

#12674
O.D.

CHARTER
of the
CITY of ELY, MINNESOTA



STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
SEP 22 1955

Joseph L. Hanson
Secretary of State

Adopted October, 1954

STATE OF MINNESOTA)
COUNTY OF ST. LOUIS) SS
CITY OF ELY)

I, the undersigned, being the duly qualified and acting Mayor of the City of Ely, Minnesota, do hereby certify that I have carefully compared the attached and foregoing copy of the City Charter of said City and certify that said Charter was submitted to the voters of the City of Ely and was approved, ratified and adopted by said voters by more than the required three-fifths (3/5) majority vote on October 5, 1954.

WITNESS my hand as such Mayor and the corporate seal of the city this 20th day of September, 1955.

STATE OF MINNESOTA
DEPARTMENT OF STATE
RECORDED
SEP 29 1955
John S. Henneman
Secretary of State

J. B. Grobner
Mayor
City of Ely

Table of Contents

	Page
CHAPTER 1.	
Names, Powers and Boundaries	3
CHAPTER 2.	
Elective Officers and General Provisions	4
CHAPTER 3.	
Elections	6
CHAPTER 4.	
The Mayor	10
CHAPTER 5.	
Duties of Appointive Officers	12
CHAPTER 6.	
Administrative Departments	17
CHAPTER 7.	
Council	19
CHAPTER 8.	
Powers of the City and of the Council	22
CHAPTER 9.	
Finances and Taxation	24
CHAPTER 10.	
Contracts	30
CHAPTER 11.	
Franchises	36
CHAPTER 12.	
Initiative	38
CHAPTER 13.	
Referendum	40
CHAPTER 14.	
Recall	41
CHAPTER 15.	
Eminent Domain	43
CHAPTER 16.	
Local Improvements and Assessments	45
CHAPTER 17.	
Vacating Streets and Alleys	58
CHAPTER 18.	
Police Department	59
CHAPTER 19.	
City Depositories	62
CHAPTER 20.	
Miscellaneous	63
Index	66

Chapter 1

NAME, POWERS AND BOUNDARIES.

SECTION 1. NAME AND POWERS: All that part of the County of St. Louis in the State of Minnesota, within the boundaries described in the next section, shall be a City, and the people now inhabiting or who shall hereafter inhabit said territory, shall form a municipal corporation under the name and style of "City of Ely," and by such name shall have a perpetual succession; sue and be sued, complain and defend, plead and be impleaded in any court, or tribunal, make and use its common seal, and alter the same at pleasure; take, hold and purchase, lease and convey any and all such real, personal or mixed property as its purposes may require, whether the same be with in or without the corporate limits of the city; shall be capable of contracting and being contracted with, and shall have all the general powers possessed by municipal corporations at common law, as well as all powers herein granted.

SECTION 2. CITY BOUNDARIES: The territory included within the following boundaries and limits shall constitute the City of Ely, viz.; The east one-half ($\frac{1}{2}$) of the northwest one-quarter ($\frac{1}{4}$), the southwest one-quarter ($\frac{1}{4}$) of the northwest one-quarter ($\frac{1}{4}$), the southwest one-quarter ($\frac{1}{4}$), and lot one (1) of Section twenty-six (26); the south one-half ($\frac{1}{2}$) and lots one (1), two (2), three (3), and four (4) of section twenty-seven (27); the northeast one-quarter ($\frac{1}{4}$) of the southeast one-quarter ($\frac{1}{4}$), the south one-half ($\frac{1}{2}$) of the southeast one-quarter ($\frac{1}{4}$), and lots one (1), two (2), three (3), and four (4) of section twenty-eight (28); the northeast one-quarter ($\frac{1}{4}$) of section thirty-three (33); the north one-half ($\frac{1}{2}$) of section thirty-four (34); and the northwest one-quarter ($\frac{1}{4}$) of section thirty-five (35), all in township sixty-three (63), north of range twelve (12), west of the fourth (4th) principal meridian.

SECTION 3. PRECINCTS: The City Council shall by resolution divide the City into at least three voting precincts, having as near as may be an equal number of legal voters of the City residing therein, all in conformity with the laws of the State of Minnesota.

Chapter 2

ELECTIVE OFFICERS AND GENERAL PROVISIONS

SECTION 4. OFFICERS TO BE ELECTED: Elective officers of the City of Ely shall be a Mayor and six Aldermen, Municipal Judge and Special Municipal Judge.

SECTION 5. OFFICIAL YEAR TERM. The official year for the City of Ely shall begin on January 1st, and the term of office of the Mayor and six Aldermen after the first election as hereinafter provided, shall be two years from and after the first Tuesday after the first Monday in January, next succeeding their election and until their successors shall have been elected and qualified.

SECTION 6. MUNICIPAL COURT JUDGES. The Municipal Judge and Special Municipal Judge of the Municipal Court of the City of Ely shall be elected at large from the electors of the City, and to hold their offices for such period or periods as is provided by Chapter 59, Special Laws of the State of Minnesota for the year 1891, or any laws amendatory or supplementary thereto.

SECTION 7. OFFICERS—HOW ELECTED. The Mayor, Aldermen, Judge and Special Judge of the Municipal Court shall be elected at large from the electors of the City.

SECTION 8. TRANSFER OF BOOKS AT EXPIRATION OF TERM OF OFFICE. Every elective and appointive officer shall, at the expiration of his term of office, in whatsoever way terminated, turn over to his successor in office, or to some other properly authorized officer, on demand, all the books, papers, files, records, moneys and other property and things whatsoever pertaining to his office or received by reason thereof.

SECTION 9. OATH OF OFFICE. Every person elected or appointed to any office, shall before he enters upon the duties of his office, take and subscribe an oath of office and file the same with the City Clerk, except the oath of City Clerk and the City Treasurer, which shall be filed in the office of the Register of Deeds of the County.

SECTION 10. OFFICIAL BOND. The Council shall fix the amount of the Bonds to be required of appointive officers, and the methods of their approval. The approval of said Bonds must be endorsed thereon. All Bonds when

approved shall be filed with the City Clerk, except the Bonds of the City Clerk and City Treasurer, which shall be filed in the office of the Register of Deeds of the County and that of the Assessor, which shall be filed with the County Auditor. The provisions of the laws of the State, relating to official bonds, not inconsistent with this Charter, shall be complied with.

SECTION 11. SALARIES. The Mayor shall receive an annual salary of Four Hundred Eighty Dollars (\$480.00), payable in equal monthly installments. Each Alderman shall receive an annual salary of Three Hundred Dollars (\$300.00), payable in equal monthly installments. The City Council shall in addition to said salary when acting as a Board of Equalization receive at the rate of Three (\$3.00) Dollars per day for the actual time they are necessarily employed in the duties thereof, together with the actual necessary expense paid or incurred by them, and for such further services they may perform as such Board and authorized by this Charter. Said compensation may be adjusted by resolution adopted by a majority of the Council and approved by a majority of the legal voters voting at the next general election following the adoption thereof.

SECTION 12. ADMINISTERING OATHS, SUBPOENAS. The Mayor, Aldermen and City Clerk shall have the power to administer oaths and affirmations and to issue subpoenas and to compel by subpoena the production of books, papers and documents and to take and hear testimony concerning any matter or thing legally pending before the council. If any person so subpoenaed neglects or refuses to appear or produce books, papers or documents required by such subpoena, or shall refuse to testify before the Council, he shall be deemed in contempt and the Council shall thereupon have power to take such proceedings in the premises as are provided by the General Laws of this State. The Chief of Police or any police officer, must on request of any member of the Council serve such subpoenas.

Chapter 3

ELECTIONS

SECTION 13. ELIGIBILITY TO ELECTIVE OFFICE.

No person shall be eligible to more than one elective office under the provisions of this Charter, and to be eligible to an elective office must be a qualified elector and a resident of the City of Ely for the period of thirty (30) days before the election and of the State of Minnesota six (6) months.

SECTION 14. ELECTION OF OFFICERS. GENERAL ELECTIONS. A General Election shall be held in and for the City of Ely, Minnesota, for the election of elective officers on the first Tuesday after the first Monday in the month of December of each year. Three Aldermen shall be elected in each odd numbered year, and a Mayor and three Aldermen shall be elected in each even numbered year. The Mayor and Aldermen shall hold office for a term of two years beginning on the first Tuesday after the first Monday in January following election to office and ending two years later on the first Tuesday after the first Monday in January and until their successors are elected and qualified. The Municipal Judge and Special Municipal Judge shall be elected at a municipal general election, and shall hold office as prescribed by Section 2 of Chapter 59, Special Laws of Minnesota, 1891, or any laws amendatory or supplementary thereto.

SECTION 15. SPECIAL ELECTIONS. Whenever necessary, the City Council may, by resolution adopted by a majority of its members, order a special election to be held for any legitimate purpose, designating polling places and providing necessary arrangements for holding same.

SECTION 16. WHO MAY BE CANDIDATES. Any person being a qualified elector of the City of Ely at the time of the election desiring to become a candidate for election to an elective office of the City or that may be voted upon at an election held in and for said City, shall, not later than the regular closing hour of the second Tuesday before the holding of such election file with the City Clerk of the City an application sworn to substantially in form as follows, viz.:

State of Minnesota, County of St. Louis—ss.

I, _____, being first duly sworn, do say that I reside at No. _____ Street, in the City of Ely, St. Louis County, Minnesota; that I am a qualified voter therein; that I have resided therein at least thirty (30) days prior to the election, and in the State of Minnesota at least six (6) months; that I am a candidate for the office of _____ to be voted upon at the election to be held on the _____ day of _____, 19____, to take office on the _____ day of _____, 19____, and expiring _____, 19____.

(Signed) _____

Subscribed and sworn to before me this _____ day of _____, 19____.

Official Title.

And at the time of filing said petition with the City Clerk said applicant shall make a deposit with the City Clerk in the sum of Five (\$5.00) Dollars, which shall be paid into the City Treasury by the Clerk.

SECTION 17. FILING OF APPLICATIONS. The City Clerk shall file the applications presented by all parties on the payment of said fee and in the order in which they are received, marking the day and hour of receiving the same, and give the party filing the same a receipt for the money paid, with a notation thereon of the day and hour received.

SECTION 18. PREPARATION OF BALLOTS. The City Clerk shall, when the election is for the election of officers, prepare a ballot in form as provided by law and known as the Australian Ballot, upon which shall be printed the names of all candidates who have filed for the purpose of election, and they shall be placed on the ballots in the order of their reception by the Clerk for the respective offices to be voted for, and said ballot shall have as many blank lines following the names of persons to be voted for as there are officers to be elected.

SECTION 19. HOW PLACED ON BALLOT. The names of candidates to be voted for shall be placed on the ballot with reference to the positions to be filled in the following order, viz.: Mayor, Aldermen, Municipal Judge, and Special Municipal Judge.

SECTION 20. NOTICE OF GENERAL AND SPECIAL ELECTION, HOW POSTED. Notices of every general and special election shall be posted in three of the most public places in the several voting precincts of the City at least twenty (20) days before the day of election and be published twice in the official paper of the City, stating the time, place and purpose of holding such election, and if for the election of officers, the official names of the officers to be voted on at the election.

SECTION 21. APPOINTMENT OF JUDGES OF ELECTION. The City Council shall at least twenty-five (25) days before any General Election appoint three qualified voters for each voting precinct in the City to be Judges of Election. Said Judges shall appoint two qualified electors for each polling place to act as Clerks of Election.

SECTION 22. MANAGEMENT OF ELECTIONS, CANVASS OF VOTE AND NOTIFYING OFFICERS ELECTED. The provisions of the State Law applicable to cities of its class relating to the qualifications of electors, preparing ballots, the manner of voting, duties of election officers and all other particulars in respect to the management of election so far as practicable, and not inconsistent with the provisions of this Charter, shall govern all such elections, and the canvassing of ballots cast at such elections shall be in full view and hearing at all times of all persons and in public, and the Election Board shall provide opportunity for any person to hear and keep count of ballots as they are counted and canvassed.

Within three days after any election, general or special, the City Council shall meet and canvass the election returns, and declare by resolution the results of said election. The City Clerk shall thereupon forthwith notify all officers elected of the fact of their election by notice delivered personally or by mail.

SECTION 23. MANNER OF FILLING VACANCIES. Any officer removing from the City or any person who shall fail to qualify to enter upon the duties of his office, prior to the first Tuesday after the first Monday in January following the date of his election, shall be deemed to have vacated the office, and any officer having entered upon the duties of his office may resign by giving written notice thereof to the City Council, and it shall declare the

office vacant, by resolution entered upon the minutes; such vacancy shall be filled by the remaining members thereof.

SECTION 24. TERM OF OFFICE OF PERSON FILLING VACANCY. Every person appointed to fill a vacancy shall hold his office and discharge the duties thereof for the unexpired term of his predecessor, or the person to whose office he may be appointed to fill and until his successor is elected or appointed and qualified.

Chapter 4

THE MAYOR.

SECTION 25. THE CHIEF EXECUTIVE. The Mayor shall be the chief magistrate and executive officer of the City. He shall see that the laws of the State, the provisions of this Charter, and the ordinances of the City are duly observed and enforced within the City; he shall be charged with the general oversight of the several departments of the Municipal Government and shall see that all contracts made with the City are faithfully performed.

SECTION 26. MAYOR PRO TEMPORE. The Mayor shall at the first meeting of the Council appoint one of its members, Acting Mayor, who shall act during the temporary absence or disability of the Mayor. In case of the temporary absence or disability of both the Mayor and the Acting Mayor, the Council shall elect one of its members to be Acting Mayor.

SECTION 27. MAYOR'S REPORTS. The Mayor shall annually and from time to time give the Council such information relative to the affairs of the City and recommend for its consideration such matters as he may deem expedient.

SECTION 28. EXAMINATION OF RECORDS. At the beginning of each fiscal year, excepting when an audit has been made by the public examiner, the Mayor shall, with the approval of the Council, employ a certified accountant, who shall examine the books, records and reports of all officers and employees, who receive or disburse city moneys, and the books, records and reports of such other officers, employees and departments as the Mayor may direct, and make duplicate reports thereof, and present one to the Mayor and file one with the City Clerk, and a summary of the report shall be published in the official paper. All officers, clerks and employees of the City, shall give information and assistance, and submit for examination such books and papers as may be requested. The Council shall provide for the payment of such accountant.

