

PENAL ORDINANCES

Relative to

Public Safety and Good Order

Advertising 2nd Hand Merd.

Pasteurization of Milk,

Base Ball on Sunday,

Mt. Hope Cemetery,

Animal and Fowl,

Oil Burners,

Elevators,

Health,

Parks.



ROCHESTER, N. Y.

1925

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Ordinance Relating to
" **PUBLIC SAFETY**
and
GOOD ORDER

Passed April 1, 1914

AMENDED

February 23, 1915

May 14, 1918

May 9, 1922

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July 25, 1916

March 25, 1919

May 23, 1922

June 26, 1917

February 10, 1920

June 13, 1922

December 26, 1923

*Rochester, N. Y. Ordinances,
" etc.*

Rochester, N. Y.

Analysis of

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ORDINANCE RELATING TO PUBLIC SAFETY AND GOOD ORDER

ARTICLE III. SAFETY AND GOOD ORDER IN STREETS

Sec. 230. Pedestrians.

1. In the congested district a pedestrian crossing the street must do so in the most direct line from curb to curb, and must not cross diagonally or obliquely except upon a crosswalk.

2. Pedestrians are warned that it is unsafe to cross the street except at regular crossings, and especially is this so in the congested district.

Sec. 240. **Crowds in Streets.** At the time of any public parade, accident, riot, public peril or other circumstance causing people to congregate or assemble, a person must not enter or remain within the danger lines or other bounds established by the police, or by, or under the direction of an authorized city official for the preservation of public safety, peace and order, unless such person be duly authorized by an officer there in charge.

Sec. 250. Fire Lines.

1. At any fire, the police on arrival must immediately establish and maintain fire lines by stretching ropes or otherwise as circumstances may require, and must exclude from the streets within the fire lines all vehicles and persons not officials or employees of the city in the discharge of duty, except such persons as are entitled to wear and are actually wearing conspicuously upon an outside garment the fire line badge of the Department of Public Safety.

2. Owners of property endangered and personally known to the police to be entitled to remove the same, may be admitted within the fire lines upon order of the superior officer present, and not otherwise.

3. A person must not in any way impede the access to a fire or its vicinity, of any apparatus, official or employee of the city, or enter or remain within the fire lines without permission, and must not by disorderly conduct or otherwise impede the work of extinguishing fire, or of protecting lives and property thereat.

4. At a fire or in case of an alarm of fire, the fire apparatus and all city officials and employees in the discharge of their duty have the right of way and full and unobstructed use of the streets.

Sec. 260. **Disturbance.** A person must not create a disturbance or make a loud noise in or near a street.

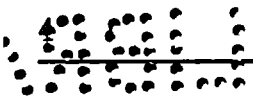
Sec. 261. **Unnecessary Noises Near Hospitals.** A person must not by himself, or by the operation of any instrument, agency or vehicle, make any unnecessary or unseemly noise within one hundred and fifty feet of any portion of the grounds and premises on which is located a hospital or other institution reserved for the sick. The Commissioner of Public Safety shall place as many signs as he may deem proper within or near the zones hereby created, calling attention to the prohibition against unnecessary noises within such zones.

Amended May 26, 1917, page 251, Common Council Proceedings.

Sec. 262. **No person shall make, or cause, permit or allow to be made, any noise of any kind by means of any rattle, clapper, hammer, drum, horn or any musical instrument or mechanism for creating or reproducing sound, in a street or near enough to a street so that any such noise will be heard in a street, for the purpose of advertising any goods, wares or merchandise, or of attracting the attention, or inviting the patronage of any person to any occupation or business whatsoever.**

Amended May 23, 1922, Page 313, Common Council Proceedings.

Sec. 270. **Malicious Mischief.** A person must not willfully injure or interfere with a street sign, street lamp, lamp post, danger lamp or other signal or barrier placed for public safety, or any monument locating the line of a street, sidewalk or improvement.



ORDINANCE RELATING TO

Sec. 280. Hindering Street Improvements. A person must not hinder or obstruct the construction or repair of any pavement, sidewalk, crosswalk, sewer or other public improvement which is being done under the direction of, or with the consent of the Commissioner of Public Works; or hinder or obstruct any person employed by the Commissioner of Public Works in cleaning any street.

Sec. 290. Games of Sport—A person must not play with a ball or fly a kite in a street.

Sec. 300. Obstructing Public Travel—A person must not skate or slide upon or over any sidewalk or crosswalk in such a manner as to hinder or endanger pedestrians; occupy any street, sidewalk, crosswalk, bridge or entrance to a church or public hall in such a manner as to obstruct the free passage of the public.

Sec. 310. Cellar Doors.

1. A trap door or grate must not be left open in a sidewalk at any time except when receiving or delivering goods, and during such time, the door or grate must be surrounded by barriers sufficient to secure public safety.

2. All iron or steel cellar doors, covers of any kind over openings into areas, gratings or glass skylights in sidewalks, must be kept covered from November 15 to April 1, with asphalt or other composition containing gravel or other substance, so that the surface thereof shall not be slippery; and such covering shall at all times be kept in repair and free from holes or depressions. Burlap bagging or cloth must not be used for such covering.

Sec. 320. Swinging Gates—A gate that swings outward over any sidewalk must not be constructed or maintained.

Sec. 330. Barbed Wire.

1. A fence of barbed wire, or of which barbed wire is a part, must not be constructed or maintained along the line of a street.

2. A fence of barbed wire must not be constructed or maintained elsewhere without permission in writing from the Commissioner of Public Safety.

Sec. 340. Fruit Skins—A banana peel or other fruit skin must not be thrown upon a sidewalk.

Sec. 350. Cleaning sidewalks.

1. The person occupying the ground floor of a building, and the owner of a vacant building or lot, must keep the sidewalk adjoining such building or lot free and clear from snow and ice, and must not suffer or permit snow or ice to collect or remain on such sidewalk later than nine o'clock in the forenoon, if such snow shall have fallen or collected after eight o'clock of the previous evening, or later than eight o'clock in the evening, if such snow shall have fallen and collected after nine o'clock in the forenoon. When the snow is removed from sidewalks by city contractors using ploughs, it shall be the duty of the occupant or owner, as above stated, to remove the snow and ice remaining after such ploughs have gone through. The portion of the sidewalk required to be kept free from snow and ice is the portion thereof which is paved, if any, and if no portion thereof is paved, a space at least four feet in width shall be kept free and clear as above stated.

2. The person occupying the ground floor of a building, and the owner of a vacant building or lot, must keep the sidewalks adjoining such building or lot free and clear from all obstructions and from weeds and rubbish.

3. A person must not sweep or shovel snow, dirt, water or rubbish out of a building or lot upon the sidewalk, and must not sweep ashes, water, paper, fruit vegetables or the skins thereof, or any rubbish, except leaves and snow from the sidewalk into the roadway.

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4. The sidewalks of the following named portions of the following streets must be swept daily before 7:30 A. M. and must not be swept later than said hour, so as to remove dirt, dust and other accumulations therefrom, except that when snow or ice is removed from the sidewalk in the morning it shall be deemed to cover the sweeping herein required, and before sweeping, except in freezing weather, the sidewalks must be well sprinkled with water so as to avoid making any dust, viz: Both sides of Main Street between Gibbs Street and Prospect Street; and both sides of all streets named as follows: Exchange Street from Court Street to State Street; State Street from Main Street to Central Avenue; Mill Street from Corinthian Street to Central Avenue; Front Street from Main Street to Central Avenue; North Water Street from Main Street to Central Avenue; St. Paul Street from Main Street to Central Avenue; Clinton Avenue North from Main Street to Central Avenue; Franklin Street from Main Street to a point four hundred feet north therefrom; North Street from Main Street to a point six hundred feet therefrom; East Avenue from Main Street to Gibbs and Chestnut Streets; Clinton Avenue South from Main Street to Court Street; Stone Street from Main Street to Court Street; Minerva Place from Main Street to Ely Street; South Avenue from Main Street to Court Street; South Water Street from Main Street to a point four hundred feet south therefrom; Graves Street from Main Street to Canal Aqueduct; Aqueduct Street from Main Street to Canal Aqueduct; Fitzhugh Street from Erie Canal to Allen Street; Plymouth Avenue from Erie Canal to Church Street; Cortland Street from Main Street East to Temple Street; Court Street from Exchange Street to Cortland Street; Andrews Street from State Street to St. Paul Street; Market Street from State Street to Front Street; Central Avenue from State Street to Clinton Avenue North.

Sec. 360. Rubbish in Streets.

1. Ashes, waste paper, rags, boxes, bottles, cans or other materials must not be scattered or thrown in or on a street.

2. A person must not interfere with an ash can or receptacle, or rubbish can or receptacle, or the contents thereof, on a street, or tip the same over, or take therefrom paper, rags, boxes, bottles, tin cans or other materials.

3. Every householder must provide three separate receptacles for ashes, rubbish and garbage, and ashes, rubbish and garbage must not be mingled or placed together in one receptacle, but each must be placed in a separate receptacle. Rubbish includes paper, rags, pasteboard boxes, bottles, tin cans and similar things. Garbage includes all animal and vegetable matter.

Sec. 370. Signs.

1. A sign or banner must not be erected or suspended over a street, or so as to extend or project over a street or any part thereof, without written permission from the Commissioner of Public Works. Before such permission is granted, the location and construction of such sign or banner must be approved in writing by the Fire Marshal, and the same must not be erected or constructed except in accordance with such written approval.

2. A sign attached to a building and projecting or extending over a street must not project more than four feet from such building, and must not be less than nine feet above the sidewalk.

3. In case a sign is wholly over a street or projects more than two feet over sidewalk, the owner thereof must execute a bond in a sum fixed by the Commissioner of Public Works not less than four thousand dollars, with sureties approved by said Commissioner indemnifying the City of Rochester against all loss, cost, damage or expense incurred or sustained by or recovered against the city by reason of the construction or maintenance of such sign.

Sec. 372. Structures approved by Art Commission must not be altered. Buildings, structures, arches and marquees, or any portion thereof, erected in, upon or over, or extending into, upon or over a street or highway, the design of which has

been approved by the Art Commission, must not be altered unless such alteration shall be approved in writing by the Art Commission; and no sign shall be placed upon, under or be attached to any such building, structure, arch or marquee unless the design therefor approved by the Art Commission contains such sign as a part thereof.

Amended May 14, 1918, Page 189, Common Council Proceedings.

Sec. 380. Awnings.

