuously to number seven (7).

SEC. 7. The common council, in selecting the names of persons that comprise the jury list, shall not select the names of persons that were on the jury list the year next preceding the said election, and it shall be so arranged and provided that persons shall not be compelled to serve as jurors in the city justice's court only in alternate years, one year out of two.

SEC. 8. If there be a deficiency of jurors in said court, for any cause, the officer shall, under the direction of the said city justice,

summon from the bystanders or others a sufficient number to fill the panel, after all the names on the jury list shall have been exhausted, in the trial of any action pending in said court.

SEC. 9. The city justice shall issue a venire, as in civil and criminal cases, to compel the attendance of the person so drawn, and may compel the attendance of any juror by attachment, and for that purpose shall have the power of a court of record to punish, as for contempt, by fine not exceeding one hundred dollars (\$100) and imprisonment not exceeding ninety (90) days.

CHAPTER XII.

MISCELLANEOUS PROVISIONS.

SECTION 1. All civil actions to recover any penalty or forfeiture under this act, or under any ordinance or regulation passed in pursuance thereof, or for any other authorized purpose, and all prosecutions for the violation of any penal provision in this act, or of any ordinance or regulation adopted in pursuance of this act, shall be brought in the corporate name of the city.

SEC. 2. In any complaint for the violation of any ordinance of said city, relating to the offense of vagrancy, it shall be sufficient to charge the defendant with being a vagrant, and evidence of all facts constituting the said offense in the particular case may be given under such general charge.

SEC. 3. No person shall be an incompetent judge, witness, juror, referee or commissioner, in any action or proceeding to which said city is a party, by reason of his being an inhabitant thereof.

SEC. 4. All deeds, leases or other conveyances or other written transfers of property made, and all written contracts entered into by the city, and all bonds or other evidences of debt issued by the city, shall, on behalf of the city, be signed by the mayor and attested by the city clerk.

SEC. 5. Services of process and writs, in any action or other judicial proceeding against the city, shall be made upon the mayor, and upon such service being made, the mayor shall immediately inform the common council thereof, and shall take such other steps in relation to the action or proceeding in which such process or writs are issued as may be required by ordinance in such case provided, or by resolution of the common council.

SEC. 6. When any final judgment shall be recovered in any complaint against the city, the same shall be paid out of any moneys in the general fund in the city treasury not appropriated or required for other purposes. If there are no moneys in said fund which can be devoted to the payment of such judgment without injury to other interests of the city, the amount of such judgment, with interest thereon, shall be included in the next levy of taxes ordered by the common council, and when collected shall be paid to the holder of such judgment.

SEC. 7. All real estate and the appurtenances thereto, all buildings, all engines, trucks, carts, appliance and apparatus, all machinery and all other property of any kind or description which is now or may hereafter be owned or held by said city or the board of education for

city or public uses or purposes, shall be exempt from taxation and seizure or sale under or by virtue of any execution or other writ or by virtue of any action or proceeding. Nor shall any real or personal property of any inhabitants of said city, or of any individual or corporation, be levied on and sold by virtue of any execution issued to satisfy or collect any debt, obligation or contract of said city.

SEC. 8. Said city shall have the right to take and to prosecute an appeal to the district court of Olmsted county, or to the supreme court of this state, in any action or proceeding to which it may be a party, if the judgment, order or decree from which it may desire to appeal is one from which an appeal would lie under the general statutes of this state. And whenever such appeal is taken by the city, the requisite bond on appeal shall be executed in the name of the city by the mayor and attested by the city clerk, who shall affix the corporate seal of the city thereto; but no sureties or justification shall be required on such bond.

The provisions of this section respecting bonds on appeal shall apply to all other bonds which it may become necessary for the city to furnish in actions or other judicial proceedings.