SECTION 29. SUPERVISION OF PUBLIC UTILITY COMPANIES. The Mayor and City Council shall be charged with the general supervision of all public utility com-

panies, so far as they are subject to Municipal control; he shall keep himself informed as to their compliance with the law, and shall see that all franchises granted by the City are faithfully observed.

The Mayor and City Council shall cause to be instituted such actions or proceedings as may be necessary to prosecute public utility companies for violations of law, and to revoke, cancel or annul all franchises granted by the City to any person, firm or corporation which have become forfeitable or are illegal and void. The City Attorney, on demand of the Mayor and City Council, shall institute and prosecute the necessary actions to enforce the provisions of this section.

SECTION 30. MEMBER OF THE COUNCIL. The Mayor shall be a member of the Council, and ex-officio member of all standing Committees, with the same right to vote as Aldermen.

SECTION 31. POWER AND DUTIES PRESCRIBED BY ORDINANCE. The Mayor shall exercise other powers and perform such other duties as may be prescribed by law and ordinance.

Chapter 5

DUTIES OF APPOINTIVE OFFICERS. CITY ATTORNEY

SECTION 32. CONDUCT OF LEGAL PROCEEDINGS.

The City Attorney shall prosecute, on behalf of the City, all criminal cases, arising from violations of the provisions of this Charter, and the Ordinances of the City, and all misdemeanors arising under the laws of the State of Minnesota, cognizable before the Municipal Court of the City of Ely, and shall attend to all suits and proceedings in which the City may be legally interested, provided that the Council shall have control of all litigation of the City and may employ other attorneys to take charge of any litigation or to assist the City Attorney therein.

SECTION 33. DUTIES OF CITY ATTORNEY. The City Attorney shall perform all professional services incident to his office, and shall have charge of all proceedings in all courts in which the City is interested and shall have charge of all prosecutions under the ordinances and regulations of the City, and all misdemeanors under the laws of the State, and shall, when requested, furnish his opinion in writing upon any matter submitted to him by the Council or by any of its committees. He shall advise with the City Council and its officers and all officers of the City regarding their official duties, and shall attend the meetings of the City Council and its committees, when requested to do so.

CITY CLERK

SECTION 34. DUTIES OF CLERK. The City Clerk shall keep his office in such place as the City Council shall provide, and his office shall be open to the public to do business during all business hours. He shall keep the corporate seal, and all papers and records pertaining to his office and keep the records of the proceedings of the City Council, and all papers and documents filed in his office. Transcripts from all records bearing the corporate seal of the City shall be evidence in all courts, as if the originals were produced. He shall draw and countersign all warrants and other evidences of indebtedness upon the City in pursuance of any resolution, order or action or direction of the City Council, or any authority given him by law

so to do, and keep a full and accurate account thereof in books to be provided for such purpose by the City.

It shall be his duty to make a report and present the same to the City Council of the financial condition of the City whenever the Council shall require the same.

He shall, before the time to levy taxes each year, make a complete report of the general financial condition of the City. Said report shall state specifically the amount in each of the several funds on hand at the date of making the last annual report, the amount received and credited to each fund since last report, the amount paid out of each fund, the probable amount to be expended during the balance of the fiscal year ending December 31st of each year, and for what purposes, the probable amount that will be paid into the several funds until the end of the fiscal year and from what sources; a list of all outstanding warrants not paid, a list of all certificates of indebtedness and when payable, a list of all outstanding bonds, when the same will become due and payable with the rate of interest and amount accrued on all said evidences of indebtedness. Said statement shall also indicate the probable amount of money that will be required to pay for expenditures provided for and the purposes for which it is to be expended, specifying the amount required to be paid from the several funds of the City for the next ensuing fiscal year.

SECTION 35. CONTRACTS VOID UNLESS ATTESTED BY CLERK. He shall attest all contracts made in behalf of the City, in which the City is a party, and unless attested by the City Clerk, all such contracts shall be void.

He shall keep a list of all certificates issued for work done either by day labor or by contract when a provision is made for the assessment of the expense as a special tax against the property benefited by any improvement, and shall report when directed to do so to the Council with a statement of the amounts expended, and a schedule of all property subject to or intended to be assessed, together with the certificates of the City Engineer of estimates of expense for the work and materials required in doing the work.

SECTION 36. CLERK TO EXAMINE REPORTS, VOUCHERS, ETC. The City Clerk shall examine all re-

ports, vouchers and accounts for services performed, or materials and merchandise delivered to the City that may be presented to be audited by the proper committees, make a list and classify the same for action thereon by the City Council.

He shall also examine all reports, books and vouchers of the City Treasurer and compare them with the files and records of his office for the purpose of verifying the same and making a report thereon when required.

He shall also perform any other duties prescribed by this Charter or requested by the City Council.

CITY TREASURER.

SECTION 37. DUTIES OF TREASURER. The City Treasurer shall collect and receive all moneys belonging to the City from whatever source derived, and keep an accurate account and detailed statement thereof in such books and in such manner as the City Council shall direct, and pay out said moneys only upon proper evidence of authority to do so.

SECTION 38. REPORTS AND FINANCIAL STATEMENTS. The treasurer shall make and file a report with the City Clerk on or before the first meeting of the City Council of each year, giving in gross the receipts from the different sources from which said money is received, and a statement of the moneys paid out of the several funds and the purposes for which paid during the fiscal year ending December 31st of each year, together with a general statement of the financial condition of the Treasury and cause such statement to be published in the official paper of the City. He shall make further reports as the Council shall from time to time require.

SECTION 39. TREASURER'S BOOKS AND THEIR INSPECTION. The Treasurer's books shall at all times be subject to the demand of the City Council for inspection, and its appointed committees therefor, and also the City Attorney and any other person or persons authorized to audit or examine the same. He shall also perform any other duties pertaining to his office, prescribed by this Charter or requested by the City Council.

SECTION 40. TREASURER'S BOND. AMOUNT, ADDITIONAL SECURITY. The treasurer shall, before he receives any of the books of record, or any money or proper-

ty belonging to the City pertaining to his office, give a bond to the City with a Surety Company authorized to do business in the State of Minnesota, as surety, which bond shall be approved by the City Council, and in a sum equal to the amount that will probably be in his possession at any one time during the term of his office, which amount of bond is to be determined by the City Council. Said Council shall have power to require additional and further security at any time they deem best to do so, either as permanent security or for temporary purposes, and may reduce such temporary security, as will best serve the interest of the City, and may for the same reasons cancel the same. The premium required to be paid for such bond shall be paid by the City.

CITY ENGINEER

SECTION 41. RECORDS AND FILES OF CITY ENGINEER. The City Engineer shall be a practical and qualified civil engineer and competent to perform the duties of his office. He shall keep his office at some place to be provided by the City, and the City Council shall prescribe his duties and fix his compensation. All minutes and maps of surveys, profiles, plans, specifications, and field notes shall be filed therein. All estimates, contracts for work done under any plans and specifications prepared in his office shall be made in duplicate, one of which shall be filed in the office of the City Clerk, and one shall be kept on file in his office, and shall be the property of the City, together with all equipment and accessories owned by the City used by him and appertaining to his business and official duties.

SECTION 42. DUTIES OF ENGINEER. The City Engineer shall do all the surveying and engineering work of the City, and shall upon request of the City Council locate the corners of all lots, streets and alleys. When performing work for private parties, if the same is done on City time, all compensation charged for such work shall be the property of the City.

SECTION 43. ASSISTANTS. The City Engineer may appoint such assistants as may be necessary for the proper performance of the work and duties of his office with the consent and approval of the City Council, and may dispense with their services when in his judgment their

services are not required.

ASSESSOR.

SECTION 44. DUTIES OF ASSESSOR. The City Assessor shall perform the duties of his office as prescribed by the Law of the State relative thereto and shall in addition list and prepare a schedule and chart of all assessable real property of the City showing the valuation and condition of all assessable real property of the City and as far as is possible also names of owner of the same. When said record is completed by him, it shall be filed in the office of the City Clerk.

SECTION 45. DEPUTY ASSESSOR AND ASSISTANTS. The City Council, if they deem it necessary, may appoint deputy assessors to assist the Assessor and the Board of Equalization in compiling lists and valuations for assessments. The Assessor and his deputies shall qualify according to Law, before entering upon the duties of their office.

Chapter 6

ADMINISTRATIVE DEPARTMENTS

SECTION 46. COMMITTEES. The administrative powers, authority and duties of the City officers, not otherwise provided for, shall be distributed among and assigned to such committees as the Council shall deem necessary, all standing and other committees to be appointed by the Mayor.

SECTION 47. APPOINTIVE OFFICERS AND EMPLOYEES. The chief appointive officers and employees of the City may be a City Clerk, Assessor, Treasurer, City Attorney, City Engineer, Chief of Police and Police Officers, Chief of the Fire Department, Health Officer, Superintendent of Light and Water Plant and Street Commissioner. Their appointment shall be by majority vote of the Council and any officer or employee may be removed for cause by a majority vote of the Council, excepting the Chief of Police, Police Officers and Chief of Fire Department; the Chief of Police and Police Officers shall be under the jurisdiction of the Mayor and the Chief of the Fire Department shall be elected by the Members of the Fire Department subject to the approval of The City Council. All appointive officers shall be appointed at the first meeting of the Council or as soon thereafter as practicable.

The City Council may, when necessary, appoint deputies or assistants to any of the appointive offices, provided for in this Charter and provide for the payment of their compensation.

SECTION 48. SUBORDINATE OFFICERS AND EMPLOYEES. The Council shall have power to create and discontinue offices and employments other than those prescribed, to provide the modes of filling them and prescribe the duties pertaining thereto according to its judgment of the needs of the City. Any person so appointed may be removed at any time by a majority vote of the Council.

SECTION 49. COMPENSATION OF OFFICERS AND EMPLOYEES. The compensation of all City Officers provided for by this Charter shall be by salary, to be fixed by the Council. The Council shall also fix the compensation of all other officers and employees of the City, except as otherwise provided in this Charter. No officer or employee

shall be allowed any fee, reward or compensation, other than the salary or compensation fixed by the Council, but all fees received by him in connection with his official duties, except those received for services performed in civil actions, shall be paid into the City Treasury.

SECTION 50. OFFICERS NOT TO BE INTERESTED IN CONTRACT OR FRANCHISES. No officer or employee elected or appointed to any office under the provisions of this Charter shall be interested, directly or indirectly, in any city contract contrary to the laws of the State of Minnesota. Any violation of the provisions of this section shall be a misdemeanor, and every such contract or agreement shall be void.

Chapter 7

COUNCIL

SECTION 51. THE COUNCIL THE GOVERNING BODY. The Council shall be the governing body of the municipality. It shall exercise the corporate power of the City, and subject to the limitations of this Charter, shall be vested with all powers of legislation in municipal affairs, adequate to a complete system of local government, consistent with the constitution and laws of the State.

SECTION 52. MEETINGS OF COUNCIL. The Council shall provide for the time and place of holding its meetings and the manner in which its special meetings may be called.

SECTION 53. MEETINGS TO BE PUBLIC. All legislative sessions of the Council, whether regular or special, shall be open to the public.

SECTION 54. QUORUM. A majority of the members of the Council shall constitute a quorum for the transaction of business.

SECTION 55. PROCEDURE. The Council shall establish rules for its proceedings.

SECTION 56. ORDINANCES AND RESOLUTIONS.

(1) **AYES AND NOES.**—The ayes and noes shall be taken upon the passage of all ordinances and resolutions and entered upon the journal of the proceedings of the Council.

(2) **MAJORITY VOTE OF COUNCIL.**—No ordinance shall be passed without receiving the affirmative votes of at least four members of the Council.

(3) **ENACTING CLAUSE FOR ORDINANCES.**—The enacting clause of all ordinances passed by the Council shall be in these words: "The Council of the City of Ely do ordain."

(4) **REQUIREMENTS OF AN ORDINANCE.**—To enact an ordinance, the proposed ordinance shall be read at two regular sessions of the Council.

The second reading shall be by sections, at which time amendments may be offered, but the reading of a section shall not preclude the offering of an amendment to a preceding one. Any proposed ordinance after its first reading and before its second reading shall be published in the of-

official newspaper of the City.

(5) RECONSIDERATION.—When any proposed ordinance is put upon its final passage and fails to pass, and a motion is made and carried to reconsider, the vote upon such original motion shall not be taken before the next regular meeting of the City Council after the meeting at which such motion was made.

(6) SIGNING, ATTESTING AND TIME OF TAKING EFFECT.—All ordinances passed by the Council shall be signed by the Mayor, attested by the City Clerk, and shall take effect ten days after being published once in the official paper of the City, except as otherwise provided in this Charter.

(7) ORDINANCE GRANTING FRANCHISE.—No bill for the granting of any franchise shall be put upon its final passage within 30 days after its introduction.

(8) RECORD OF CITY ORDINANCES.—A true and correct copy of all ordinances shall be kept and certified to by the City Clerk in a book marked "City Ordinances."

(9) METHOD OF PROOF IN COURT.—Copies of the ordinances, resolutions and regulations of the City, certified by the Mayor or the City Clerk, under the seal of the city, and copies of the same printed in any newspaper, book, pamphlet or other form, and which purport to be published by authority of the Council of the city, shall be prima facie evidence thereof.

SECTION 57. MUNICIPAL COURT TO TAKE JUDICIAL NOTICE. In all prosecutions and proceedings of every kind before the Municipal Court of this City, such Court shall take judicial notice of all ordinances of the City, and it shall not be necessary to plead or prove such ordinance in such Court, except to state the number of the ordinance in the complaint.

SECTION 58. FRANCHISES GRANTED BY ORDINANCE. No franchise or right to convey or use the streets, highways, or public places in the City, shall be granted except by ordinance, save temporary use of the parks for picnics, public meetings, etc.