1. Cloth awnings attached to a building may project over the sidewalk not exceeding ten feet, providing such awnings are supported by an iron framework securely attached to said building in such a manner as to be at all times safe and self supporting, and provided that every part of such awning is at least seven feet above the surface of the sidewalk.

2. Wooden awnings must not hereafter be erected or renewed without the consent of the Commissioner of Public Works.

3. The owner of a wooden awning heretofore or hereafter erected must construct and maintain conductor pipes sufficient to convey all water from such awning to the street gutter, and must maintain said awning so as to protect the sidewalk from leakage.

4. Every owner or occupant of a building must at all times keep the awnings in front thereof free from snow, ice, dirt and other obstructions.

5. Merchandise or articles of any kind must not be suspended from an awning over the sidewalk.

Sec. 390. Building Materials.

1. A person must not place building materials upon a street without a permit in writing from the Commissioner of Public Works, which may be revoked without notice.

2. The permit must not be for a longer period than three months, or authorize the obstruction of more than one-third of the sidewalk, or more than one-half of the roadway, or the placing of materials within two feet of any street railroad track.

3. The person to whom such permit is granted must cause all said materials to be enclosed with guards sufficient to secure public safety, and at all times during the night must keep lighted lamps upon said guards to give warning to all persons.

4. All such building materials and rubbish arising therefrom must be removed not later than the expiration of the time limit in the permit, and immediately upon the revocation of the permit.

Sec. 400. Moving Buildings in Streets—A building must not be moved upon or along any street without permission in writing from the Commissioner of Public Works, which consent shall specify the route to be taken and said Commissioner may require a bond to the City of Rochester to be given, signed by the applicant and one responsible surety approved by said Commissioner, conditioned that the applicant will, in all respects, comply with the terms and conditions of such permit, and indemnify the city against any damage or loss occasioned by reason of such removal.

Sec. 410. Street Obstruction—No person shall place or suffer to remain any vehicle or materials of any kind or any goods, wares or merchandise or any box, barrel, or other article or obstruction in, upon or over any public street, alley, sidewalk, park or place, except while in the process of loading or unloading, but, unless skids are necessary, a passageway for pedestrians shall be kept open when loading or unloading; provided, however, that this section shall not prohibit nor be deemed to prohibit the doing of anything otherwise permitted by law or ordinance in the manner and form therein set forth, including the maintenance of news stands so permitted.

Amended Dec. 26, 1923, Page 595, Common Council Proceedings.

Sec. 420. Excavations in Streets—A person must not injure any pavement, sidewalk, crosswalk, sewer or street, or dig an area, sewer or other excavation in a

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street, or remove any earth or stone from a street without permission in writing from the Commissioner of Public Works, and under such conditions as he may impose; and the Commissioner may order any sewer or excavation dug or constructed contrary to the provisions of this section, to be filled up or altered at the expense of the person causing the same to be dug or constructed.

Sec. 422. Interference with streets—A person must not interfere with any pavement, sidewalk, cross-walk, sewer or street, or construct or maintain anything in, above or under a sidewalk or street, or make any opening therein, without the permission in writing of the Commissioner of Public Works, and under such conditions as he may impose.

Amended May 14, 1918, Page 189, Common Council Proceedings.

Sec. 430. Excavations Near Streets—Any person who digs a cellar or other excavation adjacent to and within four feet of the line of the street, must erect barriers between said excavation and the street sufficient to secure public safety, and must at all times during the night keep lighted lamps upon said barriers in such a manner as to give warning of the presence of the excavation; and in case of failure to do so, the Commissioner of Public Works may cause such barriers and lights to be placed at the expense of the owner, occupant or tenant of the property, after notice given as provided by the Charter.

Sec. 431. Care of excavations—When an excavation has been made for a building or a building has been taken down or demolished, unless the construction of a new building is immediately commenced, either the excavation shall be entirely filled in and graded so as not to be dangerous to life or limb or the public health, or the excavation shall be inclosed with a fence made of matched boards and constructed according to plans approved by the Bureau of Buildings, the fence to be placed as near as possible to the excavation and the location thereof to be approved by such bureau. All building material shall be placed inside of such fence, and piled and stored in such manner as may be directed by such bureau so as not to be dangerous to life or limb, or liable to cause fire, and all debris shall be removed from the premises. An advertisement or sign shall not be attached to or exhibited on such fence except that with the permission of such bureau, one "For Sale" or "For Rent" sign may be attached thereto or painted thereon, and other signs shall not be placed or maintained on the premises.

It shall be the duty of the owner of the property to comply with this section, and in case he fails to do so, the Commissioner of Public Safety is authorized and required to cause such filling in and grading to be done or such fence to be constructed after notice to do such work within the time determined by the Commissioner of Public Safety has been served upon the owner in the manner prescribed in the City Charter, and thereupon the expense incurred shall be charged against the owner, and if not paid, assessed against the real property as prescribed in the City Charter. In case, any excavation for a building has heretofore been made or building has heretofore been taken down, it shall be the duty of the owner of the property to comply with the provisions of this section within ten days after the same takes effect, and all the provisions of this section, including the power and authority of the Commissioner of Public Safety, shall apply in such cases.

Sec. 2. Section 22 of Article 11 of the Building Code of the City of Rochester as now in effect, is hereby repealed.

Amended May 9, 1922, Page 285, Common Council Proceedings.

Sec. 440. Streets to be Guarded When Being Improved.

1. Whenever a pavement or sewer is being constructed or repaired in a street, or whenever pipes, mains or conduits are being laid or repaired in a street, or whenever any other work is being done in a street, it is the duty of the person performing the work to place and maintain sufficient guards about the place where the work is being done, so as to secure public safety, until said street is ready for use; and such

person must at all times during the night keep lighted lamps not more than twenty-five feet apart upon said guards so as to give warning to all persons of such work.

2. A person must not ride or drive an animal or vehicle upon such street until the same is completed and open to public travel.

Sec. 450. Portable Plants Burning Coal Or Wood—An asphalt plant, a cement or concrete mixer, or kettle for boiling or heating tar or asphalt, burning coal or wood, must not be maintained or operated in a street.

Sec. 460. Trees.

1. A person must not cut down any tree in a public street or place, or cut any branch or limb therefrom, or trim any branch or limb thereon, without the written consent of the Commissioner of Parks.

2. A person must not injure, mutilate or deface any tree in a public street or place, and must not affix, attach, or post thereon, or hang therefrom any sign, banner, advertisement or anything else whatsoever.

3. When a permit is given by the Commissioner of Parks to a telephone, telegraph, electric light, electric power or other public service corporation to trim trees, the amount of such trimming shall be limited by the actual necessities of the service of the company, and such trimming shall be done in a neat and workmanlike manner with a saw and not with an ax or hatchet, and all the conditions placed in said permit by said Commissioner shall be observed and obeyed; and an employee or agent of the public service corporation operating under such permit, must upon request of any householder forthwith give his full name and address, and the name of the corporation by whom he is employed and for whose benefit such work is being done.

4. A person must not plant any tree or shrub in a public street or place without the written consent of the Commissioner of Parks, and the conditions contained in such consent must not be violated, and trees or shrubs other than those specified in such consent must not be planted.

Amended July 25, 1916, Page 383, Common Council Proceedings.

ARTICLE IV.

DISORDERLY CONDUCT

Sec. 470. Disturbance. A person must not create a disturbance or engage in improper conduct or abusive acts or language in any church, theater, public hall or other public place.

Amended Feb. 10, 1920, Page 36, Common Council Proceedings.

Sec. 471. Offensive substances—A person must not

1. Sell or possess any substance intended for the sole purpose of emitting or giving forth a noisome, foul or offensive odor, nor use any substance for the sole purpose of emitting or giving forth a noisome, foul or offensive odor.

2. Sell or possess any substance intended for the sole purpose of causing sneezing or itching, or for the sole purpose of irritating the eyes or the passages of the nose or throat, nor use any substance for the sole purpose of irritating the eyes or the passages of the nose or throat or causing any itching or sneezing.

Amended March 25, 1919, Page 109, Common Council Proceedings.

Sec. 472. Squawkers—A person must not sell or offer for sale, or keep for sale at retail, or for use in the City of Rochester, squawkers or toys consisting of a rubber bag tied or fastened to one end of a tube, reed or mouthpiece.

Amended June 13, 1922, Page 349, Common Council Proceedings.

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Sec. 475. Intoxication—A person must not be intoxicated in a public place.

Sec. 480. Begging—Alms or subscriptions must not be publicly solicited without the consent of the Mayor.

Sec. 485. Barkers—A person must not accost or compel an individual against his will to enter any place where merchandise is exposed for sale.

Sec. 490. Care required at lift bridges—A person must not climb or step upon, or attempt to cross, or drive an animal or vehicle upon a canal lift bridge after the flagman or operator has given warning or signal not to do so; and a person must not remain upon or be upon such a bridge while the same is being operated or is in motion.

Amended June 22, 1915, Page 321, Common Council Proceedings.

Sec. 495. Steam Whistles—A whistle operated by steam or other artificial means must not be blown or operated for more than fifteen seconds at one time during a period of thirty minutes in any one day.

Sec. 500. Hose and Sprinkling Carts—While using a sprinkling cart or hose for sprinkling streets or any other purpose, a person must not carelessly or maliciously throw water upon any person, animal or vehicle.

Sec. 505. Bathing.

1. Bathing is permitted in the Genesee River above Clarissa Street where the west bank adjoins the property of the Vacuum Oil Company, on the east side near the property of the Genesee Brewing Company, and near the property of the Rochester Railway and Light Company; in the Erie Canal at the Eastern Widewaters and at the Western Widewaters.

2. The body must be clothed in a suitable garment from the knees to the shoulders.

3. Bathing in any other portion of the river or canal or any mill race is prohibited.

Sec. 510. Weeds Prohibited in Vacant Lots—The owner of a vacant lot must at all times keep the same free from burdocks, thistles, sticktights, briars and other noxious weeds.

Sec. 515. Obstructing Rivers or Sewers—A person must not throw any substance into the Genesee River above the upper falls or into any mill race or sewer which may tend to interfere with the free passage of water therein.

Sec. 520. Injury to property—A person must not wilfully injure or interfere with any public or private property, real or personal.

Sec. 525. Fire and Police Apparatus—A person must not

1. Injure or interfere with any wire, pole, apparatus or other thing connected with, or auxiliary to, the fire alarm or police telegraph systems, or with any apparatus of the police or fire force without the consent of the Commissioner of Public Safety.

2. Make or cause to be made, or have in possession, any key, or impression or duplicate of a key of any signal box of the fire alarm or police telegraph systems without such consent.