SEC. 9. Said city shall not be liable in any case for the board, washing or fees on commitment, of any persons who shall be committed to the jail of Olmsted county on charge or conviction of any offense under the general statutes of this state; *Provided*, the city of Rochester shall be liable in all cases for the board and jail fees of every person convicted of any offense committed within the city limits of said city, punishable under the state laws or ordinances of said city, who may be committed by any officer of the city or any magistrate to the jail of Olmsted county, when the fine, if paid, would go to said city.

SEC. 10. The said city may hold, lease and purchase real and personal estate sufficient for the convenience of the inhabitants thereof, and may sell and convey the same, and the same shall be free from taxation and assessment while the property of said city.

SEC. 11. All contracts made by the city, in which the consideration exceeds two hundred dollars (\$200), shall be let to the lowest responsible bidder; *Provided*, that no contract shall be let unless a notice of the time and place of letting such contract is first published, before the letting of said contract, in the official newspaper of said city, at least one (1) week before the letting thereof, and all contracts shall be signed by the mayor and countersigned by the city clerk of said city.

SEC. 12. All papers, files, plats and other public records required to be kept, preserved and filed, unless otherwise provided for in this act, shall be placed, filed and preserved in the office of the city clerk.

SEC. 13. No failure to hold any election in said city at the time or in the manner in this act prescribed, or any failure on the part of the common council, or of any city officer or officers, to perform any duty prescribed by this act at the time when or in the manner in which it should be performed, shall operate to dissolve or suspend said city as a municipal corporation, or to diminish or affect the city's municipal or corporate powers or privileges, but such election may be held or such duty be performed at a subsequent time with full force or effect.

SEC. 14. Any person who shall violate any of the provisions of this act, for the violation of which no punishment has been provided herein, shall be guilty of a misdemeanor, and, upon conviction thereof,

shall be punished by a fine not exceeding one hundred dollars (\$100) or by imprisonment in the city or county jail not exceeding ninety(90) days.

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

SEC. 16. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed; *Provided*, that the repeal of such acts or parts of acts shall not in any manner affect, injure or in any manner invalidate any bonds, contracts or demands that may have been heretofore issued, entered into or that may exist by virtue or in pursuance of said acts or any of them, but the same shall exist and be enforced and carried out as fully and effectually as if this act had not been passed; and all ordinances, resolutions, regulations, rules and orders of said city, or the common council thereof, heretofore passed or adopted, not in conflict with the provisions of this act, and shall have the same force and effect as if passed or adopted under the provisions of this act.

SEC. 17. The mayor of said city shall receive for his services seventy-five (\$75) dollars per year, and the aldermen of said city shall receive fifty (\$50) dollars per year for their services, and the chairman of the street and alley committee and the chairman of the finance committee of said council shall receive twenty-five (\$25) dollars additional for their services as such chairmen, and no other or further sum shall be paid said officers, or any of them, for any services which they may perform as such officers, and their salary shall not be increased or diminished during the terms of office for which they were elected. Any alderman or the mayor, acting or being appointed to act by the common council of said city as a member of any committee whatsoever of said council, shall receive no recompense for his services on such committee, except as herein provided.

SEC. 18. All officers of said city heretofore elected or appointed and now acting as such officers, shall hold their offices until the term for which they were originally elected or appointed shall expire.

It shall be the duty of the common council, holding their office at the time of the passage of this act, to appoint an alderman at large, who shall hold his office until the regular election of March, A. D. one thousand eight hundred and ninety-two (1892), or until his successor is elected and qualified.

The terms of the present members of the board of education shall expire only as at the time of their election; and all elections to fill vacancies from the expiring terms of any officer, or any member of the board of education, shall be held at the charter election next preceding the expiration of the term for which said officer or member was elected.

And all such officers and members so remaining in office under this act, shall have the same power and authority as if elected under this act.

SEC. 19. Nothing herein contained shall be construed to in any manner impair or alter the force and effect of any ordinance, by-law or resolution heretofore passed by the common council of said city of Rochester, which does not conflict with the provisions of this act.

SEC. 20. This act is a public act and need not be pleaded or proven in any court of this state.

SEC. 21. This act shall take effect and be in force from and after its passage.

Approved April 14, 1891.