SECTION 59. MEMBERS PRESENT WHO FAIL TO VOTE. Any member of the Council, who being present when his name is called, fails to vote upon any then pending proposition, unless excused by the Council, shall be

deemed as having voted in the negative.

SECTION 60. MONTHLY STATEMENT OF RECEIPTS AND EXPENDITURES. The City Clerk shall prepare and file in his office for public inspection, an itemized statement of all receipts and expenditures of the City during the preceding month.

SECTION 61. PUBLICATION OF CHARTER AND ORDINANCES, ETC. The Council may revise and codify and print in book, pamphlet or newspaper form, together with or separately from this Charter, any general and special laws, ordinances, resolutions and rules in force in the City. Such codification shall be a sufficient publication of any ordinance included in it and not previously published in a newspaper if a substantial quantity of the codification is printed for general distribution to the public. A notice that copies of the codification are available at the office of the City Clerk shall be published in the official newspaper for at least two successive weeks.

Chapter 8

POWERS OF THE CITY AND OF THE COUNCIL

SECTION 62. GENERAL POWERS OF THE CITY.

The City of Ely may sue and be sued; shall have and use its present seal and may alter its seal at pleasure; shall be capable of contracting and being contracted with; may take by purchase, condemnation or otherwise, and hold, lease, sell and convey all such real and personal property as its purposes may require, or the transaction of its business may render convenient, within or without the limits of the city; may acquire, construct, own, lease, and operate public utilities, and render public service of every kind; may grant franchises or licenses for the construction, operation and maintenance of public utilities in, over, upon, and under the streets and public places in the city, and shall have power to fix and regulate the fares, tolls, or charges which may be collected, order the extensions which shall be made, and regulate the services which shall be rendered by any owner or operator of a public utility franchise or license; may assess, levy, and collect taxes, for general or special purposes, on all subjects or objects which the city may lawfully tax; may borrow money on the faith and credit of the City, or on a public utility or other property owned by the City, by the issuance and sale of bonds or certificates of indebtedness; may appropriate the money of the City for all lawful purposes, may provide for, construct, regulate, and maintain public works and local improvements; may levy and collect assessments for local improvements; may license and regulate persons, corporations and associations engaged in any business occupation, trade or profession; may define, prohibit, abate, suppress, all things detrimental to the health, morals, comfort, safety, convenience and welfare of the inhabitants of the city, and all nuisances and causes thereof; may regulate the construction, height and materials used in all buildings, and the maintenance and occupancy thereof; may regulate and control the use for whatever purposes of the streets and other public places; may make and enforce local police, sanitary, and other regulations; may pass ordinances for maintaining and promoting the peace, good government, and welfare of the city, and for

the performance of all the functions thereof; shall have all the powers possessed by municipal corporations at common law; shall have, retain and may exercise all powers, functions, rights, and privileges, heretofore possessed by it; may exercise such powers beyond its corporate limits as may be necessary for the effective exercise of any powers granted herein as now authorized by law; and in addition thereto, the City of Ely shall have and exercise all powers, functions, rights, and privileges exercised by, or which are incidental to, or inherent in, municipal corporations and are not denied to it by the constitution or general laws of the State of Minnesota. The enumeration of powers herein shall not be construed to limit or restrict the powers granted in general terms, nor shall any specific power granted in this Charter be construed to limit or restrict the powers granted in this section. In addition to the powers herein and hereinafter granted, the City of Ely shall have full power to deal with all matters of municipal concern and have complete self-government in harmony with and subject to the constitution and laws of the State of Minnesota.

SECTION 63. The City Council shall have power to appoint such advisory boards or commissions as it shall deem necessary.

Chapter 9

FINANCES AND TAXATION.

SECTION 64. THE FISCAL YEAR. The Fiscal Year of the City shall be the calendar year.

SECTION 65. DEBT NOT TO BE INCREASED OR CREDIT LOANED. No bonds of the City shall be issued except as provided herein, nor shall the City loan its credit, become a stockholder or make contributions or donations to any person, company or corporation, except as herein provided.

SECTION 66. MONEY. HOW PAID OUT. CITY ORDERS, OR CHECKS. All moneys belonging to the City except as otherwise provided for in this Charter shall be paid out by order duly authorized by the City Council which order shall be signed by the Mayor, and countersigned by the City Clerk, and shall be so drawn that when signed by the Treasurer, it becomes a check on the city depository. Every order drawn upon the Treasurer shall designate the purpose for which it is drawn, and the fund upon which drawn, and shall be payable only out of such fund.

Provided, that in the payment of fees, for witnesses, jurors and interpreters and other expenses, refunding bail money, or any monies deposited incident to the prosecution of criminal actions, violations of ordinances or actions in which the State of Minnesota, or the City of Ely is plaintiff, or interested and brought before the Municipal Court of the city, such fees and expenses and bail money may be paid out of the proper fund on the presentation to the City Treasurer of an order of the Clerk of said Court, which said order shall show the title of the action in which said fee or expense or deposit was incurred, the character of the service performed and the date thereof, which order shall have thereon the signature and approval of the City Attorney, or the person having authority to represent the city in such proceedings. All deposits made or fees and other expenses incurred incident to civil actions and which the city is required to pay or refund may be paid without the approval of the City Attorney on presentation of an order otherwise similar in form as to execution. The said Clerk of Court shall at the close of

each month deliver to the treasurer a complete list of the orders issued by him as aforesaid, during the preceding month with the names of the persons to whom issued together with the amounts and purposes for which issued.

SECTION 67. PROPERTY SUBJECT TO TAXATION. All property in the City of Ely, taxable under 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 as provided for by law and this Charter.

SECTION 68. FUNDS OF THE CITY. The following funds shall be maintained in the City Treasury and the Council by a majority vote of its members may levy an annual tax upon all taxable property in the City of Ely for the support of such funds and purposes as follows:

FIRST: Permanent Improvement Fund, for the purpose of paying the purchase price of all real property, and all rights therein and all improvements thereon, which the City shall acquire for its purposes, including cost of city buildings, building of side and cross walks, sewers, streets, alleys and roads, bridges and culverts, parks and public driveways and any equipment, the payment for which is not otherwise provided for out of other funds. There shall be also paid into this fund all monies received from the sale of any permanent improvement of property of the City, not otherwise provided for under this Charter, and also such amounts as may from time to time be realized on account of this Fund.

SECOND: Permanent Improvement Revolving Fund, for the purpose of providing money for paying for that portion of local improvements under the provisions of this Charter for which assessments may be levied. This Fund shall receive into it all monies collected from all special assessments levied under this Charter for local improvements, and also such amount as may be realized from the sale of bonds, warrants or other certificates of indebtedness authorized therefore in this Charter.

THIRD: A General Fund for the support of such other funds and for the payment of such expenses of the City as the Council may deem proper. Into this fund shall be paid all monies not herein provided to be paid into any other fund.

FOURTH: Light and Water Fund, to provide for the support and maintenance of any plant owned or operated by the City for furnishing to the City or its inhabitants water, heat or light, and of paying the cost of the purchase, construction, extension, operation, maintenance and repair of such light, water and heat plants.

Into this fund shall be put and credited all monies derived from the sale of the property acquired for or used in connection with any utility plant of the city; also the proceeds of all special assessments levied on account of or in connection with such light, water or heating plant, also such amounts as may be from time to time realized from the sale of bonds or certificates of indebtedness issued on account of said plant, and also all monies received from the sale of said plant and water, light and heat rentals and penalties, and monies derived from water assessments.

FIFTH: Library Fund, to provide for and maintain a Public Library and reading rooms.

Provided, that nothing contained herein shall prevent the Council from transferring from the General Fund to aid and help any other fund at such times as in its judgment serves the best interests of the City, but the Council shall not have the power to permanently transfer from any other fund except the General Fund.

The Council may in its discretion establish any other fund which it may consider necessary, or as shall be required by state law.

SECTION 69. DISTRIBUTION OF MONIES. Monies (1) in the City Treasury at the time this Amended Charter goes into effect, (2) to be collected from the taxes levied before this Amended Charter goes into effect, shall so far as practicable be divided among the several funds hereby established and where such subdivision is not practicable, shall be placed in the General Fund.

SECTION 70. ISSUANCE OF BONDS. The City may issue bonds or other obligations for the acquisition or betterment of public buildings, means of garbage disposal, hospitals, schools, libraries, museums, art galleries, parks, playgrounds, stadia, sewers, sewage disposal plants, subways, streets, sidewalks; for any utility or other public convenience from which a revenue is or may be derived;

for a permanent improvement revolving fund; for changing, controlling or bridging streams and other waterways; for the acquisition and betterment of bridges and roads within two miles of the corporate limits; and for acquisition of equipment for snow removal, street construction and maintenance, or fire fighting. Without limitation by the foregoing, the City may issue bonds to provide money for any authorized corporate purpose except current expenses.

No bonds shall be issued unless the issuance thereof is authorized by a resolution passed by a majority vote of all members of the Council and approved by a majority of the voters at such election.

Bonds shall be issued within the limits and according to the procedure provided by state law.

SECTION 71. ANNUAL BUDGET. The Council shall meet annually in the month of September, prior to the tax levy, and make a budget of the estimated amounts required to pay the expenses of conducting the business of the City for the next ensuing fiscal year.

SECTION 72. ANNUAL TAX LEVY. The Council shall annually, before October 10th, levy taxes on all taxable property for all city purposes not exceeding in amount that permitted by the laws of the State of Minnesota.

SECTION 73. SEPARATE ACCOUNTS TO BE KEPT FOR EACH FUND. The City Clerk and Treasurer shall each, as soon as the tax estimate is made in each year, open and copy in his book, separate and distinct accounts for each of the several divisions of taxes shown in the tax estimate of the then current year, and in making any tax estimate for expenditures, and in making any levy, the Council shall itemize the same, so as to show separately the amount to be collected from taxes for each fund.

It shall be the duty of the Treasurer to keep a complete, accurate and separate account of each and all of the separate funds heretofore provided, which shall accurately show at all times the amount of money received by him for the credit of each of said funds, and when received and the amount of money paid out by him on account thereof, and to whom, and for what purpose paid out.

The Treasurer shall also keep a separate and distinct

account of monies received or to be received for each local improvement, for which an assessment is made, and when any money is collected by him from the County Treasurer, or any other source, on account of any such assessment, it shall be his duty to credit the same to its separate assessment account. The money received from the sale of certificates of indebtedness based on a tax estimate, and the money received from the County Treasurer on a tax levy based on such estimate, shall be used and applied only to defray the expenditures, together with the arrearages due and unpaid, for the specific object for which said estimate was made, and said taxes were levied.

After the accounts are opened in the books as hereinbefore provided, any money thereafter received by the City, from the collection of delinquent taxes, shall be forthwith distributed to the funds provided for herein, so far as such funds correspond to the funds named in the particular tax levy on which said delinquent taxes are collected, and so far as they do not correspond, shall be credited to the General Fund. The surplus of any year's receipts over expenditures in any particular fund shall be carried forward to the same fund for the succeeding year without affecting the tax levy to be made for said year.

SECTION 74. TAX CERTIFICATES. The City, by resolution, may issue its certificates or other evidence of indebtedness in anticipation of any taxes or assessments, levied upon any portion of the taxable property of the City, as provided for herein, and in conformity with and not exceeding the limitations of the laws of the State of Minnesota.

SECTION 75. BOARD OF EQUALIZATION. The Council shall constitute the Board of Equalization and shall be sworn according to law as such, and shall meet at the City Hall, as provided by State Law, and shall review, amend and equalize the work of the City Assessor, pursuant to the general laws of the State, and shall have power to appear before the County Board of Equalization, State Tax Commission, and Commissioner of Taxation in the interests of the City, and employ counsel to represent the City.

SECTION 76. RECORD SESSIONS AND POWERS.

Said board shall elect a secretary, who shall keep a record of its proceedings, and it is hereby vested with all powers which are or may be vested in the County board of Equalization under the general laws of the State, but shall not be restricted by any limitations in respect to reducing or increasing the assessed valuation of real or personal property as returned by the City Assessor.

SECTION 77. WHO MAY APPEAR BEFORE BOARD. Every person aggrieved by an assessment shall have the right to appear in person or by attorney before such board and present his grievance for its consideration.

SECTION 78. REVISION AND CERTIFICATION OF ASSESSMENT ROLLS. The City Assessor shall revise his assessment rolls in accordance with the decision of said board, and after the same shall have been certified by the chairman and secretary of said board, shall transmit to the County Auditor such revised assessment rolls, and unless otherwise provided the Assessor shall proceed under the general laws of the State.

SECTION 79. DISPOSITION OF MONIES COLLECTED. Every officer collecting or receiving monies belonging to or for the use of the City shall settle for the same with the City Treasurer on or before the last day of each week, or at such more frequent intervals as directed by the Council, and immediately pay all of such money into the treasury, for the benefit of the fund to which such money severally belongs. When the last day of the week falls upon a legal holiday, the said payments shall be made on the next preceding business day.

SECTION 80. UNIFORM ACCOUNTS AND REPORT. The Council shall prescribe uniform forms of accounts, which shall be observed by all officers and departments of the City which receive or disburse monies.

Chapter 10

CONTRACTS.

SECTION 81. DEFINITIONS. All contracts for commodities, or services to be furnished or performed for the city, or any department thereof, in an expenditure of more than Seven Hundred Fifty Dollars, shall be made as in this Charter provided, and not other wise.

The words "commodities" and "service" as used in this chapter shall be construed to include all labor, materials or other property, and all lighting and other services and all local or public improvements.

The word "contract" as used in this chapter shall be construed to include every agreement in writing or otherwise, executed or executory, by which any commodities, labor or service are to be furnished or done for the City, and every transaction whereby an expenditure is made or incurred on the part of the City or any department or officer thereof. Provided that the provisions of this section shall not be construed to apply to official services or to employees receiving a stated salary.

All action in this chapter required or authorized to be taken by the Council shall be by resolution or ordinance.

SECTION 82. ESTIMATES, AMOUNT OF CONTRACT. The Council, in the first instance, shall on its own motion, or may, on the recommendation or report of any department or officer of the City determine in a general way the commodities, labor and service to be done or furnished, and shall estimate the cost thereof, and in order to determine such estimated cost may require estimates from any officer or employee of the City.