3. Give, or cause to be given, any false alarm of fire in any manner whatsoever.

Sec. 530. Firearms, fireworks and bonfires. A person must not

1. Discharge a cannon, rifle, gun, revolver, pistol, cartridge cane or firearm of any description.

2. Discharge, use or display fireworks, pyrotechnics, torpedoes, cartridges or caps, except that between the hours of 5 a. m. and 12 p. m. of the Fourth of July, the following fireworks may be discharged, used and displayed OUTSIDE OF THE

CONGESTED DISTRICT, provided that they do not contain an explosive more powerful than ordinary black gun powder, viz: Firecrackers, not more than three inches in length and one-half inch in diameter, containing only gun powder compounded of saltpeter, sulphur and charcoal; pistols constructed only to explode paper caps; paper caps; Roman candles, triangles and vertical wheels, pinwheels, mines, red torches, colored fires, lawn lights, sparklers, cap canes for exploding paper caps only, snakes and snakes' nests, sons of gun, wood box fire, serpents, dipped sticks, cones, cracker jacks, chasers, grasshoppers, Bengal sticks, trick matches, magic serpents, fountains, American Mandarins, rapid battery, Yankee Doodle, flying fist, spangle matches and shooting matches, sham battle, sunburst, falling stars, golden dragon and lightning flask.

3. Send up or release a lighted or fire balloon.

4. Sell, or offer for sale, or keep for sale, at retail, or for use in the City of Rochester, fireworks, pyrotechnics, toy pistols or cartridge canes, except that the articles enumerated in subdivision two of this section may be sold at retail during the first four days of July by any person having a permit therefor from the Fire Marshal, and except also that fireworks may be sold to a person having a permit for their use from the Commissioner of Public Safety. A wholesale dealer must not sell fireworks to a retail dealer in Rochester, unless such retail dealer has a permit from the Fire Marshal to sell fireworks. A person must not sell fireworks at wholesale or retail, unless he has permit in writing from the Fire Marshal to do so, and the Fire Marshal upon granting such permit may make such regulations for the storage, handling and sale of fireworks as he deems proper.

5. Build a bonfire unless permission in writing therefor is obtained from the Commissioner of Public Safety.

6. The Commissioner of Public Safety may grant a permit for the discharge of cannons, firearms, fireworks or pyrotechnics, provided that a competent person is in charge thereof, and the commissioner may in his discretion require the filing of a bond upon the granting of such permit. Such permit is not limited to the time or fireworks specified in subdivision 2 of this section.

Amended Feb. 23, 1915, Page 108, Common Council Proceedings.

Sec. 535. Gifts to City Officials Or Employees Prohibited.

1. An official or employee of the City of Rochester must not accept any compensation, gift or gratuity for doing any work or service arising from or in connection with his said office or position, or the duties thereof, or which he is able to do, or has the opportunity to do solely because of his said office or position, or because of the duties imposed thereby.

2. This section does not prohibit costs and fees specifically allowed by law, or fees for furnishing minutes of testimony in legal actions or proceedings.

Sec. 540. Sale or Gift of Dangerous Weapons.

1. Every person selling, exposing or offering for sale or giving away a revolver, pistol, or a dagger, dirk or dangerous knife must report in writing within twenty-four hours after such sale or gift to the Chief of Police a description of such articles sold or given away by such person, including the manufacturer's number and name, if known or ascertainable, together with the name, address and description of the person receiving or purchasing the article, and the time of such sale or gift.

2. A person must not make any false entry in such report.

3. A person receiving or buying any such article must not give a false or incorrect name or address to the person so selling or giving away.

Sec. 545. Indecent Advertisements Or Acts—A person must not

1. Sell, lend, give away or post any indecent or immoral book, picture, advertisement, play bill or other printed matter, or any article which is intended for immoral or indecent use.

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2. Appear in a state of nudity, or in an indecent dress, or wilfully and lewdly expose the person, or the private parts thereof in a street or public place where others are present.

Sec. 550. Soliciting—A person must not solicit another to go to any gambling house, house of ill fame, house of assignation or place kept for unlawful sexual intercourse.

Sec. 555. Improper Resorts—A person must not keep any house of ill fame, house of assignation, or place for persons to visit for unlawful sexual intercourse; or any place of public resort by which the peace, comfort or decency of a neighborhood is disturbed; or be an inmate of such a place, or knowingly rent any building or portion thereof for such purposes.

Sec. 560. Gambling.

1. A person must not keep or use, or permit to be kept or used, any table, slot machine, instrument or device of any nature whatsoever for the purpose of gambling, or with which money, liquor or anything of value shall be played for in any manner.

2. A person must not be an inmate of any place where such aforesaid gambling devices are kept or used.

3. A person must not engage in any game of chance as banker, dealer, player or otherwise.

4. It is the duty of every member of the police force to take all lawful means to suppress gambling devices and games of chance; and to seize any tables, slot machines, instruments or devices used for the purpose of gambling and upon conviction of the owner hereunder, to destroy them upon the order of the Police Justice.

ARTICLE V.

SMOKE

Sec. 570. Color Scale—For the purpose of regulating the emission of smoke from chimneys, stacks, flues and open spaces, and to determine by comparison the degree of darkness of smoke so emitted, a color scale is hereby adopted as follows: A dead white surface of cardboard or other material not less than sixteen inches in length and in width shall be divided into squares by straight, dead black lines drawn at right angles to one another across said surface. Each of said lines shall be of a uniform width of one twenty-fourth of an inch and shall be spaced one-quarter of an inch from centers. The color of the above scale when viewed from a distance of not less than one hundred feet in the open air shall be used as a basis of comparison of the color of smoke in the City of Rochester.

Sec. 575. Dark Smoke Prohibited—Smoke of a color darker than the scale above provided must not be suffered or permitted to escape from any fire not in motion, or fire banked or in a state of rest, or from any burning or active fire, through a stationary stack, flue or chimney; provided, however, that smoke may be permitted to escape from a stationary stack, flue or chimney for a period not exceeding five minutes once in four consecutive hours.

Sec. 580. Dark Smoke from Locomotives and Boats Prohibited.

1. Smoke of a color darker than the scale above provided must not be suffered or permitted to escape from any locomotive or steam canal boat standing with banked fires, moving, or engaged in shifting, within the city limits.

2. Smoke of a color darker than the scale above provided must not be suffered or permitted to escape for a period of more than ten minutes in twenty-four consecutive hours from any locomotive or steam canal boat, the fires of which may be in preparation for starting.

3. The provisions of this section do not apply in case of a locomotive or steam canal boat in transit through the city from some point outside of the city, or entering or departing from the city, provided such locomotive or steam canal boat does not stop within the city for a period or periods amounting in the aggregate to more than five minutes.

Sec. 585. Soot Prohibited—Soot must not be expelled or suffered permitted or caused to escape from any stack, flue or chimney.

Sec. 590. Time Excepted—The provisions of this article, excepting section five hundred and eighty-five, do not apply between the hours of 5 A. M. and 7:30 A. M.

Sec. 595. Enforcement—It is made the duty of the Commissioner of Public Safety to enforce the provisions of this article.

Sec. 600. Special Penalties—Any corporation or person who violates any of the provisions of this article, or suffers, permits or causes to be done any of the acts in this article prohibited, is punishable for each offense by a fine not exceeding fifty dollars, or by imprisonment not exceeding fifty days, or by both such fine and imprisonment, or by a penalty of fifty dollars to be recovered by the City of Rochester in a civil action.

ARTICLE VI.

ANIMALS AND PUBLIC POUNDS

Sec. 610. Animals Prohibited from Running at Large—Animals or fowls must not run at large upon any street or place to the injury and annoyance of the public. This section does not apply to dogs.

Sec. 615. Driving Animals Regulated—Sheep, hogs or cattle must not be driven through or upon a street, unless each animal has securely fastened to it a rope or strap of sufficient size and strength to control it, and unless such animal or animals are led by means of such rope or strap by a person over sixteen years of age of sufficient strength to control such animal or animals.

Sec. 620. Dangerous Dogs.

1. A person must not suffer or permit to run at large any dog of dangerous disposition.

2. A person must not keep or suffer to be kept on the premises occupied by him any dog in the habit of howling or whining at night, or barking at, or in any manner annoying any person.

3. A female dog in time of heat must not be allowed to run at large.

4. Upon a second conviction for a violation of this section it may be a part of the sentence that such dog immediately be killed; and this sentence shall be executed forthwith by the city pound-keeper, to be designated by the magistrate imposing the sentence, and any owner or keeper of any such dog who refuses to deliver up the same in compliance with said judgment is liable to additional fine therefor.

5. Any person harboring a dog for two days prior to any violation thereof shall be held to be the owner of said dog.

Sec. 625. Pounds Established—There shall be maintained one or more public pounds, in which shall be distrained all animals or fowls running at large.

Sec. 630. Pound-keeper—There shall be one or more pound-keepers, to be appointed by the Mayor.

Sec. 635. Pound Records—At each pound a book must be kept, in which the pound-keeper must enter forthwith the name and residence of any person bringing any animals or fowls to the pound, the date when the same were brought, a descrip-

tion of said animals or fowls sufficient for identification, and the name and residence of the owner thereof, if known, which book must at all times be open for public inspection.

Sec. 640. Impounding of Animals.

1. It is the duty of the pound-keepers to seize and impound animals or fowls running at large.

2. Any person may seize and impound animals or fowls running at large, but such person is entitled to no compensation therefor.

Sec. 645. Impounding Fees—There shall be charged for all cattle or horses impounded a fee of fifty cents each, and also fifty cents for each day or part of a day that sustenance is provided for such cattle or horses, and for all fowls impounded a fee of twenty-five cents each, and also twenty-five cents for each day or part of a day that sustenance is provided therefor.

Sec. 650. Sale of Impounded Animals

1. Upon the expiration of seventy-two hours after the impoundage of horses, cattle or fowl, the Pound Master shall give notice by publication for two days in one of the official papers that the same will be sold at public auction, and at the time and place specified in said notice the same shall be sold at public auction to the highest bidder therefor; and upon the payment of the amount bid, the horses, cattle or fowl so sold shall become the property of such highest bidder.

2. At any time before the sale of horses, cattle or fowl impounded, the owner thereof may redeem the same by paying to the pound-keeper the impoundage fees at rates herein specified, and the cost of advertising and other expenses in connection with the proposed sale.

3. When the proceeds of the sale of horses, cattle or fowl exceed the amount of impoundage fees and expenses of advertising and sale, such excess shall be paid to the City Treasurer, and the owner of such horses, cattle or fowl is entitled thereto upon the audit of his claim therefor by the Comptroller, provided such claim is presented within one year after the deposit of such moneys.

Sec. 655. Interference with Pound-keeper Prohibited—A person must not molest or interfere in any way with the pound-keeper, or any of his assistants while he or they are engaged in the performance of their duties.

Sec. 660. Dog Ordinance Not Repealed—The ordinance relating to licensing of dogs, adopted December 10th, 1907, and the amendments thereto are not repealed or affected by the provisions of this article.

ARTICLE VII.

MORGUES AND FUNERALS

Sec. 670. Location of Morgues and Undertaking Establishments.

1. A morgue, funeral parlor or undertaking establishment must not hereafter be located within five hundred feet of a building on the same street occupied as a public or parochial school, or within three hundred feet of such a building on another street.

2. A morgue, funeral parlor or undertaking establishment must not be located elsewhere without the consent of the Common Council.

3. A morgue, funeral parlor or undertaking establishment located or maintained contrary to or in violation of the provisions of the Ordinance in relation to Public Safety and Good Order, adopted October 11, 1904, must not be hereafter maintained or conducted unless the consent of the Common Council is obtained as provided in this article.

4. The distance shall be measured commencing on the street sidewalk in front of the center of the main entrance of the morgue, funeral parlor or undertaking estab-

lishment; thence along sidewalks and crosswalks by the most direct route to the street sidewalk in front of the center of the nearest entrance of the building to which the measurement is to be taken.

Sec. 675. Application to the Common Council—Every person applying for permission to locate a morgue, funeral parlor or undertaking establishment, is required to give one week's notice in writing, personally or by mail, to the owners, occupants or agents of all buildings or structures within a distance of two hundred feet, measured on the sidewalk as prescribed in section 670, from where such morgue, funeral parlor or undertaking establishment is proposed to be located, and such application shall not be considered by the Common Council without verified proof of the service of the notice herein required, or the written consent of such owners, occupants or agents.

Sec. 680. Funeral Processions Not To Be Interfered With—A person must not interrupt, detain or interfere with a funeral procession, or any part thereof, or the vehicles in such procession.

ARTICLE VIII. QUARRIES

Sec. 690. Permit—A person must not make an excavation upon any premises for the purpose of quarrying stone therefrom, or engage in or continue in the business of quarrying stone without a permit from the Commissioner of Public Safety, which permit may be summarily revoked and is not transferable.

Sec. 695. Application—The application for such permit must be in writing and signed by the person on whose behalf it is requested and must describe the property on which it is desired to conduct such quarry business by metes and bounds, and must state the nature of the interest of the applicant in such property; and if it is intended to remove stone from such property by blasting, such fact must be stated, and in such case the applicant must serve notice of the time when the application is to be presented on all persons owning or occupying property within five hundred feet in any direction from the exterior lot line of the premises in question, and must file with his application verified proof of the service of such notice, or written consent of such owners or occupants.

Sec. 700. Bond—The Commissioner of Public Safety before granting such permit may require a bond to be given by the applicant to the City of Rochester, in the penal sum of two thousand dollars, with one or more surities approved by said Commissioner; conditioned that the applicant, his servants, agents and all persons acting under said permit will comply with all ordinances of the City of Rochester and all orders of said Commissioner of Public Safety relating to the conduct, management and keeping of quarries, or of said special quarry; and for the payment to the City of Rochester of all judgments, fines or penalties that may be recovered against the applicant, his servants, agents or persons acting under said permit, for a violation of said ordinances or orders; and further condition for the payment to the city of all costs and expenses incurred by the city at any time in filling in any excavations on said property, draining the same, or doing any other act or thing in or upon said premises deemed necessary by the Commissioner of Public Safety for the proper protection of the public health.

Sec. 705. Taxes and Assessments To Be Paid—Stone must not hereafter be quarried or removed from any stone quarry or other premises on which there have accrued or remains due to the City of Rochester city taxes or local assessments, until all such taxes and assessments have been paid in full; and the Commissioner of Public Safety must not grant a permit to a person to quarry stone, except upon production of a certificate or tax search of the City Treasurer showing that no taxes or local assessments on said premises are due the city.

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Sec. 710. Blasts—A blast must not be set off in any stone quarry within one thousand feet of a public or parochial school during school hours.

Sec. 715. Draining—The owner, occupant or lessee of premises heretofore or hereafter used for quarrying stone must keep said premises drained and free from stagnant water, and must not allow any water to accumulate or stand in such quarry longer than twenty days at any time.

Sec. 720. Filling.

1. Every owner, occupant or lessee of any lands who shall hereafter quarry any stone therefrom, or make any excavations for the purpose of quarrying stone, immediately upon discontinuing operations in any excavation must cause such excavation to be filled with earth even with the ground level as it existed previous to the making of the excavation.

2. Every owner, occupant or lessee of any premises heretofore used for a stone quarry, and in which operations have been discontinued, or of premises containing an excavation from which stone has been quarried and in which operations have been discontinued, must, within ninety days from the time this ordinance takes effect, cause said quarry or excavation to be filled with earth even with the ground level of such premises as it existed before excavations were made thereon.

Sec. 725. Building Excavations Not Affected—Nothing contained in this article requires a permit for or prevents the removal of stone by blasting, or otherwise, from any premises when such removal is necessary in the course of excavation for a building intended in good faith to be immediately thereafter erected on said premises; or in the construction of a sewer or lot lateral, or the laying of water or gas pipes, or in the making in good faith of any other public or private construction.

ARTICLE IX.

OIL PLANTS

Sec. 735. Permit—A plant for the storage and distribution of gasoline, naphtha, benzine or kerosene must not hereafter be opened or erected, and an existing plant must not hereafter be extended or enlarged, and additional buildings or tanks must not be erected in connection therewith, without the permission of the Commissioner of Public Safety, who has power to grant a permit therefor upon such terms and conditions as he deems proper, after application made to him in such form as he directs.

Sec. 740. Permit To Be Granted Before Building Permit—A permit for the erection, extension or enlargement of plants described in the foregoing section must not be granted by the Bureau of Buildings until the permit above provided for has been granted by the Commissioner of Public Safety.

Sec. 742. Sale of Gasoline.

1. A person must not sell, or offer for sale or keep for sale, at wholesale or retail, gasoline without a permit in writing from the Commissioner of Public Safety, upon such terms and conditions as he deems proper, which permit must be displayed upon the premises and which may summarily be revoked at any time by said Commissioner.

2. A pump or other device for distributing or conveying gasoline to a vehicle must not be installed or maintained in, upon, under or above any public street or any portion thereof, except that a portable tank may be used for such purpose with the permission in writing of the Commissioner of Public Safety, upon such terms and conditions as he deems proper, which permit must be affixed to the tank and which permit may be summarily revoked by the Commissioner at any time. Such tanks must be kept free from leaks and in safe condition at all times, and must be removed from the sidewalk and must not be allowed to stand within the street line, except when actually being used for the purpose of conveying gasoline to a vehicle.

3. Any pump or other device for distributing or conveying gasoline heretofore or hereafter installed or constructed in, upon, under or above a street or any portion thereof, may be removed by the Commissioner of Public Safety in accordance with the provisions of section 800 of this ordinance.

Amended May 14, 1918, Page 189, Common Council Proceedings.

Sec. 743. Engines to be stopped at gasoline stations.—The driver or operator of every motor vehicle stopping or waiting at any gasoline station used for the purpose of filling gasoline tanks on motor vehicles shall stop the engine of any such motor vehicle when the tank of any such motor vehicle is being filled with gasoline at any such gasoline station, and such engine shall not be started again until the cap or cover on any such tank is replaced; nor shall any such driver or operator while waiting at any such station have or keep the engine of any such motor vehicle running except for the purpose of moving such motor vehicle and then not to exceed thirty seconds before any such motor vehicle is in motion.

Amended July 26, 1921, Page 338, Common Council Proceedings.

ARTICLE X.

WEIGHTS AND MEASURES

Sec. 750. Sealing Required—Business must not be transacted by weights and measures, unless the same have been inspected and sealed by the Sealer of Weights and Measures of the City of Rochester within six months previous to the transaction, and such weights and measures must conform to the standards of the State of New York.

Sec. 755. Inspection and Sealing.

1. It is the duty of the Sealer of Weights and Measures to inspect at least once in every six months, and as much oftener as necessary, all weights and measures used in the transaction of business, and to seal the same when they conform to the standards of the State of New York. Weights and measures may be inspected and sealed at the place where kept for use.

2. It is the duty of the Sealer to inspect and seal all weights and measures brought to him at any reasonable time during the day.

3. The Sealer must keep a record of all weights and measures inspected or sealed by him, including the name of the owner, the name and address of the person having the same inspected or sealed, and a statement as to whether or not the weights and measures conform to State standards.

4. No fee shall be charged or collected by the Sealer for sealing weights and measures.

Sec. 760. Weights and Measures Not Conforming to Law.

1. If weights and measures do not conform to State standards they must be made to so conform by the owner or person using the same forthwith upon the order of the Sealer.

2. Liquid or dry measures, or measures of extension which are found to be defective by the Sealer shall be forthwith destroyed by him.

Sec. 765. Interference with Sealer Prohibited—The owner or person in charge of, or using weights and measures, must not refuse to exhibit the same to the Sealer on demand, or refuse to allow the Sealer to inspect and seal weights and measures as herein directed, and a person must not interfere with the Sealer while engaged in the discharge of his official duties.

Sec. 770. Topping of Fruits and Vegetables Prohibited—A person must not sell, offer or expose for sale fruit or vegetables in any package in which the face or shown surface gives a false representation of the contents of such package. It is

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considered a false representation when more than 15 per cent of such fruit or vegetables is substantially smaller in size than, or inferior in grade to, or different in variety or character from the face or shown surface of such package.

Sec. 775. Bags and Crates To Be Marked with Name of Packer—Every bag, crate and other package containing fruit or vegetables sold, offered or exposed for sale must have legibly written or printed thereon the name and address of the packer by whom the same was packed.

Sec. 780. Weight of Crock To Be Marked Thereon—An article of food must not be sold or delivered in a crock unless the weight of the empty crock is marked thereon with paint in figures and letters not less than two inches high.

ARTICLE XI.

GENERAL PROVISIONS

Sec. 790. Application.

1. This ordinance applies to persons and corporations, and in proper cases the use of the word "person" herein is deemed to apply to and be co-extensive with the word "persons" and also with the word "corporation" or "corporations."

2. This ordinance applies to the City of Rochester and to the whole thereof, except when otherwise specifically limited to a certain portion thereof.