In case such estimated cost does not exceed the sum of Seven Hundred Fifty Dollars the Council may direct that the commodities, labor or service be procured by or through the proper department or officer of the City without public bids.

In all cases where such estimated cost exceeds the sum of Seven Hundred Fifty Dollars, said commodities, or service shall only be furnished or done upon public bids. Provided that if no satisfactory bid is received after proper notice has been given the Council may proceed to do the work by day labor or purchase commodities required, or

may re-advertise for bids. Provided further, that if the Council shall determine that public improvements may be made more economically by the use of city equipment and labor, it may undertake such improvements without calling for bids.

If the Council shall determine that any commodities or service are to be procured in open market, the same shall be procured by the proper department or officer in accordance with such general directions as the Council may give.

SECTION 83. PLANS AND SPECIFICATIONS. Before advertising for bids, the Council shall cause to be prepared by the proper department or officer of the City, and filed with the City Clerk, detailed plans and specifications and the proposed contract for commodities or service.

SECTION 84. ADVERTISING. After filing the same the Council shall direct the City Clerk to advertise for sealed bids, for doing or furnishing said commodities or service in accordance with such contract, plans or specifications. Such advertisement shall be published in the official newspaper and in such other manner as the Council may direct.

All advertisements for bids shall clearly state that such bids are to be received and opened at a public meeting of the Council, in the Council chambers, upon a certain day and hour.

SECTION 85. SECURITY FOR BIDS. In advertising for any bid the Council shall require bidders to accompany bids with a certified check upon some reputable bank, payable to the City of Ely, for not more than ten per cent of the amount bid, which check shall be forfeited to the City as liquidated damages, if the bidder upon the letting of the contract to him, shall fail to enter into the contract so let or in lieu of said check require a bond executed with a Surety Company as surety, in such amount as may be designated by the City Council properly conditioned. In all advertisements for bids, there shall be reserved the right to reject any and all bids.

SECTION 86. OPENING BIDS. At the time and place mentioned in the advertisement for bids, the Council shall meet in public session and publicly open and read all bids that may be presented; before any bids are opened, they

shall be numbered consecutively, and no further bids shall be received after any bid has been opened. The Council shall give all persons who desire the same, an opportunity to inspect all bids after they are opened. No bid shall be considered if unaccompanied by a certified check or bond as aforesaid.

SECTION 87. ACTION OF COUNCIL. The Council shall act upon such bids and determine which one, if any, shall be accepted. All contracts shall be awarded to the lowest reliable and responsible bidder complying with the foregoing requirements, provided that the Council may reject any bids which it may deem unreasonable and unreliable, and the Council in determining the reliability of the bid shall consider the question of responsibility of the bidder and his ability to perform his contract without reference to the responsibility of sureties on his bond.

SECTION 88. TIME AND MANNER OF EXECUTION OF CONTRACT. All contracts shall be executed by the successful bidder within ten days after written notice that the contract is ready for his signature, and if not executed by him within said time, he may be deemed to have abandoned the same.

All contracts to which the City is a party shall be signed on behalf of the City by the Mayor and attested by the City Clerk, and no contract shall be valid unless so executed. All contracts with the City shall be filed in the office of the City Clerk and a record of such filing entered in a book kept for such purpose.

SECTION 89. PERFORMANCE OF CONTRACTS. After the acceptance by the Council of any bid it shall direct the execution of a contract by the proper officers, and such contract shall be carried out by the proper department or officer of the City.

SECTION 90. BOND. Every person to whom a contract is awarded for public work in an amount exceeding Seven Hundred Fifty Dollars, shall give bond, in such sum as the Council may direct, and with such sureties as it may approve, conditioned as provided by law.

SECTION 91. EXPENDITURES. It shall be the duty of each officer or head of a department to report to the Council, as often as required, the commodities, work and services likely to be needed for the operation of his de-

partment or office, and not before contracted for.

SECTION 92. EMERGENCIES AND PROBABLE COST THEREOF. When it is deemed that delay will cause great damage to the public or endanger public safety, the head of any department, with the written approval of the Council may do necessary work by day labor and procure materials therefor.

SECTION 93. ASSIGNMENT OF CONTRACTS OR FAILURE TO PERFORM. It shall be made a part of the condition of every contract entered into by the City of Ely, in which a bond is required and given, that such contract shall not be assigned, except by consent of the City Council entered upon the minutes of their proceedings, also that in case of a failure of the contractor to perform any of the conditions and terms of his contract, that the City may at its election terminate the right of the contractor to further perform or do any act under said agreement; that upon the happening of any of the conditions as to assignment or failure to perform, as aforesaid, the City may cause to be served upon the contractor, a written notice of its election to terminate the same and his right to further perform, stating the reasons therefore, and such right shall be terminated and the City may in its discretion proceed to complete the same as the agent and at the expense of such contractor and his sureties on the bond, or may allow the surety to complete the same, subject to all the conditions under the agreement and all the rights of the City under this section, or may re-let the same to another, or may cease to do further work on the improvement or construction affected.

SECTION 94. RIGHT TO SUSPEND WORK. The right shall be reserved in said contract to the City Engineer, with the consent of the Council, in case of improper construction, to suspend work at any time, or to order the entire reconstruction of the same if improperly done.

SECTION 95. ESTIMATE. In the course of the proper performance of the contract, the Council may from time to time as the work progresses, allow the contractor estimates of the amount already earned, less ten per cent thereof, which, when ordered paid by the Council, shall entitle said contractor to receive the amount so allowed out of the money applicable to the payment of such work.

When the work has been completed by the contractor to the satisfaction of the Council and the City Engineer, the balance due may be audited and allowed by the Council.

SECTION 96. CITY TO COMPLETE WORK. If, in the opinion of the Council, any work under contract does not progress so as to insure its completion within the time named in the contract, the Council and City Engineer shall have the power to furnish and use men and material to complete the work and charge the expense thereof to the contractor, and the same shall be deducted from any monies due or to become due such contractor or may be collected from him or the sureties on his bond in a suit by the City. Provided, that the Council shall first notify the sureties on the contractor's bond of its intention so to do, and the said sureties may take charge of the work and complete the same within the time named.

SECTION 97. CONTRACTS FOR OFFICIAL ADVERTISING. The Council shall let annually in the month of January, or as soon thereafter as practicable, contracts for the official advertising for the ensuing fiscal year. For this purpose the Council shall advertise for two consecutive issues specifically setting forth the work contemplated to be done and asking for sealed proposals therefor. The proposals shall specify the type and spacing to be used. The Council shall let the contract for such official advertising to the lowest responsible bidder publishing a newspaper in the City, which is a legal newspaper according to the laws of the State, provided, the Council may reject any or all bids. If the Council shall deem it best for the interest of the City to select a newspaper that is not the lowest bidder, they may select such newspaper. The newspaper to which the award is made shall be the "Official Newspaper." The successful bidder shall be required to give a bond to the City in the sum of Five Hundred Dollars for the faithful performance of the Contract.

The compensation paid for printing shall never exceed the amount allowed by law for legal advertising.

SECTION 98. COLLUSION WITH BIDDER. Any officer of the City or of any department thereof, who shall aid or assist any bidder in securing a contract to furnish labor, material or supplies at a higher price than that proposed by any other bidder, or who shall favor one bid-

der over another, by giving or withholding information, or who shall wilfully mislead any bidder in regard to the character of the materials or supplies of a quality inferior to those called for by any contract, or who shall knowingly certify to a greater amount of labor performed, or the receipt of a greater amount, or different kind of material or supplies, than has been actually received, shall be deemed guilty of malfeasance and shall be removed from office.

SECTION 99. COLLUSION BY BIDDER. If, at any time, it is found that the person, to whom a contract has been awarded, has, in presenting any bid or bids, colluded with any other party or parties for the purpose of preventing any other competing bids being made, or has entered into an agreement by which he made a higher or lower bid than some other person for the purpose of dividing the contract or profits therefrom between two or more bidders, then, the contract so awarded shall be voidable at the option of the Council, and the Council may advertise for new bids for said work, or provide for such work to be done by the proper department or officer.

Chapter 11

FRANCHISES

SECTION 100. ORDINANCES GRANTING FRANCHISES. Every ordinance by which the Council shall propose to grant any franchise shall contain all the terms and conditions of the franchise to be granted.

SECTION 101. REGULATION OF RATES. The City shall have the power to regulate and control the maximum rate to be charged by any corporation or person exercising any franchise in the city for the service rendered by it to the City, or to the public, but such price shall be fair and reasonable to such corporation or persons and to the public. Such rates shall be fixed by the Council by ordinance, and the Council may appoint commissioners to fully investigate and report all matters with reference to rates to be charged by any such corporation or person.

SECTION 102. LIFE OF FRANCHISE. The maximum length of time for which a franchise or privilege to use the streets, alleys or other public places of the City may be granted to any person, firm, or corporation shall be twenty-five years.

SECTION 103. FORFEITURE FOR NON-COMPLIANCE. Every ordinance granting any franchise or privilege shall provide for the termination and forfeiture thereof for any breach or failure to comply with any of the terms, limitations or conditions thereof, and in all such cases the Council shall have power to declare the termination and forfeiture of any such franchise or privilege, the same as though in each instance such power was expressly reserved.

SECTION 104. MATTER IN CHARTER NOT TO IMPAIR RIGHT OF COUNCIL TO INSERT OTHER MATTERS IN FRANCHISE. The enumeration and specification of particular matters in this Charter which must be included in every franchise or grant, shall not be construed as impairing the right of the Council to insert in such franchise or grant, such other and further matters, conditions, covenants, terms, restrictions, limitations, burdens, taxes, assessments, fares, rentals, charges, control, forfeitures, or any other provision whatever, as the Council shall deem proper to protect the interests of the peo-

ple. No franchise granted by the Council shall be assigned without the consent of the Council.

SECTION 105. EXCLUSIVE FRANCHISE. No exclusive franchise or privilege shall be granted unless the question of granting the same shall have been first submitted to the qualified voters of the city and adopted by a majority voting at such election on the question.

Chapter 12

INITIATIVE

SECTION 106. DIRECT LEGISLATION.

(1) Any proposed ordinance may be submitted to the Council by a petition signed by the qualified electors of the city equal in number to the percentage hereinafter required.

(2) PROVISIONS OF CHAPTER FOURTEEN APPLY. The provisions of Chapter Fourteen respecting the forms and conditions of the petition, the mode of verification, certification and filing shall be substantially followed, with such modification as the nature of the case required.

(3) TWENTY PER CENT PETITION. If a petition accompanying the proposed ordinance be signed by electors equal in number to twenty per centum of the entire vote cast for all candidates for mayor at the last preceding general municipal election at which a mayor was elected, and contains a request that such ordinance be submitted forthwith to a vote of the people at a special election, the Council shall either;

(a) Pass said ordinance without alteration within twenty days after attachment of the Clerk's certificate of sufficiency to the accompanying petition, or

(b) Within twenty-five days after such certification, proceed to call a special election at which said ordinances without alteration shall be submitted to a vote of the people.

(4) TEN PER CENT PETITION. If the petition be signed by electors equal in number to at least ten, but less than twenty per centum of the entire vote cast for all candidates at which the mayor was elected, and said ordinance be not passed by the Council as provided, in the preceding subdivision, then such ordinance, without alteration, shall be submitted to a vote of the people at the next general municipal election occurring at any time after twenty days from the date of the City Clerk's certificate of sufficiency attached to the petition accompanying such ordinance.

(5) PUBLICATION OF POPULAR ORDINANCE. Whenever any ordinance or proposition is to be submitted

to the voters of the city at any election, the Council shall cause the ordinance or proposition to be published once in the official newspaper of the City.

(6) ELECTION. The ballots used in voting shall state the nature of such proposed ordinance and shall contain the words "for the ordinance," and "against the ordinance." If a majority of the qualified electors voting on said proposed ordinance vote in favor thereof, such ordinance shall thereupon become a valid and binding ordinance of the city.

(7) SEVERAL ORDINANCES AT ONE ELECTION. Any number of proposed ordinances may be voted upon at the same election, in accordance with the provisions of this chapter.

(8) REPEAL OF POPULAR ORDINANCE. The Council may submit a proposition for the repeal of any such ordinance, or for amendments thereto, to be voted upon at any general municipal election; and should such proposition receive a majority of the votes cast at such election, such ordinance shall be repealed or amended accordingly. An ordinance adopted by a vote of the people cannot be repealed or amended except by a vote of the people.

(9) FURTHER REGULATIONS. The Council may by ordinance, make such further regulations as may be necessary to carry out the provisions of this section.

Chapter 13

REFERENDUM.

SECTION 107. MODE OF PROTESTING AGAINST ORDINANCES. No ordinance passed by the Council shall go into effect before ten days from the time of its final passage, except an ordinance for the preservation of the public peace, health, or safety, which contains a statement of its urgency, but franchises shall be subject to the referendum vote herein provided. If, during said ten days, a petition signed by qualified electors of the city equal in number to at least twenty per centum of the entire vote cast for all candidates for mayor at the last preceding general municipal election, at which a mayor was elected, protesting against the passage of such ordinance, be presented to the Council, the same shall thereupon be suspended from going into operation, and it shall be the duty of the Council to reconsider such ordinance, and if the same be not repealed, the Council shall submit the ordinance as provided in Chapter 12 of this charter, to a vote of the electors or at a special election called for that purpose, and such ordinance shall not become operative unless a majority of the qualified electors voting on the same shall vote in favor thereof. The provisions of Chapter 14 respecting the forms and conditions of the petition, the mode of verification, certification and filing, shall apply as the nature of the case requires.

SECTION 108. REFERENCE OF MEASURES TO POPULAR VOTE. Any ordinance or measure that the Council or the qualified electors of the City have authority to enact, the Council may of its own motion submit to the electors for adoption or rejection, at a general or special municipal election in the same manner and with the same force and effect as is provided for submitting ordinances on petition.

SECTION 109. FURTHER REGULATIONS. The Council may by ordinance make such further regulations as may be necessary to carry out the provisions of this chapter.