Sec. 795. Penalties—Except when a special penalty is otherwise provided herein, a violation of this ordinance is punishable by a fine not exceeding one hundred fifty dollars, or by imprisonment not exceeding one hundred fifty days, or by both such fine and imprisonment, or by a penalty not less than five dollars, nor more than five hundred dollars, to be recovered by the City of Rochester in a civil action.

Sec. 800. Commissioner to Do Work.

1. When by the terms of this ordinance, some act, work or thing is required to be done in, upon, about or in connection with real property, or a structure thereon, or street adjoining thereto, such act, work or thing must be done by the owner, occupant or tenant of such real property; and in case of the failure of such owner, occupant or tenant to do the same, either the Commissioner of Public Safety or the Commissioner of Public Works is authorized to do, or cause to be done, such act, work or thing, after a notice to comply with such requirement within the time determined by the Commissioner, has been served upon the owner in the manner prescribed in the City Charter, and the expense incurred shall be assessed against said real property as prescribed in the City Charter.

2. When a structure or material is constructed, maintained or placed upon real property, or upon a structure thereon, or upon a street adjoining thereto, contrary to or in violation of the terms of this ordinance, such structure or material must be removed by the owner, occupant or tenant of such real property; and in case of the failure of such owner, occupant or tenant to do the same, either the Commissioner of Public Safety or the Commissioner of Public Works is authorized to remove, or cause to be removed, such structure or material, after a notice to comply with the requirement for the removal of the same within the time determined by the Commissioner, has been served upon the owner in the manner prescribed by the City Charter, and the expense incurred shall be assessed against said real property as prescribed in the City Charter.

Sec. 805. Effect of Repeal.

1. Any ordinance or part thereof repealed by this ordinance shall not be repealed or be deemed to be repealed until such time as this ordinance takes effect.

2. The repeal hereby of an ordinance or part thereof does not revive an ordinance heretofore repealed by an ordinance or part thereof hereby repealed.

3. The repeal hereby of an ordinance or part of an ordinance, does not affect or impair any penalty, forfeiture or punishment incurred prior to the time when this ordinance takes effect; and such ordinance or part of ordinance shall be deemed to remain in force for the purpose of enforcing, prosecuting or inflicting such penalty, forfeiture or punishment.

4. The ordinance prohibiting street cars standing in streets, adopted September 2nd, 1913, is not repealed or affected by the passage of this ordinance.

Sec. 810. Repeal—All ordinances and parts of ordinances inconsistent herewith are hereby repealed. The following ordinances and parts of ordinances are hereby specifically repealed:

The ordinance relating to Public Safety and Good Order, adopted October 11th, 1904, and the ordinances amending, altering or adding to the same, adopted on the following dates, respectively: June 13th, 1905; June 27th, 1905; July 11th, 1905; July 24th, 1905; April 2nd, 1907; December 10th, 1907; May 26th, 1908; July 28th, 1908; May 11th, 1909; February 8th, 1910; June 28th, 1910; July 26th, 1910; January 10th, 1911; February 14th, 1911; March 14th, 1911; April 11th, 1911; June 27th, 1911; November 14th, 1911; November 28th, 1911; March 26th, 1912; July 9th, 1912; July 23rd, 1912; October 8th, 1912; May 22nd, 1913; September 9th, 1913; also the ordinance in relation to trees, adopted June 23rd, 1908; the ordinance prohibiting topping of fruits and vegetables, adopted April 13th, 1909; and the ordinance prohibiting officials from accepting gifts, adopted March 12th, 1912.

Sec. 811. This ordinance shall take effect immediately.

ELEVATOR ORDINANCE

Adopted by the Common Council November 13, 1923

Be it ordained by the Common Council of the City of Rochester, as follows:

Sec. 1. No person, firm, association or corporation being the owner, lessee or occupant of any building or structure in the City of Rochester, in which is any passenger elevator, shall operate or cause to be operated any such elevator without a permit issued by the Commissioner of Public Safety for the operation of the same. The term passenger elevator as used in this ordinance means any elevator whereon a passenger or employee is, or passengers or employees are, carried, except employees necessary for loading or unloading freight, and which elevator is designated or intended to be used for the carrying of passengers and operated by a conductor or operator riding on the same.

Sec. 2. All persons, firms, associations or corporations owning, leasing or occupying buildings or structures in which such elevator or elevators are operated, shall apply to the Commissioner of Public Safety for a permit for the operation of such elevator or elevators. The Commissioner of Public Safety as a condition to granting such permit may require applicants to give him such information by statement or affidavit as he may require as to the installation, construction, operation, guarding and equipment of such elevator or elevators.

Sec. 3. All persons, firms, associations or corporations applying for the permit herein required shall furnish proof to him that such elevator is, or elevators are covered by casualty insurance, or in lieu thereof shall file with the Commissioner of Public Safety a bond in the sum of \$10,000.00, executed by at least two sureties, which bond as to sufficiency of sureties must be approved by the Comptroller, and as to form and manner of execution by the Corporation Counsel, and must provide for the payment of any and all judgments recovered by any person on account of injuries to persons by reason of the operation of such elevator or elevators.

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Sec. 4. **The Commissioner of Public Safety** may at any time require any of the holders of such permits to exhibit to him a certificate of inspection issued by the casualty company carrying the insurance, a certificate of approval by the Industrial Commissioner of the State of New York, or a certificate of inspection and approval by the elevator company manufacturing the elevators as to the condition of the elevator or elevators covered by such permit.

Sec. 5. **The Commissioner of Public Safety** may at any time refuse to grant such permit and may revoke any permit issued, on failure to file with him a certificate of inspection as herein provided, and when it appears from any such certificate of inspection or from an inspection made by himself or his subordinates, that any such elevator is, or elevators are, in an unsafe condition.

Sec. 6. **The holders of such permits shall** cause all such elevators to be inspected at least once every three months, and shall file with the Commissioner of Public Safety at least once every three months a certificate of inspection.

Sec. 7. **No person, firm, association or corporation**, being the owner, lessee or occupant of any building or structure in the City of Rochester, in which is any passenger elevator, shall operate or cause to be operated any such elevator unless there is posted therein a certificate showing the date and last inspection of such elevator and by whom inspected.

Sec. 8. **The Commissioner of Public Safety** is hereby authorized to make such reasonable rules and regulations for the carrying out of the terms and provisions of this ordinance as may be necessary.

Sec. 9. **Any person or corporation violating** any of the provisions of this ordinance shall, upon conviction, be punishable by a fine not exceeding \$150.00, or by imprisonment not exceeding 150 days, or by both such fine and imprisonment, or by a penalty of not less than \$50.00 or more than \$500.00, to be recovered by the City of Rochester in a civil action.

Sec. 10. This ordinance shall take effect immediately.

ANIMAL AND FOWL ORDINANCE

Adopted by the Common Council May 13, 1924

Be it ordained by the Common Council of the City of Rochester as follows:

Section 1. **Short Title.** This ordinance shall be known as the ordinance relating to the keeping of animals and fowls.

Sec. 2. **License required.** No person, firm, association or corporation shall bring into, keep, hold, offer for sale, sell or kill or allow to be kept, held, offered for sale, sold or killed in the City of Rochester any live animals, except animals for show or exposition purposes only, and except white mice, white rats, cats, dogs, horses, mules and donkeys; nor shall any person, firm, association or corporation bring into, keep, hold, offer for sale, sell or kill or allow to be kept, held, offered for sale, sold or killed in the City of Rochester any chickens, geese, ducks, doves or pigeons, turkeys or other animals or fowls; without having a license therefor issued by the Commissioner of Public Safety and under and pursuant to the provisions of this ordinance; provided, however, that no license shall be required for any animals or fowls in transit through the said city, and provided, however, that nothing herein contained shall apply to slaughter houses, cattle yards or any place where any cattle or swine are killed or dressed, and provided, however, that nothing herein contained shall apply to any cattle, sheep or swine brought into the city and directly transported to a slaughter house or cattle yard.

Sec. 3. **Licenses.** All licenses for keeping animals or fowls shall be issued by the Commissioner of Public Safety, and may be revoked either summarily in the discretion of the licensing authority, or in the discretion of the licensing authority after a

hearing upon a violation of the laws of the state or ordinance or ordinances of the Common Council by the person, firm, association or corporation to whom or to which such license has been granted. No license shall be issued for a period longer than one year. All licenses shall expire on June 30th of each year. Each license shall bear the date of issuance thereof, the date of expiration, the name and address of the person, firm, association or corporation to whom or to which the license is issued, and the premises upon which the animals or fowls are to be kept, and shall specify the kind and the maximum number of animals or fowls which may be kept thereunder. All licenses shall be conspicuously displayed on the premises as near as possible to where the animals or fowls are kept. Licenses are not assignable, and relate only to the particular premises and animals or fowls for which issued.

Sec. 4. Fee. The Commissioner of Public Safety shall require the fee of one dollar for each year or fraction thereof for each license issued, payable before the issuance of such license.

Sec. 5. Regulations relating to cattle. No person shall keep or allow to be kept in the city more cows than one to a city lot of thirty-three feet by one hundred and fifty feet, or space equal thereto and where premises are not sub-divided into city lots or actually occupied as such, more than fifteen cows to each acre of land. Each cow must have at least twenty-five hundred square feet of clear space in which to exercise.

No person shall keep or permit to be kept any cattle in any place where the water, ventilation and food are not sufficient for the preservation of the health of such cattle. Eight hundred cubic feet of air space shall be the smallest space allowed each cow or any cattle. The floors of all stables containing or used for a cow or cattle, and the ground beneath such stables, shall be well drained. Every cow and all cattle shall be well bedded and kept clean. No cow shall be fed wholly on swill, slops or undried brewers' grains.

Sec. 6. Regulations relating to fowl.

1. All fowl shall be kept on premises of the licensee.

2. Each fowl shall have at least four square feet of floor space when kept in a coop, and shall have at least four square feet of space in addition thereto as and for a run-way.

3. Not more than thirty fowl may be kept in an open area of two hundred and forty square feet.

4. No male fowl over four months of age may be kept alive in the City of Rochester after due notice by the Commissioner of Public Safety that the same is a nuisance.

5. All coops, runways and premises where fowl are kept shall be at all times clean and sanitary.

6. No live poultry shall at any time be kept in a cellar or any part of any dwelling or any building used for continuous daily human occupation.

7. All premises where fowl are kept shall at all times be subject to inspection, and all licenses shall at all times be subject to the orders of the Commissioner of Public Safety requiring the doing or anything necessary to enforce the provisions of this ordinance.

8. All coops and runways shall be at least twenty-five feet away from any dwelling or any building used for continuous daily human occupation.

Sec. 7. Regulations relating to animals.

1. All animals, except cows and cattle, shall be confined on premises of the licensee.

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2. Every animal, except cows and cattle, shall have at least one square foot of space for each pound in weight, if confined within a building, and in addition thereto at least one square foot of space for each pound of weight as and for a runway.

3. All stables, buildings, structures and premises where animals are kept shall be clean and sanitary.

4. No live animal shall at any time be kept in a cellar as defined in the Building Code of the City of Rochester.

5. All premises where animals are kept shall at all times be subject to inspection, and all licensees shall at all times be subject to the orders of the Commissioner of Public Safety requiring the doing of anything necessary to enforce the provisions of this ordinance.

Sec. 8. Special licenses and regulations for poulterers.

Sub. (a). Any person, firm, association or corporation selling or offering for sale or keeping for sale live fowl in a building not exclusively used for the sole purpose of housing live fowl, or in boxes or crates on the premises, and any person, firm, association or corporation killing fowl in a building not exclusively used for the sole purpose of housing live fowl, and killing and dressing in such a building fowl and selling or keeping the same for sale uncooked, is a poulterer.

Sub. (b). No person, firm, association or corporation shall carry on the business of poulterer without having a poulterer's license therefor issued by the Commissioner of Public Safety, and such business shall be conducted under and pursuant to the provisions of this ordinance.

Sub. (c). All licenses for poulterers shall be issued by the Commissioner of Public Safety and may be suspended or revoked either summarily in the discretion of the licensing authority, or in the discretion of the licensing authority after a hearing upon a violation of the laws of the State or ordinance or ordinances of the Common Council by the person, firm, association or corporation to whom or to which such license has been granted. No license shall be issued for a period longer than one year. All licenses shall expire on June 30th of each year. Each license shall bear the date of issuance thereof, the date of expiration, the name and address of the person, firm, association or corporation to whom or to which the license is issued, and the premises upon which the business of poulterer is to be carried on, and shall specify the kind and maximum number of fowl which may be kept thereunder. All licenses shall be conspicuously displayed on the premises. Licenses are not assignable, and relate only to the particular premises and maximum number for which issued.

Sub. (d). The Commissioner of Public Safety shall require the fee of five dollars for each year or fraction thereof for each license, payable before the issuance of such license.

Sub. (e). No poulterer shall keep live fowl in a cellar nor in an unventilated place. All places where live fowl are kept, killed or dressed shall have adequate and proper ventilation so that no unreasonable, offensive or obnoxious odor shall be caused or suffered to exist. Each poulterer shall have the premises supplied with hot and cold running water with proper fixtures, plumbing and drainage. The premises of each poulterer shall be kept in a clean and sanitary condition. The premises of all poulterers shall be adequately and properly screened from the first day of April of each year to the first day of November.

Sub. (f). All premises of poulterers shall at all times be subject to inspection, and all licensees shall at all times be subject to the orders of the Commissioner of Public Safety requiring the doing of anything necessary to enforce the provisions of this ordinance.

Sec. 9. Nuisances. Any acts done in selling or offering for sale, keeping, possessing or dealing in animals or fowls contrary to the provisions of the ordinances of the Common Council, which are dangerous to health or which render soil, air, water or

food impure or unwholesome, or to which tend to endanger public comfort or repose, are declared to be nuisances, and are hereby forbidden.

Sec. 10. Penalties. A violation of this ordinance shall be punishable by a fine not exceeding one hundred fifty dollars, or by imprisonment not exceeding one hundred fifty days, or by both such fine and imprisonment, or by a penalty not less than five dollars, nor more than five hundred dollars, to be recovered by the City of Rochester in a civil action.

Sec. 11. Repeals. The first and fourth paragraphs of Subdivision (d) of Section 7 of Article III of the Health Ordinance of the City of Rochester, adopted August 23, 1904, and thereafter amended, are hereby repealed.

Sec. 12. This ordinance shall take effect July 1, 1924.

ADVERTISING SECOND HAND MERCHANDISE ORDINANCE

Adopted by the Common Council December 27, 1921

Be it ordained by the Common Council of the City of Rochester as follows:

Section 1. That it shall be unlawful for any person, firm or corporation, in any newspaper, magazine, circular, form letter or any publication, published, distributed or circulated in the City of Rochester, or on any billboard, card, label or other advertising medium, or by means of any other method of advertising to advertise, to call attention to or give publicity to the sale of any merchandise, which merchandise is second-hand, used or rebuilt, or which merchandise is defective in any manner, or which merchandise consists of articles or units known as "seconds" or blemished merchandise, or which merchandise has been rejected by the manufacturer thereof as not first-class, unless there be conspicuously displayed directly in connection with the name and description of such merchandise a direct and unequivocal statement, phrase or word which will clearly indicate that such merchandise is second-hand, used, rebuilt, defective, or consists of "seconds" or is blemished merchandise or has been rejected by the manufacturer thereof, as the fact shall be.

Sec. 2. That any person, firm or corporation violating any of the provisions of this ordinance is punishable by a fine not exceeding one hundred fifty dollars, or by imprisonment not exceeding one hundred fifty days, or by both such fine and imprisonment, or by a penalty not less than five dollars nor more than five hundred dollars, to be recovered by the City of Rochester in a civil action.

Sec. 3. This ordinance shall take effect immediately.

BASEBALL ON SUNDAY ORDINANCE

Adopted by the Common Council May 13, 1919

Be it ordained by the Common Council of the City of Rochester as follows:

Section 1. Baseball and baseball games are permitted to be played in the City of Rochester on Sunday after two o'clock in the afternoon, on grounds for which permits have been obtained as hereinafter prescribed. The games hereby permitted include those to which an admission fee is charged as well as those to which an admission fee is not charged.

Sec. 2. No person shall play baseball or baseball games on Sunday in the City of Rochester on any lot or parcel of land unless a permit in writing for the use of the lot or parcel of land for such purpose has been obtained from the Commissioner of Public Safety. The permit may run for such length of time as the Commissioner may deem proper, not longer, however, than the end of the year in which it is issued, and the permit must be displayed on the lot or parcel of land during the time Sunday baseball or Sunday baseball games are being played thereon.

AN ORDINANCE IN RELATION TO MT. HOPE CEMETERY

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Sec. 3. Any person playing ball on Sunday on a lot or parcel of land for which a permit has not been obtained, as provided herein, or on which such permit is not displayed, as provided herein, shall be punishable by a fine not exceeding Twenty-five dollars, or by imprisonment not exceeding twenty-five days.

Sec. 4. This ordinance shall take effect immediately.

AN ORDINANCE IN RELATION TO MT. HOPE CEMETERY

(Passed December 10, 1907.)

The Common Council of the City of Rochester do ordain as follows:

Section 1. The term "cemetery" as used in this ordinance shall be construed to include all lands now or hereafter within the limits of Mount Hope Cemetery.

Sec. 2. The cemetery shall be closed during the hours determined by the Mount Hope Commission, as indicated by the signs at the gates of the cemetery, and no persons except members of Mount Hope Commission or employees thereof shall go into or remain in said cemetery while closed, and no person shall enter or leave the cemetery except by the public gates and children under the age of fourteen years shall not enter the cemetery unless attended by some older person responsible for their conduct.

Sec. 3. No person shall commit any of the followings acts within the cemetery:

1. Excavate any earth; lay or remove any sod or alter the grade of any lot or walk within the cemetery; either on or about his own or another's lot; or plant, remove or trim any tree or shrub.

2. Pluck or remove any plant or flower, either wild or cultivated, either from his own lot or any other part of the cemetery; provided that growing plants may be removed by owners in the fall to preserve them from the frost, by special permit issued at the office of the Mount Hope Commission.

3. Spade up the surface of any lot for the purpose of making a flower bed.

4. Plant any tree or shrub without the permission of the Superintendent of Mount Hope Cemetery.

5. Erect any fence, rail or inclosure of any kind.

6. Attach guy ropes to trees or posts without special permission from the Superintendent of Mount Hope Cemetery.

7. Bring into the cemetery or display therein any sign of an advertising nature.

8. Drive or ride rapidly.

9. Drive or ride on the lawns.

10. Ride a bicycle on the walks or lawns.

11. Ride a bicycle rapidly, or coast on a bicycle.

12. Bring into the cemetery any refreshments or liquors.

13. Sit, walk upon or occupy any private lot not belonging to them or to a member of their family.

14. Drive or bring into the cemetery an automobile.

15. Bring firearms or dogs into the cemetery.

16. Discharge firearms within the cemetery, except at military funerals.

17. Congregate about a grave or carriages while funeral ceremonies are in progress, unless accompanying the funeral.

ORDINANCE RELATING TO

18. Throw or strew about on the roadways or lots papers or decayed flowers.
19. Hitch a horse to a tree.
20. Leave a horse which is not securely tied or in charge of some person.
21. Turn a vehicle about in the road. Such vehicle must continue to the next turn.

Sec. 4. The following acts within the cemetery are regulated as follows:

1. Disinterments may be made on consent of the Mount Hope Commission or the Superintendent of the Mount Hope Cemetery and the written consent of the owner or owners of the lot and of the surviving wife, husband, children if of full age, or parents of the deceased; but if the consent of any such person cannot be obtained, or if the commission or the superintendent refuse consent, the consent of the Supreme Court shall be sufficient. Disinterments must be made by the cemetery authorities.

2. The erection of vaults or tombs wholly or partly above the ground will not be allowed without special permission of the Mount Hope Commission and according to the rules and regulations therefor.

3. All monumental work and foundations therefor shall be built and constructed in accordance with the rules and regulations of the Mount Hope Commission.

4. All workmen and builders are subject to the directions of the Superintendent of Mount Hope while on the cemetery grounds, and must enter and leave the cemetery within the working hours of its employees.

5. Chairs or benches must be submitted to the Superintendent of Mount Hope Cemetery, or person designated by him, for inspection before they are brought into the cemetery, and must not be brought in until approved by the Superintendent or person designated by him.

6. Sprinkling pots will be cared for at the entrances, and must not be left upon any lot, tree or shrub.

7. Visitors are required to keep to the walks and roads, and under no circumstances shall climb the banks or terraces.

8. Carriages not accompanying and belonging to funeral processions will not be admitted to the grounds on Sunday.

Sec. 5. Violation of this ordinance is punishable by a fine not exceeding \$150 or by imprisonment not exceeding 150 days, or by both such fine and imprisonment, or by a penalty of \$50 to be recovered by the City of Rochester in a civil action.