Chapter 14

RECALL

SECTION 110. RECALL. METHOD PRESCRIBED. The holder of any elective office may be removed at any time except as hereinafter provided, by the electors qualified to vote for a successor of such incumbent in the following manner: A petition signed by such electors, equal in number to at least 30 per centum of the entire vote cast for all candidates for the office of Mayor at the last preceding general municipal election, demanding the recall of the person sought to be removed, shall be filed with the City Clerk, which petition shall contain a general statement of the grounds on which the removal is sought. The signatures to the petition need not all be appended to one paper, but each signer shall state his place of residence and street number. One of the signers of each such paper shall make oath that the statements therein made are true as he believes and that each signature to the paper appended is the genuine signature of the person whose signature it purports to be. Within ten days from the date of filing such petition, the City Clerk shall ascertain from the voters' register whether or not such petition is signed by the requisite number of qualified electors, and, if necessary, the Council shall allow him extra help for that purpose; and shall attach to said petition his certificates showing the result of said examination. If, by the City Clerk's certificate, the petition is shown to be insufficient, it may be amended within ten days from the date the notice was served by the City Clerk that the petition was insufficient. The City Clerk shall, within ten days after such amendment, make like examination of the amended petition and if his certificate shall show the same to be insufficient it shall be returned to the person filing the same; without prejudice, however, to the filing of a new petition to the same effect; if the petition is deemed sufficient, the City Clerk shall submit the same to the Council without delay and thereupon the Council shall order the same filed. If the officer sought to be removed does not resign within five days after the filing of said petition, the Council shall fix a date for holding an election upon the question as to whether or not said officer shall be re-

called, within Thirty (30) days from the date of the City Clerk's certificate that a sufficient petition is filed.

SECTION 111. CAUSE OF RECALL. OFFICERS' JUSTIFICATION. In the call for such election there shall be stated in not more than two hundred words, the reason for demanding the recall of the officer as set forth in the recall petition, and in said call in not more than two hundred words, the officer may justify his course in office.

SECTION 112. CANDIDATE'S ELECTION. The City Clerk shall give public notice of the time and place of holding such recall election, and the same shall be conducted, except as hereinafter provided, returns made and the result thereof declared, in all respects as in other city elections.

In case, at such recall election, the majority of the votes cast shall be in favor of the recall of the officer named, an election shall be held for the choice of his successor, notice of which shall be given within ten days after the result of said election upon the recall, is declared. The successor of any officer so removed shall hold the office during the unexpired term of his predecessor.

SECTION 113. NO RECALL PETITION FOR FIRST SIX MONTHS. No recall petition shall be filed against any officer until he has actually held his office for at least six months.

Chapter 15

EMINENT DOMAIN

SECTION 114. POWER TO ACQUIRE PROPERTY.

The City of Ely is hereby empowered to acquire, by purchase, gift, devise, or condemnation, any property corporeal or incorporeal, either within or without its corporate boundaries, which may be needed by said City for any public use or purpose. In addition to the power to acquire property for other public purposes, the City may also acquire, as herein provided, any gas, water, heat, power, light, telephone, or other plant, or other public utility; but no proceedings to acquire any such public utility shall be consummated unless the city has the money in its treasury to pay for the same or has by vote of the people made provision for paying for the property proposed to be acquired. Easements for slopes, fills, sewers, building lines, poles, wires, pipes, and conduits for water, gas, heat, and power may be acquired by gift, devise, purchase, or condemnation in the manner provided by law.

SECTION 115. PROCEEDINGS IN TAKING PROPERTY. The necessity for the taking of any property by the City shall be determined by the Council and shall be declared by a resolution which shall describe such property as nearly as may be and state the use to which it is to be devoted. The acquisition of such property may be accomplished by proceedings at law, as in taking land for public use by right of eminent domain according to the laws of this state, except as otherwise provided in this Chapter.

SECTION 116. PAYMENT OF AWARD. Whenever an award of damages shall be confirmed in any proceeding for the taking of property under this Chapter, or whenever the court shall render final judgment in any appeal from any such award, and the time for abandoning such proceedings by the city shall have expired, the City shall be bound to, and shall, within sixty days of such final determination, pay the amount of the award with interest thereon at the rate of six per cent per annum from the date of the confirmation of the award or judgment of the court, as the case may be; and if not so paid, judgment therefore may be had against the City.

SECTION 117. CITY MAY ABANDON PROCEED-

INGS. The City may, by resolution of the Council at any stage of the condemnation proceedings, or at any time within thirty days after any commissioners appointed by the Court hereunder shall have filed their report with the Clerk of Court, or in case of an appeal to the district or supreme court at any time within thirty days after final determination thereof, abandon such proceedings as to all or any parcel of the property sought to be acquired and shall pay all cost thereof.

SECTION 118. CITY MAY TAKE ENTIRE PLANT. In case the City shall condemn a public utility which is operated at the time of the commencement of condemnation proceedings as one property or one system, it shall not be necessary in such condemnation proceedings or any of the proceedings of the Council, to describe or treat separately the different kinds of property composing such system, but all of the property, lands, articles, franchises, and rights which enter into and go to make up such system may, unless otherwise ordered by the court, be treated together as constituting one property and an award for the whole property in one lump sum may be made by the commissioners on condemnation or other body assessing the damages. But this shall not prevent the City, in cases where the plant and property is separable into distinct parts, from taking only such part or parts thereof as may be necessary in the public interest.

Chapter 16

LOCAL IMPROVEMENTS AND ASSESSMENTS.

SECTION 119. IMPROVEMENTS, THE COST OF WHICH MAY BE DEFRAID BY ASSESSMENT. The City is hereby authorized to light, grade, pave, re-pave, curb, gutter, wall, bridge, gravel, macadamize, sprinkle, plank, sweep or maintain any street, avenue, alley or highway; to construct and maintain trunk, sanitary and storm sewers; to grade, improve, protect and ornament any public park, square or grounds, to construct, improve and ornament any public parkways and grass plats; to plant and protect shade or ornamental trees along its streets and avenues; to construct, lay, re-lay and repair sidewalks, retaining walls, gutters, sewers and drains, in, over, or under any street, alley or highway; to abate nuisances; to drain marshes, swamps and low grounds within the City when they constitute a nuisance; and the whole or any part of the expense of any such improvement shall be, subject to the provisions hereinafter contained, defrayed by an assessment upon the real estate benefited thereby, in proportion to such benefits, with out regard to cash valuation, to be determined and levied in the manner hereinafter provided.

SECTION 120. COST PAID BY ASSESSMENTS: EXCEPTION. The cost of any improvement mentioned in the foregoing section shall be defrayed, except as hereinafter provided, as follows:

The City shall pay one-half of the expense of said improvement out of the appropriate or general fund of the City, and the other half of said expense of said improvements shall be paid by an assessment upon the real estate benefited thereby, to be levied in the manner hereinafter prescribed, provided that the construction, reconstruction or maintenance of cross walks, over public grounds and public parks, and the cost of improving and ornamenting public grounds, squares and parks, and the curbing, guttering, paving, re-paving, macadamizing and grading of the space occupied by street intersections and the intersection of the alleys with the streets, and the construction of all main or trunk sanitary or storm sewers, and further improvement and repair of the same, and re-

pairing of all sewers, curbs, gutters, walls, bridges, sidewalks, avenues, alleys, and streets shall be paid out of the appropriate or general fund of the City without levy of any kind upon abutting property or property benefited thereby.

SECTION 121. AMOUNTS ASSESSABLE AGAINST CITY, PUBLIC OR EXEMPT PROPERTY. The amounts which would otherwise be assessable against property belonging to the City; public property or property exempt from assessment for local improvements, shall be paid out of the appropriate fund or the general fund of the City.

SECTION 122. TWO OR MORE IMPROVEMENTS AT THE SAME TIME. Two or more of said improvements upon one or more streets or avenues, may be made at the same time, under one order, and may in that case be included in one contract.

SECTION 123. SEWER AND WATER PIPES MAY BE INCLUDED IN ONE CONTRACT. The Council shall, when any contract is let for improving any street, alley or highway within the City, include in such contract, the laying of sewer or water pipes to the lot line, and the cost of the same shall be paid out of the appropriate or general fund of the City.

SECTION 124. PROCEDURE WHERE TWO IMPROVEMENTS ARE MADE AT THE SAME TIME. If two or more improvements are included in one contract, the expense of each improvement may be separately apportioned and one-half of the expense of each of such improvements shall be assessed upon the lots and parcels of land benefited by such improvements, save as otherwise provided, in proportion to such benefits, but such two or more improvements may be included in one assessment proceeding.

PROCEDURE FOR MAKING ASSESSMENT

SECTION 125. APPLICATIONS AND PETITIONS FOR IMPROVEMENTS. All applications or propositions for any improvement authorized by this Charter, shall be made to, or emanate from the Council. If a majority of the owners of the property abutting on any proposed improvement shall petition therefor in writing, the Council may cause plans and specifications for such improvement to be made and filed in the office of the City Clerk, and shall,

when such plans and specifications are so filed before further proceedings are taken, give notice of the time and place when and where the Council will meet and hear reasons for and against such improvement, which notice shall be published at least once in the official paper, and the last publication shall be at least ten days prior to the time of such meeting. Said notice shall contain a brief description of the improvement and the several tracts of land to be affected thereby. Provided, that the Council by a majority vote of all its members may, without petition, in cases where in its judgment public necessity requires it, cause plans and specifications for such improvement to be made and filed in the office of the City Clerk and shall give like notice as is required in case of the petition of a majority of the property owners abutting on such improvements.

SECTION 126. HEARING. If upon such hearing the Council believes said improvement necessary and proper, they shall order the improvement made and assess one-half the cost thereof against the property benefited thereby, excepting that if any of the improvements are made in an alley, then the cost of such improvements shall be paid out of the appropriate fund, or the general fund of the City.

SECTION 127. COUNCIL TO LET CONTRACT AND MAKE ASSESSMENTS. When the Council shall determine to make any improvement described in this Chapter, it shall cause an estimate of the cost of such improvement to be made by the City Engineer. After said estimate is made, the Council may proceed at once to assess one-half the estimated cost thereof, against the property to be benefited thereby, in proportion to the benefits to result thereto, but in no case in excess of one-half of such benefits. In making such assessment roll the Council shall describe each parcel of land assessed, and state the amount assessed against the same, and shall state the name of the owner thereof so far as known to the Council. Any mistake in or omission of such owner's name shall in no wise affect such assessment.

If the work is completed before any assessment is made, or if the amount so assessed shall be insufficient to complete the work, the Council after the completion of

said work, may make a final assessment to pay the same.

All assessments paid on account of any improvements ordered to be done by contract, before the contract is let therefor, shall be kept in the permanent improvement revolving fund for such improvement.

SECTION 128. ASSESSMENTS AGAINST RAILWAYS OR STREET RAILWAYS. When in any case any proportion of the cost in making any improvement mentioned herein shall by virtue of any law, ordinance, or contract, be chargeable to any railway or street railway company, the amount so chargeable may be assessed against such railway company, and the remainder may be paid by assessing one-half against the real estate benefited thereby, and the remaining part to be paid by the City out of the appropriate or general fund; and the City may collect the amount so assessed against said railway company by distress and sale of personal property, in the manner provided by the general laws of this state in case of taxes levied upon personal property, or by suit brought to enforce the collection of said assessment as an indebtedness; provided that any real estate belonging to such railway and subject to assessment and deemed benefited by said improvement, shall be assessed as in other cases.

SECTION 129. NOTICE TO BE GIVEN BEFORE MAKING ASSESSMENT. Before proceeding to make an assessment for any improvement, the Council shall give ten days' notice by one publication in the official paper, of the time and place when and where it will attend for the purpose of making such assessment, in which notice it shall specify what such assessment is to be made for and the amount to be assessed.

SECTION 130. HEARING BEFORE MAKING ASSESSMENT. All persons interested in any such assessment shall have the right to be present and be heard, either in person or by counsel, and the Council shall receive evidence thereon and may adjourn the hearing, if necessary, from time to time, and place to place.

SECTION 131. NOTICE OF HEARING. OBJECTION AFTER HEARING ASSESSMENT. When the Council shall have completed such assessment, it shall cause like notice to be given of the time and place at which it will hear objections and for the confirmation of such assess-

ments, as hereinbefore required in relation to assessments for the condemnation of real estate, and objections shall be made in like manner and under the same regulations and conditions and all parties in interest shall have like rights, and the Council shall perform like duties and have like power in relation to such assessments as are given herein in relation to assessments for the condemnation of real estate.

SECTION 132. ASSESSMENT FINAL AND CONCLUSIVE. When said assessment is confirmed, it shall be final and conclusive upon all parties not appealing therefrom.

SECTION 133. NOTICE OF CONFIRMATION. When any assessment of benefits has finally been confirmed by the Council, it shall forthwith cause a brief notice of the fact of such confirmation to be published once in the official paper.

SECTION 134. ASSESSMENTS PARAMOUNT LIEN. All assessments levied under the provisions of this Charter shall be a lien on the real estate upon which the same may be imposed, from the date of the warrant issued for the collection thereof, and of equal rank with the lien of the state for taxes which have been or may be levied upon said property under the general laws of the state; and the general laws as to priority of tax liens shall apply equally to the liens of such assessments and to such liens for general taxes, with the same force and effect as though all of the liens aforesaid and all of the taxes and assessments aforesaid were of the same general character and imposed for the same purpose and by the same authority without regard to priority in point of time of the attaching of either of said liens, and a sale or perfecting title under either shall not bar or extinguish the other.

SECTION 135. CITY CLERK SHALL KEEP RECORD OF ALL ASSESSMENTS. The City Clerk shall keep in his office, in books provided for that purpose, a correct record of all assessments confirmed by the Council; the said books to be properly ruled and headed so as to contain at all times a substantial description and history of each assessment on each lot and parcel of ground, whether payable in installments, as hereinafter provided, and whether paid to the City or County Treasurer or whether remaining unpaid.