Sec. 6. This ordinance shall take effect on the first day of January, 1908.

AN ORDINANCE IN RELATION TO PARKS

(Passed December 10, 1907.)

The Common Council of the City of Rochester do ordain as follows:

Section 1. Definition of terms.—The term “parks” used herein shall be construed to include all lands and waters under the control of the park commission of the City of Rochester, except parkways, and the term “said commission” shall be construed to mean the Board of Park Commissioners of said City.

Sec. 2. General rules as to the use of parks.—The parks of the City of Rochester are for the benefit and pleasure of the public and every person shall use said parks subject to the ordinances of the Common Council.

The roadways in the parks shall not be used by any vehicles except those employed for the purposes of pleasure; the rides and bridle paths shall be used only by persons on horseback or bicycles, and the walks shall be used exclusively by pedestrians ex-

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cept that baby carriages and invalid chairs and children's carts and tricycles may be propelled thereon. This section shall not apply to vehicles used by order of said Commission.

The parks shall be closed from 11 o'clock p. m., until 5 o'clock a. m., during the summer season, and from 10 o'clock p. m., until 7 o'clock a. m., during the winter season; and no persons except employees of said Commission on duty, or members of said Commission, shall go into, or remain in said parks, while closed. The summer season shall be from April first until November 15th, and the winter season shall be from November 15th until April 1st.

Sec. 3. Acts prohibited.—No person shall commit any of the following acts within said parks:

- (1) Commit any disorderly or immoral acts.
- (2) Be intoxicated.
- (3) Throw stones or missiles.
- (4) Utter loud or indecent language.
- (5) Play any game of cards or chance.
- (6) Tell fortunes.
- (7) Beg.
- (8) Publicly solicit subscriptions.
- (9) Drive or lead a horse not well broken.
- (10) Allow any dog to run at large.
- (11) Throw or drain offensive substances into any park waters.
- (12) Bathe in park waters without having the body concealed by suitable covering extending from the knees to the shoulders.
- (13) Commit any of the following acts as to boats or canoes on park waters:

Row or paddle a boat or canoe unless able to handle the same with safety to himself and the other occupants thereof or in such a manner as not to annoy or endanger the occupants of other boats or canoes; make a raft of canoes; pass to the left of boats going in opposite directions or to the right of boats going in the same direction; go up the river on the easterly side or down on the westerly side, except that in daylight persons may go in either direction on the same side of the river but must observe the rule as to passing; let for hire or use a rented canoe that does not carry a life preserver; propel any boat or canoe during hours of darkness that does not show the following lights: for launches or motor boats, a stationary white light showing in front, or regular combination launch light, for canoes and row boats, an open colored light carried in front, no white light being allowed for this class of boats; propel any steam, naphtha, electric or other motor boat at a speed exceeding eight miles per hour; or in such manner as to annoy or endanger the occupants of other boats or canoes; or in such manner as to cause dangerous swells at the landing platforms; propel any launch or motor boat along or near the banks except when landing or avoiding obstructions; use any launch or motor without horn or whistle attached, which shall be sounded to warn other boats approached.

Sec. 4. Acts prohibited without permission.—No person shall commit any of the following acts within said parks without the consent of said commission or some duly authorized person:

- (1) In any manner injure any tree, plant, grass, flower, fruit, turf, or structure.
- (2) Keep or offer anything for sale.
- (3) Play any music.
- (4) Post or display any sign, banner or advertisement.

- (5) Deliver any public speech.
- (6) Solicit passengers for any boat or vehicle for hire.
- (7) Obstruct in any way any roadway or path.
- (8) Discharge any firearms or fireworks or send up any balloon.
- (9) Permit any animal except horses and dogs to enter said parks.
- (10) Speed limits, see Section 30, Traffic Ordinance.
- (11) Hold any picnic at a place not designated by said commission for that purpose.
- (12) Hold any public meeting or engage in any marching or driving as members of a military, political or other organization.
- (13) Conduct any funeral procession nor vehicle containing the body of a deceased person.
- (14) Build any fire.
- (15) Write, paint or carve on any tree, bench or structure.
- (16) Climb any tree, nor tie any horse to a tree.
- (17) Enter any place upon which the words "No Admittance" shall be displayed.
- (18) Play baseball, tennis, nor any other game at a place not designated by said commission for that purpose.
- (19) Take ice from any park waters.
- (20) Fish in any park waters.
- (21) Bathe in any place not designated by said commission for that purpose.
- (22) Enter nor leave said parks except at the established ways of entrance and exit.
- (23) Place or propel any boat or other craft upon park waters.
- (24) Land from any boat at a place not designated by said commission for that purpose.
- (25) Carry any flowers or shrubs, firearms, sling shot, axe, saw, shovel, or spade within the following parks: viz., Genesee Valley Park, Highland Park, Seneca Park, and Maplewood Park.
- (26) Occupy in any way the slopes of the river banks.
- (27) Violate the regulations of said commission relating to any building or place.
- (28) Injure or unnecessarily disturb any fish, water fowl, birds or animals.
- (29) Injure any notice posted by order of said commission.
- (30) Throw or cause to be thrown on any ice or skating rink or rinks, or carry or cause to be carried any missile, hockey or shinney sticks, in the several parks or parkways, without the consent in writing of the Park Commission.

Sec. 5. Disposition of vagrant animals.—Pounds for temporarily restraining animals found running at large within said parks shall be established at such places as the Superintendent of Parks may designate. All animals found running at large within said parks contrary to the ordinances of said commission, may be seized by any person and conducted to any one of such pounds. Upon the impounding of any animal within a park pound, it shall be the duty of the Superintendent of Parks forthwith to notify the keeper of the city pound, who shall at once take and dispose of such animal in the manner provided by the Penal Ordinance of the City of Rochester relating to the disposition of vagrant animals.

Sec. 6. Penalties.—A violation of this ordinance is punishable by a fine not exceeding one hundred and fifty dollars or by imprisonment not exceeding one hundred and fifty days, or by both such fine and imprisonment, or by a penalty of fifty dollars to be recovered by the City of Rochester in a civil action.

Sec. 7. This ordinance shall take effect January first, nineteen hundred and eight.

ORDINANCE REGULATING OIL BURNERS

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ORDINANCE REGULATING OIL BURNERS

Adopted Mar. 24, 1925

Sec. 1. No person, firm, association or corporation being the owner, lessee or occupant of any building or structure in the City of Rochester, shall install, use or operate or cause to be installed, used or operated any heating apparatus except portable oil stoves which shall use as fuel any substance any part of which shall consist of any liquid mixture, substance or compound derived from petroleum without first having obtained from the Commissioner of Public Safety, a permit for the installation, use or operation of the same.

Sec. 2. The Commissioner of Public Safety as a condition to granting the permit mentioned in Section One of this ordinance, may require applicants to give him such information by statement, affidavit or otherwise, as he may require, as to installation, use or operation of the said heating apparatus.

Sec. 3. Fuel used in heating apparatus for the installation, use or operation of which a permit is required by this ordinance, shall be such as does not emit an inflammable vapor below a temperature of 100 degrees F. when tested in a Pensky-Martens closed flash tester or in a Tagliabue closed tester.

Sec. 4. The fuel used in the heating apparatus for which a permit is required by this ordinance, shall be kept or stored in tight metal or concrete tanks which shall be located not less than seven feet from any burner and shall have a capacity of not more than 275 gallons unless located outside the building or buried below the level of the basement floor or completely surrounded by a thickness of not less than one foot of earth, sand, concrete or similar heat insulating materials. The oil receptacles shall be so arranged as to prevent gravity flow to the burners.

Sec. 5. When the fuel mentioned in this ordinance is stored in a tank within the building, there shall be no artificial light other than incandescent light in the room where and when such a tank is being filled.

Sec. 6. **Fee**—The Commissioner of Public Safety shall require the payment of the fee of \$2.00 for the issuing of the permits required by this ordinance.

Sec. 7. **Penalties**—Violations of this ordinance shall be punishable by a fine not exceeding \$150.00 or by imprisonment not exceeding one hundred fifty days or by both such fine and imprisonment, or by a penalty not less than \$5.00 or more than \$500.00 to be recovered by the City of Rochester in a civil action.

Sec. 8. This ordinance shall take effect immediately.

HEALTH ORDINANCE OF THE CITY OF ROCHESTER

Passed August 23rd, 1904

Amended

Feb. 26, 1907
Aug. 27, 1907
Dec. 10, 1907
July 28, 1908
May 11, 1909
Oct. 26, 1909

July 26, 1910
Dec. 26, 1911
Mar. 12, 1912
Dec. 27, 1921
Nov. 25, 1924
Dec. 23, 1924

ORDINANCE RELATING TO HEALTH

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ARTICLE I.

General Provisions

Sec. 1. Name of Chapter—The provisions of this chapter shall constitute and be known as "The Health Ordinance of the City of Rochester."

Sec. 2. Definition of Terms—Terms used in this ordinance shall have the following meanings:

The commissioner—The commissioner of public safety.

The bureau—The bureau of health in the department of public safety.

The city—The city of Rochester.

Owner—Any person, firm, corporation or agent controlling property.

Contagious diseases—Of an infectious, contagious or pestilential nature, more especially referring to cholera, smallpox, diphtheria, typhus, typhoid, cerebro-spinal or spotted, relapsing and scarlet fevers, lobar pneumonia, puerperal pyaemia, puerperal septicaemia, puerperal erysipelas, measles, German measles, whooping cough, mumps, chicken pox, erysipelas, tuberculosis, and any other disease that shall be declared by the bureau dangerous to the public health.

Sec. 3. Organization of the Bureau—In the department of public safety of the city of Rochester there shall be a bureau known as "The Bureau of Health." The head of the bureau shall be the commissioner of public safety, and he shall appoint a health officer, who by the authority and under the direction of the commissioner, may appoint a deputy health officer and employ such experts in the sciences or arts relating to health, and employ such other subordinates for the conduct of the business of the bureau as are authorized by the commissioner and the board of estimate and apportionment.

Sec. 4. Duties and Powers of the Bureau—The bureau shall be charged with the enforcement of all health laws and ordinances within the city. The commissioner, health officer, or any duly authorized employee of the bureau shall have the power to examine into complaints made by responsible persons concerning nuisances or conditions dangerous to life or the public health and may enter into and examine buildings, lots and enclosures where said nuisances or conditions are known, or believed, to exist and no person shall prevent or attempt to prevent such inspection. In the presence of imminent danger, of which he shall be the judge, the health officer shall use any adequate special means necessary to protect the public health against disease until the extraordinary situation can be called to the attention of the commissioner. It shall be the duty of the bureau to report to the corporation counsel for prosecution violations of health laws and ordinances, with a statement of the offense and the names of witnesses.