SECTION 136. ASSESSMENTS PAYABLE IN INSTALLMENTS. When such assessment is fully completed and has been confirmed and established, the Council shall by resolution in writing, provide that the owner or any person interested in any lot or parcel so assessed and described in such assessment, may at his election and written request pay the same in five annual installments. Each of said installments shall bear interest at a rate to be determined by said resolution, not exceeding six per cent per annum, from the expiration of thirty days after the publication of the notice provided in Section 139 of this Charter.

SECTION 137. WARRANTS FOR ASSESSMENT. When any special assessments shall be confirmed and established by the Council as herein provided for, it shall be the duty of the City Clerk to issue a warrant for the collection thereof, which shall be under the seal of the City and signed by the Mayor and City Clerk, and shall contain a printed or written copy of the assessment roll as confirmed, or so much thereof as described the real estate and the amount of the assessment in each case. Said warrant shall also include a copy of the resolution passed by the Council providing for the assessment.

SECTION 138. WARRANT DELIVERED TO CITY TREASURER. All warrants issued for the collection of any special assessment by the City, as herein authorized, shall be delivered by the City Clerk to the City Treasurer as soon as practicable after the said assessment has been confirmed and established. The City Clerk shall in each instance take a receipt for such warrants and place the same on file.

SECTION 139. TREASURER TO ORDER NOTICE ON WARRANT. Upon the receipt of any warrant for the collection of any special assessments, the City Treasurer shall forthwith give notice by one publication in the official newspaper that such warrant is in his hands for collection, briefly describing its nature, the improvement for which the assessment was made and the territory embraced in such assessment. Such notice shall also state that the owner or any person interested in any lot or parcel of land so assessed and described in such assessment, may at his election and written request, pay the assessment in five annual installments as provided for.

SECTION 140. NOTICE OF ELECTION BY PROPERTY OWNER. Any person desiring to pay such assessment in installments, as a condition precedent to the exercise of such right shall, within thirty days after the publication of the notice provided for in the preceding section and before such assessment becomes delinquent make and file with the City Treasurer in duplicate written notice of his election to pay such assessment in annual installments, recognize and assent to the regularity of said assessment, and at the same time, pay the first installment then due and payable; and failure to file such notice and pay such first installment, the whole of such assessment shall be due and payable the same as though no extension of time for payment had been provided for.

Upon the filing of such notice by any person interested, the City Treasurer shall divide the said assessment into the proper installments, and make record of the same and transmit one of such duplicate notices to the City Clerk, who shall note such fact in his record book of assessments.

The Council may at any time after an assessment becomes delinquent and before the same is certified to the County Auditor, upon the written application of the owner, and upon such terms as may be equitable, waive the neglect to so elect within the proper time, and permit any assessment which has become delinquent to be paid in installments as hereinbefore provided.

SECTION 141. ELECTION—WAIVER OF DEFECTS. Any person making an election to pay in installments as provided by this Charter, his heirs, personal representatives or grantees, of any lot or parcel of land as to which an extension has been granted, shall be held to have recognized and assented to the validity and regularity of said assessment, and of all proceedings had thereon prior to the granting of said application, and shall thereby forever be estopped from denying the validity of said assessment or the amount thereof.

SECTION 142. INSTALLMENTS. WHEN DUE. The time for the payment of installments and interest, and for the enforcement of the same against the property affected by the assessment, shall be extended so that the several amounts shall become payable as follows:

The first installment within thirty days after the publication of the City Treasurer's notice provided in section 139 of this Charter.

All other installments together with interest on the same and on all unpaid installments on October 1st of each year, thereafter, until fully paid.

Each installment together with interest as aforesaid shall be due and payable at the office of the City Treasurer.

SECTION 143. RETURN OF CITY TREASURER OF DELINQUENT ASSESSMENTS TO THE CLERK. If the amount charged in any special assessment warrant made for any improvement, shall not be paid within thirty days after the publication of said notice by the City Treasurer, and the owner or persons interested in the lot or parcel so assessed has neglected to make and file the notice of election and make the first payment as provided by this Charter the City Treasurer shall before the time required for certifying delinquent assessments as provided for in Section 144 of this Charter, return to the City Clerk, a list duly certified of the assessments which still remain unpaid, giving in such list a description of the several lots and parcels on which the assessments have not been paid, with the names of the respective owners thereof, if known, and the several amounts assessed thereon.

SECTION 144. CITY CLERK TO TRANSMIT LIST TO COUNTY AUDITOR. The City Clerk shall on or before the 1st day of December, following, cause a statement of the amount of said delinquent assessments, except assessments that have been appealed to the district court as hereinafter provided, with six per cent annual interest thereon computed from thirty days after the notice given by the City Clerk of confirmation, with a description of the several lots and parcels of land on which the same are made, and the names of the respective owners thereof, if known, to be certified to the Auditor of the County. It shall be the duty of said Auditor to enter the several amounts of said unpaid assessments and interest as aforesaid, upon the tax duplicates of the County, and shall be due and payable in January of the following year, and enforced and collected in the manner provided for the enforcement and collection of state and county taxes under

and in accordance with the provisions of the general laws of the State.

The same penalties and interest shall attach and be collected by the County Treasurer on assessments as upon general taxes, which penalties and interest shall belong to the City and be turned over by said Treasurer to the City Treasurer with the assessments.

SECTION 145. INSTALLMENTS IF NOT PAID WHEN DUE. If any installment and interest is not paid when due on the first day of October of each year together with interest to that time on all future installments of the same assessment, the City Treasurer, before certifying the same, shall add a penalty of five per cent to the total amount thus delinquent and certify the same to the City Clerk. The City Clerk shall thereupon certify the same to the Auditor of the county, in the same manner and at the same time as in case of other delinquent assessments. The County Auditor upon receipt thereof, shall enter and carry out the same upon the receipt thereof, shall enter and carry out the same upon the proper tax duplicates of the County in the same manner as in other cases of unpaid assessments, certified to him under the provisions of this Charter, and the same shall thereupon be collected and payment thereof enforced the same as other taxes on real estate are collected and enforced and when collected, together with any penalties and interest on same, be paid over to the City Treasurer.

SECTION 146. INSTALLMENTS MAY BE PAID BEFORE DUE. Any owner or person interested in any land against which an assessment has been levied, may, after such assessment has been divided into installments, pay one or more of the installments at any time before maturity upon the payment of the interest which has already accrued.

SECTION 147. INFORMALITIES. No assessment shall be set aside or held invalid by reason of any informality in the proceedings prior to the entry thereof on the tax list by the Auditor of the County, as hereinbefore required, unless it shall appear that by reason of such informality or irregularity substantial injury has been done to the person or persons claiming to be aggrieved.

SECTION 148. NEW ASSESSMENTS. Whenever, for

any cause the proceedings in making and levying the assessments be found irregular or defective, whether such defects are jurisdictional or otherwise, the Council may make a new assessment upon all real estate subject to assessment for such improvement.

SECTION 149. POWER TO PURCHASE PROPERTY SUBJECT TO LIENS. In order to protect the lien of the City on special assessments, the Council shall, whenever necessary, have power to purchase any lot or parcel of land at any tax sale when sold for delinquent general taxes or take an assignment of any lien on the same against which the City has a lien for special assessment, and may sell or assign any such lien held by said City, or otherwise take such action as will protect the interest of the City.

SECTION 150. COUNCIL MAY ISSUE CERTIFICATES OF INDEBTEDNESS. The Council is hereby authorized in anticipation of the levy and collection of such assessments, whether, divided into installments or not, to issue Certificates of Indebtedness on the Permanent Improvement Revolving Fund, payable at such time, and in such amounts as in the Judgment of the Council the said assessments will provide for, which Certificates shall bear interest at a rate not exceeding six per cent per annum, payable annually and may have coupons attached representing each year's interest. Such Certificates shall be non-assessable and shall state upon their face for what purpose they are issued, and that they are payable out of the Permanent Improvement Revolving Fund, and shall be signed by the Mayor and countersigned by the City Clerk, under the seal of the City, and be in denominations of not more than One Thousand Dollars each. Such certificates may be used in making payments on contracts for the improvements for which the assessments are made, or may be sold for cash for not less than par value thereof, and the proceeds credited to the Permanent Improvement Revolving Fund, and used for paying for said improvement and such certificate of indebtedness shall be assignable. The City Treasurer shall keep a proper record of the Post Office addresses of the holders of all certificates issued as aforesaid. It shall be the duty of the City Treasurer to pay such certificates and interest coupons as they mature

and are presented for payment, out of the fund on which they are drawn, and to cancel the same when paid. Any indebtedness created by the issuance of any such certificates, shall not be deemed a part of the total indebtedness of the City.

Whenever there are funds in the Permanent Improvement Revolving Fund that may be properly applied to the payment of any such outstanding certificate, it shall be the duty of the City Treasurer to notify the holder of such certificate that there is money in the City Treasury for the payment of the same. Said notice may be given by mail addressed to the last known Post Office address of the owner of said certificate, and if such address is unknown, said notice shall be addressed to such person at Ely, Minnesota. Proof of such mailing shall be made by the affidavit of the person mailing, and how each notice was addressed, and such affidavit shall be filed in the office of the City Treasurer. Such certificate shall draw no interest after thirty days from the mailing of said notice. Such notices shall be given and such certificates shall be paid in the order in which the certificates are issued.

SECTION 151. APPEAL TO THE DISTRICT COURT. Any person interested in any property assessed under this Charter, for benefits resulting from any improvements, may appeal from such assessment to the District Court of the County, within thirty days after the publication of the notice provided for in Section 139 of this Charter.

SECTION 152. APPEAL—HOW MADE. Said appeal shall be made by filing a written notice with the Council stating that appellant appeals to the District Court from said assessment, and containing a description of the property of said appellant, so assessed, and the objection of said appellant to such assessment, and by filing with the Clerk of said Court within ten days thereafter a copy of said notice of appeal. To render an appeal effectual for any purpose, a bond shall be executed by the appellant to the City, conditioned that appellant shall pay all costs and charges which may be awarded against him on the appeal, not exceeding the penalty of the bond which shall be in the sum of Two Hundred Dollars. Said bond shall be approved by the Judge of said Court and filed in the office of the Clerk of said Court. In case of an appeal, it shall

be the duty of the City Clerk forthwith to prepare and file a copy of the assessment roll, as confirmed, in the office of the Clerk of District Court. It shall be necessary to include in said copy only those pages of said roll, which are pertinent to the property involved in such appeal. The District Court may for good cause shown, grant further time for filing such certified copy, or may when necessary, require a further return to be made. The cause shall be entered by such Clerk in the name of the person taking such appeal against the City as an "Appeal from Assessments" and may be brought on for hearing by either party.

SECTION 153. PROCEDURE ON APPEAL. Such appeal shall be tried by the Court at a general or special term, without pleading other than as above stated, unless ordered by the Court. Upon such trial appellant can make no other objection to said assessment than those stated in his Notice of Appeal, but the Court may, in its discretion, permit such notice to be amended in this respect at any time. The Court may revise, correct, amend, increase, reduce or confirm the assessment appealed from, or may order a new assessment to be made.

The Court shall not dismiss the appeal, nor annul the assessment on the ground that only a portion of the assessment roll has been returned, but either party may introduce the whole of said roll in evidence, and the same shall in all cases, whether on said appeal or otherwise, and in all Courts, be prima facie evidence of the validity of all proceedings up to and including the confirmation of the assessment.

Disbursements and costs, except statutory costs, may in the discretion of the Court, be allowed on said appeal as in other civil cases, but any judgment entered therefor against the City shall be paid out of the general fund. From the determination of said appeal by the District Court, either party may appeal to the Supreme Court of the State.

SECTION 154. COPY OF ORDER SENT TO THE CITY TREASURER. PROCEEDINGS. It shall be the duty of the Clerk of District Court within twenty days after such order is filed by the Court, to make a copy of the order made by the Court in said proceedings and deliver the same to the City Treasurer. That thereupon the party

appealing may pay the assessment as ordered by the Court and unless the Court orders a new assessment, the City Treasurer shall certify the assessments mentioned in said order of the District Court to the City Clerk in the same manner as other delinquent assessments are certified. And if the Court orders a new assessment, the City Treasurer on receipt of the copy of the order from the Clerk of the District Court as aforesaid shall immediately transmit the same to the City Clerk, and the Council shall thereupon proceed to make a new assessment.

SECTION 155. RE-ASSESSMENT. If said assessment shall be set aside by the Court for any cause, jurisdictional or otherwise, the Council shall proceed, de novo, to take a new assessment and it shall proceed in like manner and to give like notice, as herein required, in relation to the first assessment and all persons in interest shall have like rights and the said Council shall proceed in any subsequent assessment, as in case of the first assessment.

Provided, that if the first assessment of benefits to any tract of lands shall not be appealed from, or shall not have been set aside by the Court, the Council, in any subsequent assessment or re-assessment may omit the tract of land as to which the first assessment shall not have been set aside or appealed from, or on which said assessment shall have been paid; and as often as an assessment or re-assessment against any tract of real estate assessed for any local improvement is set aside, the same shall be re-assessed until said property shall have paid its proper share of benefits accruing from the said improvement.

SECTION 156. PAVING ASSESSMENT. The City Council in addition to the powers herein granted, shall have the power to provide for the paving of any public street, alley, lane, levee or highway and for the paying for the same in not to exceed fifteen (15) annual installments.

SECTION 157. PROCEDURE. The City Council may proceed in accordance with the provisions of this Chapter, or may by resolution proceed in accordance with the provisions of the state improvement code.

Chapter 17

VACATING STREETS AND ALLEYS.

SECTION 158. POWER OF COUNCIL. The Council shall have exclusive power to vacate or discontinue public streets, alleys or highways or any portion thereof in the City, but no such vacation or discontinuance shall be granted or ordered by the Council, except upon the verified petition in writing of a majority of the owners of real property in that portion of such street, alley, or highway proposed to be vacated. The Council, upon presentation of said petition at any special or regular meeting, shall thereupon order such petition to be filed with the City Clerk, who shall immediately make and publish in the official paper a notice for the period of two successive weeks, at least once in each week, stating that such petition has been filed with the City Clerk and its object in brief, and that such petition will be heard and considered by the Council at a time and place specified therein, which time and place shall be fixed by the Council at the time of the acceptance of such petition, and the time of hearing such petition shall be at least ten days after the last publication of said notice.

SECTION 159. HEARING. The Council at the time and place appointed shall investigate and consider the subject involved in said petition, and may view the premises and shall hear evidence for or against said petition.

SECTION 160. ORDER OF COUNCIL. The Council, after hearing such petition, may by resolution passed by a majority of its members, grant the petition and order and declare such street, alley or highway vacated and discontinued.

SECTION 161. COPY OF RESOLUTION TO BE FILED WITH THE REGISTER OF DEEDS. A copy of said resolution duly certified to by the City Clerk to be a true copy, shall be filed with the register of Deeds of the County and duly recorded in his office.

Chapter 18

POLICE DEPARTMENT

SECTION 162. POLICEMEN, APPOINTMENTS, QUALIFICATIONS, REMOVALS. The police department of the City of Ely shall consist of a Mayor and a Chief of Police and such subordinate policemen, watchmen, detectives, and other officers as may be authorized by the Council and appointed by the Mayor. The Mayor shall appoint the Chief of Police, all police officers, watchmen, detectives and all other officers pertaining to said department. All such appointments shall be subject to the approval of the Council. No person shall be eligible to any appointment in said department unless he is a citizen of United States, is able to read and write the English language and is of good health and physique and has not been convicted of a felony. The Mayor at any time may suspend any officer or member of said department and no person so suspended shall receive any compensation for the time he is so suspended, unless reinstated, and then, only by order of the City Council.

SECTION 163. LIMITED POLICEMEN. The Mayor may, at the request of any person, firm, corporation, society or organization, appoint a policeman or watchman, who shall serve without expense to the City and have police power to preserve the peace and protect property within such limits and at such places as may be designated in such appointment, but such limited policemen or watchmen shall not exercise any authority nor wear any badge of office outside the limits named in such appointment.

SECTION 164. SPECIAL POLICEMEN. The Mayor may, in case of any mob, riot, pestilence, large public gathering, great public excitement or other emergency, or for days of election, or public celebration or public parades appoint such number of special or temporary police officers as he may deem necessary, but such special or temporary appointment shall not continue for more than one week without consent of the Council.

SECTION 165. TITLES, RULES, UNIFORMS, ARMS AND BADGES. The Mayor shall have power to prescribe the title, rank, powers and duties of the several members

of the police force, and from time to time make all necessary rules and regulations for the government, control, efficiency and discipline of the same and for regulating and determining the uniforms, badges, arms, discipline, drill and exercise of the same as well as the conduct of the officers and men of said force when on duty. He may promulgate and enforce general and special orders for the government and special orders for the government and direction of such police force and the several members thereof.

SECTION 166. POWERS AND DUTIES. All police officers, detectives and watchmen and all members of the police force of the City shall possess all the powers of constables at common law and by the laws of the State, and in addition thereto shall have power to serve and execute any warrant, summons, commitment, writ, subpoena or process issued out of the Municipal Court; shall have authority to pursue and arrest in any part of the State beyond the limits of the City any person charged with any violation of any law or ordinance of the City, or any offense or crime committed within the limits of the City, provided that no such officer shall have power to arrest without warrant except in cases in which arrest without a warrant is authorized by the general laws of the State or this Charter, and the violation of any City ordinance shall be deemed a public offense; and when performing the duties of constables as aforesaid, shall be entitled to like fees taxed and collected in like manner, but the City of Ely shall, when fees are not collected in a criminal action, or in an action under an ordinance, or when no conviction is had in court, or the accused is dismissed without having paid costs, may pay the actual necessary expense incurred by such officer in such action.

SECTION 167. PEACE OFFICERS. POWERS. The Mayor, or Acting Mayor, Chief of Police, the officers of police next in rank to the Chief, the Sheriff of the County and his deputies, the Coroner, the Municipal Judge and Special Judge, and all police officers and watchmen, shall be officers of the peace, and command the peace, suppress in a summary manner all rioting or disorderly behavior within the City limits, and for such purpose may command the assistance of all bystanders and if need be of all

residents of the City, and in case where the civil authorities may be required to suppress riots or disorderly behavior, the superior or senior officer present in the order mentioned in this section shall direct the proceedings.

SECTION 168. REFUSING TO AID PEACE OFFICERS. PENALTY. If any person, bystander, or resident shall refuse to aid in preserving the peace when required as designated in the foregoing sections, every such person shall be guilty of a misdemeanor and upon conviction thereof before a Court of competent jurisdiction shall be punished by a fine of not to exceed One Hundred Dollars or imprisonment in the County jail for a term not to exceed three months.

SECTION 169. ASSUMING TO BE POLICEMEN. MISDEMEANOR. If any person shall without authority assume to act as a policeman or pretend to have such power or wear the badge of a policeman within the City, he shall be deemed guilty of a misdemeanor and upon conviction thereof before a Court of competent jurisdiction he shall be fined not to exceed One Hundred Dollars or imprisonment in the County jail for a term not exceeding three months.

SECTION 170. All of the provisions of this Chapter inconsistent with Police Civil Service laws shall be modified so as not to conflict therewith so long as the Police Department shall remain under Civil Service. In the event Civil Service is abolished, this Chapter shall again govern the Police Department.

Chapter 19

CITY DEPOSITORIES

SECTION 171. CITY FUNDS. HOW DEPOSITED. All City funds as soon as received shall be deposited by the City Treasurer in the name of the City in one or more banks designated by the Council.

And any bank or banks so designated shall be required to execute sufficient bond to the City, with a Surety Company authorized to do business in the State of Minnesota, as surety, which bond shall be equal to the estimated sum to be on deposit at any one time, to be approved by the Council and filed in the office of the City Clerk, and thereupon shall require the Treasurer to deposit all or any part of the City's money in such bank or banks. Such designation shall be in writing and shall set forth all the terms and conditions upon which the deposits are made, be signed by the Mayor and Clerk and filed with the Clerk. That thereupon such bank or banks shall become a legal depository or depositories for the City's money.

In lieu of a bond as above required, the depository may furnish or deposit securities with the City Treasurer as provided by State law, except that bond or security shall not be required for any portion of funds insured by Federal Deposit Insurance.

If, after making such designation, the Council deems the security given insufficient, it may require a new bond, or, if in its opinion the public interest requires, may vacate, revoke or modify any such designation and again designate a depository.

The City Treasurer and the sureties on his bond shall be exempt from liability to the City by reason of the loss of any funds of said City deposited in any such bank or banks to the extent and amount of such funds in such bank or banks at the time of such failure or bankruptcy.

Chapter 20

MISCELLANEOUS.

SECTION 172. PROCESS AGAINST THE CITY. HOW SERVED. Service of Summons, process or notice in any action or proceeding against the City may be made by leaving a copy thereof with the Mayor or City Clerk, and it shall be the duty of such officer to forthwith inform the City Attorney thereof, who shall take such proceedings as may be necessary to protect the interests of the City, and shall report the same to the City Council.

SECTION 173. PUNISHMENT OF OFFENSES. Every act or omission to act, which under this charter or the ordinance and regulations of the City is or shall be made a misdemeanor or subject to punishment, shall be, if the punishment is not otherwise prescribed, punishable by imprisonment for not more than three months or by a fine of not more than One Hundred Dollars.

SECTION 174. INSPECTION OF RECORDS. All records, books, and papers pertaining to the business of the City, or any department thereof, shall be public and open to the inspection of any citizen of the City at all reasonable times and places.

SECTION 175. APPROVAL OF PLATS. The Council shall have the sole power to accept and approve all plats of property within the City, and all plats outside the City in accordance with Chapter 471, Minnesota Statutes Annotated. The Council shall have the power to require the owners of unplatted property to make such improvements as it deems proper before a plat thereof shall be accepted and approved by it.

Whenever any plat of any parcel of land showing divisions and subdivisions of such parcel into lots, blocks and streets, shall be submitted to the City Council for approval with intention to dedicate such streets to public use, such plat shall be accompanied with a delineation of a sufficient part of other platted portion of the city to indicate how the streets marked on such plat correspond and connect with streets already in use in the City; and the Council may require such alterations to be made in the streets as shown on the plat so presented as in its opinion are necessary to preserve uniformity and regularity in the

public streets of the City, and may withhold approval of the plat presented until such alterations shall be made.

Whenever any plat is approved by said Council, the City Clerk shall so certify thereon, and the plat shall be filed in the office of the Register of Deeds, and a duplicate filed in the office of the City Clerk. No plat of lands shall be filed by the Register of Deeds until the same has been approved by the Council, and the certificates of the City Clerk as aforesaid endorsed thereon.

SECTION 176. ACTION ON BEHALF OF CITY. All actions brought to recover any penalty or forfeiture under this Charter, or the ordinances, police or health regulations made in pursuance thereof, shall be brought in the corporate name of the City.

SECTION 177. BOARD AND JAIL FEES. The City shall not be liable in any case for the board or jail fees of any person who may be confined by any officer of the City or committed by any magistrate to the jail of the County for any offense punishable under the State laws or the ordinances of the City.

SECTION 178. ATTEND TO DUTIES. All persons holding any office or employment under the City, whether elective or appointive, shall be required to engage in the actual work of the office or employment so held, to the extent that their services may be necessary or the full and complete discharge of the duties of said office or employment, and a failure so to do, shall be grounds for removal.

SECTION 179. AFFIDAVITS OF PUBLICATION. The proprietor of the official paper, shall immediately after the publication of any notice, ordinance or resolution, or proceedings of the Council, or any other matter which is required by any provision of this Charter, or by law, file with the City Clerk a copy of such publications, with his affidavit or that of his foreman of its due publication, and such affidavit shall be prima facie evidence of the publication, and no bill or claim for any publication whatsoever, shall be allowed or adjusted until such affidavit shall have been filed with the City Clerk.

SECTION 180. CHARTER TO BE PUBLIC LAW. This Charter is hereby declared to be a public act and may be received in evidence in all Courts in this State, and need not be pleaded or proven.

SECTION 181. PUBLIC ENTERTAINMENTS. The Council of the City of Ely is authorized to annually levy a tax not to exceed one mill against the taxable property of the City for the purpose of providing the public with entertainments.

SECTION 182. CIVIC ASSOCIATIONS. The City Council shall have authority to annually levy a tax of not exceeding one mill against all the taxable property of the City of Ely for the purpose of maintaining Commercial and other Civic Associations to further the best interests of the City and its taxpayers. The purpose of such organizations, however, shall be first approved by the City Council.

SECTION 183. AMENDMENT OF CHARTER. This Charter may be amended at any time as provided by article four, Section Thirty-six of the State Constitution or any other law bearing on amendments of Home Rule Charters.

SECTION 184. EFFECTIVE DATE OF AMENDED CHARTER. This Amended Charter shall go into effect immediately upon approval by the required number of qualified voters.

Index

CITY OF ELY

	Section
Accounts, Committee on	46
Forms of, to be uniform	80
Clerks shall examine	36
Acting Mayor	26
Actions, against City—process, duty of City Attorney	172
On assessments against railways	128
On behalf of City	176
Administering oaths	12
Administrative Committees	46
Advertising, for bids on contracts	84
Contract for official	97
Affidavit of publication—official printing	170
Aldermen	4
Board of Equalization	11
Election of	7
Not to be interested in contracts	50
Oath of office	9
Salary	11
Term	5
Amendment of charter	183
Annual—Audit and publication	28
Budget	71
Report, by clerk	34
by treasurer	87
Tax levy	72
Appeal, from assessment	151
From award of damages—eminent domain	116
Appointive officers	47
Approval of bond, contractors'	90
Official	10
Approval of plats	175
Assessments—See also Eminent Domain	114-118
See also, Improvements	119-121
For benefits, eminent domain	114-118
Clerk's statement	35
Additional, may be made	127
Against railways or street railways	128
Appeal, to District Court	151
How made	152
Procedure on	153
Certificates of Indebtedness, may be issued	150
Confirmation of	181
Notice of	133
Delinquent, returned to clerk	143
Transmitted to County Auditor	144
Election in manner of payment, notice of	140
Waiver of defects	141
Estimate to be made by City Engineer	127
Final	132
Hearing, on application for improvement	126
Before making	130
Notice of	131
Informalities	147
Installments, if not paid when due	145
May be paid by	140
When due	142
Interest on, to be collected	144
Lien on real estate	134
New assessments	148
Notice, election by property owner as to manner of payment	140
Final confirmation	133
Hearing on application for improvements	125
After making assessment, objections	131
Before making assessment	129
Re-assessment	155
On warrant, by treasurer	139
Order of court, on appeal to be sent to City Treasurer	154
Paving	156
Payment of, may in be installments	136
Permanent Improvement Revolving Fund—	
Moneys collected before work done to be paid into	127
Moneys realized from certificates of indebtedness	150
Power to purchase property to protect lien	148
Procedure, in making	125-133

	Section
On appeal	153
Re-assessments	155
Record to be kept	135
Warrants, for	137
Delivered to City Treasurer	138
Notice on	139
Assessor, appointment	45
Compensation	49
Deputy and assistants	49
Duties	44
Attend to duties, officers	178
Attorney—See City Attorney	32
Auditing books	28
Ballots, preparation, etc.	18-19
Bequests and donations	62
Blasting	62
Board, Advisory	63
Board and jail fees	177
Board of Equalization—See also Taxation—	
Council to constitute	75
Salary	11
Bonds—	
Certified check in lieu of bond, contractor	85
Clerk	10
Contractors	90
Corporate surety in lieu of certified check on bid	85
Depositories, bonds of	171
Interest on	70
Issuance of, by City	79
Officers'	10
Sureties on, may complete contract, when	93
Treasurer	10
Bookkeeping, uniform system	61
Books, open to inspection	39
To be transferred, by officers	8
Boundaries, City	2
Budget, annual	71
Clerk to prepare	34
Buildings, established and maintained	62
Burial of dead	62
Certificates of Indebtedness	74
May be issued to pay assessments	150
Charter—	
Amendment of	183
Effective date	184
Powers of City under—(See also Powers of City)	1
Powers of officers under—(See also Powers of Council)	51
City Assessor—(See Assessor)—	
City Attorney, appointment	47
Assistants	32-47
Conduct of legal proceedings	32
Duties	33
City Clerk, appointment	47
Bond	10
Contracts to be signed by	35
Duties	34
Examine reports and vouchers	36
Monthly statement of receipts and expenditures	60
City depositories	171
City Engineer, appointment	47
Assistants	43
Duties, fees	42
To file plats, etc.	41
Shall make estimate on cost of improvements	127
City orders	66
City powers—(See Powers)—	
City property	1
City Treasurer, appointment	47
Bond of	10
Collect penalties on assessments	142
Deposit moneys received	171
Give notice for collection of special assessment	139
Keep separate account of funds	73
Make return of delinquent assessments	143
Report to Council	38
Civic associations	182
Civil actions brought in name of City	176
Claims for damages, how presented—(See State laws)	172
Committees, standing	46
Compensation of officers and employees	49

	Section
Concealed weapons	62
Condemnation—(See Eminent Domain)—	
Contempt of Council	12
Contingent Fund	68
Contracts, action on, to be by resolution or ordinance	81
Advertising for bids	84
Assignment	93
Bids, action on, by Council	87
Advertising for	84
Opening	86
Security for	85
Bond	90
City officers cannot make with city, exception	50
City may complete	96
Collusion, by bidder	99
With bidder	98
Day labor when allowed	82-93
Definition	81
Estimates on, before payment on	95
Contemplated work	82-127
Exceeding \$750 to be let by bid	82
Exception in case of emergency	92
Execution	35-88
Expenditures	91
Failure to perform	93
Let to lowest bidder	87
Official printing	97
Performance	89
Plans and specifications	83
Right to suspend work	94
Sewer and water pipes may be in one contract	123
Time and manner of execution	88
Two or more improvements may be in one contract	122
Corporate sureties, when necessary, contractors bid	35
Depository bond	171
Council, bonds, issuance by	70
Franchises granted by ordinance	58
Governing body	51
Investigations, witnesses etc.	12
Mayor is member of	30
Meetings time and place	52
To be public	53
Members present who fail to vote	59
Monthly statement of receipts and expenditures	60
Ordinances and resolutions	56
Organization	5, 51-55
Pay out moneys	66
Procedure	55
Publication of charter and ordinances	61
Quorum	54
Powers, general—(See Powers)—	
Vote of members present who fail to vote	59
On improvements	125
Ordinances and resolutions—	
Ayes and noes	56 (1)
Majority vote to carry	56 (2)
Reconsideration	56 (5)
On tax certificates	74
Debt, limit of	76
Depositories, city banks to be designated	171
Deputy officers	47
Direct legislation	106
Effect of charter to be public law	180
Election precincts	3
Elections, application of candidates	16
Appointment of judges	21
Canvass of vote	22
Date of, general	14
Eligibility to elective office	13
Filing of applications	17
First election under charter	14
General election	14
Judges and clerks of, appointment	21
Management of	22
Names of candidates, how placed on ballot	19
Notice of	20
How posted	20
Notifying officers elected	22

	Section
Preparation of ballots	18
Precincts	3
Special elections	15
Term	5
Vacancies, how filled	23-24
Who may be candidates	16
Elective officers—(See also Officers)	4
Emergencies, mayor's contingent fund	68
Work may be done without bids	92
Eminent Domain, abandonment of proceedings	117
Adjournment of hearing in	115
Appeal	115
Appraisal, where buildings on land	115
Assessments for benefits	115
Assessment roll	115
Notice of completion of	115
Award, effect of	115
Buildings on land	115
City may acquire property	114
Cost of improvements	114
Council, adopt plat, order improvements, give notice	114
Adjourn hearing and revise assessment	114
Determine nature and extent of improvement	114
May modify plat	115
Confirmation of assessment	115
Notice of final	115
Procedure after	115
Damages, how awarded, interest	115-116
In excess of benefits	115
To be assessed on real estate benefited	115
Description of property taken under eminent domain	118
Description to be recorded	115
Effect of award	115
Evidence	115
Hearing	115
Improvement, nature and extent	115
Joint owners	115
Lease holds	115
Necessity for taking	114
Notice, of hearing	115
Of completion of assessment roll	115
Of final confirmation	115
New notice may be given	115
Plat to be made by City Engineer	115
Re-assessment	115
Removal of buildings	115
Resolution declaring necessity for taking	115
Revision of assessments	115
Service of notice	115
Employees, appointment	47
Compensation	49
Emoluments prohibited	5
Equalization, Board of	70
Estimates, annual budget	71
On contracts	82, 95
Evidence, ordinances, proof, judicial notice	56, 57
Transcript of records	34
Excavations	62
Exempt property, assessments, local improvements	121
Expenditures	91
Fees, to be fixed by Council	62
To be paid into City Treasury	19
Filing—Application of candidate for office	17
Fee	16
Bonds	10
Oath of office	9
Filing vacancies	24
Finances—(See also Taxation)	
Annual Budget	71
Annual tax levy	72
Bonds, issuance of	70
City orders	66
Debt, not to be increased or credit loaned	65
Disposition of monies collected	79
Distribution of monies	69
Fiscal year	64
Funds, annual levy on all taxable property	72
Enumerated	68
Money, how deposited	171
How paid out, city orders	66
Other funds may be established	68
Separate accounts to be kept	73

	Section
Uniform accounts	80
Financial report to Council	34, 69
Treasurer's statement	38
Fire arms	62
Fire department, Chief, how appointed	47
Fund	68, 73
Rules and regulations	62
Fire escape	62
Fire limits, power to prescribe	62
Fire sales	62
Franchises—To be granted by ordinance, exception	58
Assignment prohibited without consent of council	104
Exclusive	105
Forfeiture for non-compliance with terms	103
Further restrictions	104
Grant of, by ordinance	56, 58, 100
Rates under	101
Time limit, twenty-five years	102
Funds—(See also Finances)	68
Annual levy for support	68
Kinds enumerated	73
Separate accounts to be kept	73
Gambling	62
Garbage	62
General Fund, council may borrow from	68
Contingent expenses may be paid from	68
Improvements—eminent domain, may be paid from	68, 114
Local improvements to be paid from, when	120
General Powers—See Powers	47
Health Officer, appointment	126
Hearing, assessments	75
Board of Equalization	115
See also Eminent Domain	115
Improvements, Local—(See also Assessments, Contracts)	121
Amount assessable, against exempt property	125
Application and petitions for	84
Bids for	36
City may complete work, when	119
Cost to be paid by assessment	120
Exception	125, 126
Hearing on application	83, 125
Plans and specifications	124
Procedure where two at same time	124
Right-of-Way—(See Eminent Domain)	94
Right to suspend work	123
Sewer and water included in one contract	122
Two or more under one contract	106
Initiative	70
Interest, bonds, warrants, certificates	70
Issuance of bonds	21
Judges of election	62
Land, for public purposes—(See also Eminent Domain)	62
Lease or sale	62
Legislation—	51
By council, general	62
Specific—(See Powers of Council)	106
By people	62
Licenses, revocation	149
Liens for assessments to purchase property	62
Lodging and apartment houses	11
Mayor, election—(See also Officers)	26
Acting Mayor	29
Actions to be instituted by	25
Chief executive	88
Contracts to be signed by	25-31
Duties, general	28
Examination of records	30
Member of council	50
Not to be interested in contracts	27
Reports	11
Salary	173
Service of summons, to be on	68
Supervision of public utilities	59
Urgency fund	31
Members present who fail to vote	171
Minutes, clerk to keep	66
Money, how deposited	80
How paid out, city orders	80
Uniform accounts	60
Monthly statement of receipts and expenditures	60

	Section
Municipal Court, Judges	6
First under charter	14
How elected	7
Shall take judicial notice of ordinances	57
Municipal Ownership—(See also Eminent Domain)	114-118
Acquisition of property, by condemnation	62
By purchase	62
Power of the council with regard to	62
Naming streets	62
Newsboys, etc., license	62
Nuisances	62
Numbering houses and lots	62
Oaths, power to administer	12
Of office	9
Offices, new, may be created by council	48
Official seal	62
Officers, appointive	47
Attention to duties	178
Bonds of	10
Compensation fixed	49
Elective, how elected	7
How removed, recall	111
Who are	4
Municipal Court Judges	6, 7
Not to have interest in contract, exception	50
Oath of	9
Qualifications and eligibility	13
Receiving fees	49
Resignation	23
Salaries, appointive	49
Clerk and treasurer	12
Elective	11
Subordinate	48
Term and official year	5
Transfer of records, etc.	8
Vacancies	23
Ordinances, in general, mode of passage, etc.	56
Granting franchises	100
Majority vote to carry	56
Time of taking effect	56, 107
Parks, Grounds, Buildings, Committee on	46
Paving	125, 156
Peace Officers	167
Personal property, conveying, etc.	1
Petition for improvements	125
Petition for popular ordinance	106
Petition for recall	110
None for first six months	113
Petition for referendum	107
Plats, in general	175
Improvements	125
Records to be kept on file by engineer	41
Vacation of (See state laws)	62
Poles and wires, regulation of	62
Police Department, appointment to, qualifications, removal	47, 162
Civil service	170
Limited and special policing	163, 164
Mayor, head of, may make rules	162, 165
Powers	166, 167
Police officers—(See Police Department), appointment	162
Civil Service	170
Assuming to be	169
Refusing to aid	168
Popular ordinance, not to be repealed except by vote of people	106
Pound, public	62
Powers, of city—general	1
Specific, acquisition of property—	114
Eminent domain (see Eminent Domain)	62
Execution sale	62
Public buildings, utilities, etc.	62
Enact legislation	62
Powers of council enumerated	62
Animals, cruelty to	62
Appointment of officers	47
Appropriation of money	66, 74
Approval of plats	175
Assign duties to committee	46
Auction and fire sales, regulate	62
Billboards and signs	62
Births, report of	62

	Section
Blasting	62
Bonds, approval of contractor's	90
Issued only on majority vote of council	70
Boulevards	62
Budget	71
Building regulations	62
Burial of dead	25
Canvass of votes by	62
Condemnation of property, acquiring by purchase, etc.	114-118
Eminent domain—(see Eminent Domain)	62
Dairies	62
Dangerous and offensive occupations, disagreeable noises	62
Distilleries, brewers and pawnbrokers	62
Ditches, drains, sewers, etc.	62
Dogs	114-118
Eminent domain—(see Eminent Domain)	62
Employment of minors	62
Excavations	62
Explosives	62
Fees and charges	23
Filling vacant office	62
Fire arms	62
Fire escapes	62
Fire limits	62
Fire sales	56, 58, 100-105
Franchises—(see also Franchises)	62
Gambling	62
Health	62
Improvements—(See also Eminent Domain, Local Improvements)	119
Assessment may be made	120
Cost may be paid from general fund	119
Determine nature and extent	62
Improper use of street	62
Inspection, dairies	62
Foods	62
Hotels and restaurants	62
Intelligence and employment offices	62
Intoxicating liquors	8
Transferring to new officers	25
Powers of Mayor, chief executive	162
Appoint police officers	31
Duties	166
Preserve peace	30
Right to vote in council	3
Precincts	178
Printing, affidavit of, to be filed before bill allowed	97
Contracts for official advertising	76
Proceedings, Board of Equalization	125-156
In assessments	114-118
In condemnation	172
Process against city, how served	62
Public buildings, etc., established and maintained	181
Entertainments	180
Law, charter to be	61
Publication of charter and ordinances	173
Punishment of offenses	62
Purchase of property, in general	114-118
Eminent domain	149
To protect lien	62
Under execution	162
Qualifications, appointees to police department	7
Elective officer	62
Quarantine	54
Quorum	62
Railroads, ditches	62
Safety provisions	62
Spur tracks	62
Streets to be kept in repair	62
Streets, regulation of	62
Real estate, holding and conveying	1
Recall—election after	112
Method prescribed	110
No petition for first six months	113
Statement, of cause,—justification by officer	111
Successor	112
Reconsideration of ordinances	56
Record, births and deaths	62
Records, of engineer	41
Keeping	34
To be open to public inspection	173

	Section
Referendum, method, powers	107-109
Removal of partly destroyed building	62
Reports, annual, of mayor	37
Of treasurer	38
Births and deaths	62
Estimated expenditures	91
Monthly, city clerk	60
Resignation of officers	23
Resolutions	56
Rules	55
Safety in streets	62
Salaries, of city officers	11, 49
Sales, gift, auction, fire, etc.	62
Of useless personal property	62
Seal	1, 34
Sewers—(see also Improvements)	114
Council to regulate connections	62
Sidewalks—(see also Assessments)	62, 126
Special elections	15
Street commissioner, appointment and removal	47
Streets—(see also Improvements)—improvements	119
Power of Council to regulate, etc.	62
Vacating	158
Streets, grades—(See also Streets)	62
Naming	62
Use of	62
Vacation of	158-161
Vehicles and loads on	62
Tax certificates	74
Tracks of railroads	62
Violation of charter and ordinances	62
Subordinate officers	48
Subpoenas, by council	12
Tax certificates, council may issue	74
Estimate, annual	71
Levy, annual	72
Taxation—(See also Finances)	34
Annual budget	70, 72
Levy	75
Board of Equalization	78
Assessment rolls, to be revised	76
Record sessions and powers	77
Who may appear before	62
Telephone, telegraph, etc.	5
Terms of office	8
Transfer, of books at expiration of term	93
Of contracts, not allowed	68
Of funds	37
Treasurer—(See City Treasurer)	62
Uniform stage of water in lakes	23
Vacancies—how filled	161
Vacating streets, copy of resolution to be filed with Register	159
Hearing	160
Order of council	158
Power of council	59
Vote, of councilmen present counted in negative, when	56
Majority required to pass, ordinance	70
Resolution to issue bonds	3
Voting precincts	3
Wards	3
Warrants, for assessments	137-139
Clerk to sign	34
May be issued in anticipation of collection of assessment	150
Water, light, etc.—acquired and maintained	62, 114
Witnesses, attendance of	12

STATE OF MINNESOTA
DEPARTMENT OF STATE
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James L. Donovan
Secretary of State