Obstructing a health officer in discharge of a duty a misdemeanor, Penal Code, Sec. 396. The bureau of health has summary powers for the abatement of nuisances, Public Health Law, Secs. 25, 26 and 31, as amended, L. 1903, Ch. 383.

ARTICLE II

Acts Ordered

Sec. 5. As to Vital Statistics—All marriages, births and deaths shall be reported to the bureau as provided by law within thirty days after the event; the facts to be stated fully and legibly upon blanks furnished by the bureau, by the following persons: The person performing the ceremony in case of marriage; the physician, midwife, nurse or one of the parents in case of birth; the physician, undertaker, sexton or coroner or any person with knowledge of the facts in case of death.

As to the solemnization and proof of marriage, see Domestic Relations Law, Secs. 10-19; as to the registration of certificates of marriages, births and deaths with Boards of Health, see Public Health Law, Secs. 22, 23, as amended L. 1904, Ch. 392. Solemnizing unlawful marriage a misdemeanor, Penal Code, Sec. 376.

Deaths shall be reported forthwith, as bodies must be buried within four days, Sec. 9, Subdiv. (d), this ordinance, p. 38.

Sec. 6. **As to Contagious Diseases**—In regard to contagious diseases the following regulations shall be observed:

Subdiv. (a). *Reporting Cases*. Every physician who has been called to attend or prescribe for any person having, or suspected of having, a contagious disease shall report to the bureau in writing within twenty-four hours after he has been first called to attend such person, the name and location of the patient and the nature and state of the disease. When a case of contagious disease, or suspected contagious disease, is not brought to the knowledge of a physician, the nurse or other person in whose care or custody the patient may be shall make said report.

Every case of diphtheria, or suspected diphtheria, shall be reported immediately to the bureau in writing. Accompanying the report of every case of diphtheria, or within twenty-four hours from the time a case of diphtheria has been reported, there shall be sent to the bureau, in tubes provided by the bureau for the purpose, and in the manner set forth in the boxes containing said tubes, a specimen of exudate from the throat of the patient or patients reported to have diphtheria or suspected diphtheria, or the bureau shall make a culture at the patient's house.

Every owner or keeper of any lodging house, boarding house or hotel, and the owner, agent or lessee of any tenement house or part thereof, whenever any person in such house is known to be sick of any infectious or pestilential or contagious disease, shall give immediate notice thereof to the bureau.

The powers and duties of local boards of health as to contagious diseases are found in Public Health Law. **Exposing person sick with contagious disease a misdemeanor**, Penal Code, Sec. 434.

Subdiv. (b). *Moving Patients*—Without a permit of the bureau no patient sick with contagious disease shall be moved from one building to another; and such transfer shall be made only in a special ambulance for contagious diseases.

Subdiv. (c). *Schools and School Children*—No teacher, parent or custodian of any minor child shall permit any such child having scarlet fever, diphtheria, smallpox, chicken pox, measles, whooping cough, mumps, or any other contagious disease, or any child residing in any house in which any such disease exists or has recently existed, to attend any public or private school, Sunday school, church, factory or any other place of assembly without the permission of the bureau. Such permit shall be granted only on the certificate of a qualified physician declaring the child or person and the house in which such child or person resides, to be free from the contagious power of disease. Every room in every building used for school purposes must be provided with a thermometer and an hygrometer, and the temperature of said room shall be kept so that the thermometer shall not register above 70 degrees F. in cool weather and the hygrometer not below 20 degrees. At least two thousand cubic feet of fresh air per person must be supplied each hour.

Subdiv. (d). *Isolation*—All communication with any house or family infected with contagious diseases, is hereby forbidden except to physicians, nurses or messengers, to carry necessary advice, medicine and provisions, and to such other persons as may be necessary to render aid within said house, for the support or assistance of said family. The diseases under this rule are: Scarlet fever, smallpox, diphtheria, and such other diseases as may be declared at any time by the bureau dangerous or a menace to public health.

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In cases of isolation a sign or placard, of suitable size, bearing plainly legible letters, designating the name of the disease existing therein, shall be fixed on a conspicuous place near the main entrance of a house or building. Such sign or placard shall not be removed by any person except by an authorized employee of the bureau. In case the placard is removed by accident or without authority, the head of the family forthwith shall notify the bureau.

In cases of contagious diseases isolation shall be maintained and placards shall remain posted after the last case has been reported, as follows: For scarlet fever, thirty-five days, and until the premises have been disinfected under direction of the bureau; for measles, fourteen days; whooping-cough, six weeks; chicken pox, two weeks; diphtheria, until the bacteriologist of the bureau shall have certified that the bacilli of the disease have disappeared from the patient's throat, and the premises have been disinfected under direction of the bureau. The health officer shall order isolation, or absolute quarantine, whenever he deems necessary.

Subdiv. (e) *Disposal of the Dead*—It shall be the duty of every undertaker employed in the burial, transfer or other disposition of the dead body of any person who has died of smallpox, diphtheria, scarlet fever, measles, typhus fever, Asiatic cholera, whooping-cough, mumps, or any other disease that may be declared dangerous to public health by the bureau, where no physician's certificate has been furnished, to give immediate notice thereof to the bureau. No undertaker shall retain or expose, nor cause to be retained or exposed, nor assist in the public funeral of the body of any human being who has died from any of the diseases above mentioned. The dead body of any human being having died of smallpox, diphtheria or other contagious disease, immediately after death shall be disinfected by wrapping the entire body in a sheet wet with disinfecting solution, and it shall then be inclosed in a tightly sealed coffin which shall not thereafter be opened, and no person shall allow to be retained, unburied, such dead body for a longer time than thirty-six hours after the death of such person, without a permit from the bureau, which permit shall specify the length of time during which such body may be retained unburied. The funeral of such person shall be strictly private, and in the removal of such body for burial or otherwise, hearses only shall be employed.

Subdiv. (f). *Disinfecting*—All rooms or apartments occupied by any person sick of any contagious disease, immediately upon the death or recovery of such person, shall be thoroughly cleansed and disinfected by the person having charge or custody of such rooms or apartments, in such manner as may be required by the bureau, and all clothing, beds, bedding, or infected articles used by, or in caring for, such sick person, likewise shall be cleaned and disinfected, or in extreme cases destroyed, as the bureau may direct.

Subdiv. (g). *Tenements and Lodgings*—No owner, lessee, or keeper of any tenement house, lodging house or boarding house, shall cause or allow any of such houses to be overcrowded, or allow so great a number of persons to dwell, be, or sleep in any such house or houses, or any portion thereof, as thereby to cause danger to health. Whenever it shall be certified by the bureau that any such place or room is so overcrowded that there shall be less than five hundred cubic feet of air to each occupant of such building or room, with a floor space one-tenth as great, the health officer may issue an order requiring the number of occupants of such building or room to be reduced, so that the inmates thereof shall not exceed one person to each five hundred cubic feet of air space, or to a floor space one-tenth as great in any such building or room; and hereafter no room used as a living or sleeping room shall be built without a window open to the outdoor air.

ARTICLE III

Acts Forbidden

Sec. 7. *As to Nuisances*—Acts dangerous to health, rendering soil, air, water or food impure or unwholesome, or which tend to endanger public comfort or repose, are declared to be nuisances and are forbidden. For the protection of the public against such annoyances the following regulations shall be observed:

Subdiv. (a). *Garbage*—Every owner, lessee, or occupant of any building, premises or place of business shall provide or cause to be provided, and at all times keep, suitable and sufficient receptacles for receiving and holding all garbage that may accumulate from said building, place of business or upon said premises, or the portion thereof, where they may reside. No such receptacle shall be kept on any sidewalk or in any public place longer than may be necessary for the removal of the contents thereof, and all receptacles designed for the reception of garbage shall be provided with proper covers and at all times shall be kept securely closed. Unless kept within private grounds of residences and sufficiently removed from adjoining premises to prevent any offense the receptacles herein mentioned shall be kept in such places as the bureau may direct. Said receptacles shall be used only for garbage; ashes and rubbish shall be excluded therefrom.

No vehicle for carrying offal, swill, garbage or rubbish, the contents of any cesspool or sink, or any manure, or other nauseous substances, except when actually engaged in collecting such materials, shall stand before any residence, building or place of business; nor shall any such vehicle occupy an unreasonable length of time in loading or unloading, or in passing along any street or inhabited place. When not in use all such vehicles, and all implements used in connection therewith, shall be stored and kept in some place where no needless offense shall be given the public. All such vehicles, and all receptacles thereon, shall be strong and tight, and the sides shall be so high above the load that no part thereof shall leak or spill.

Subdiv. (b). *Stables and Manure Pits*—Every owner, lessee or occupant of any stable or place where horses, cattle or other animals are kept, or of any place in which manure or any liquid discharge of such animals shall collect, shall at all times keep, or cause to be kept, such stables and places, and the drainage and appurtenances thereof in a wholesome and cleanly condition, so that no offensive smell shall escape. Every stall, stable or place where horses or cattle are kept, shall have a properly covered, water-tight manure vault or box, which shall be so screened that flies cannot gain an entrance thereto, and shall be ventilated by a tube extended from such vault or box a sufficient distance, and said box or vault shall not be allowed to become filled.

Amended May 11, 1909. Page 230—C. C. P.

Subdiv. (c). *Privy Vaults and Cesspools*—No privy vault, sink or cesspool hereafter shall be built except by permission of the bureau and in accordance with its directions; nor shall any building or cover be placed over any such vault, sink or cesspool until the same has been inspected by an officer of the bureau and found to be in accordance with the permit granted. All privy vaults hereafter made shall be of brick or stone, laid in cement, and of such dimensions as to contain at least fifty cubic feet for every family or group of five persons using the same; and such vault shall be so constructed as to be conveniently cleaned, and shall be made and maintained in such manner as to prevent the contents thereof from escaping. No privy vault or cesspool hereafter shall be built except in such places where there cannot be had connection with a public sewer, or with the public or other constant water service; and no privy vault or cesspool shall be built or maintained except upon premises which will permit their location at a distance of at least fifteen feet from any adjoining building used for human occupation, or for the storage of human food, and at least fifteen feet distant from the several lot lines of the lot on which the same is placed or the lines of any street adjoining such lot. In cases where the provisions of this ordinance do not allow privy vaults, there shall be provided for all premises on which there are houses or other buildings used for human habitation, either for business, meeting or dwelling purposes, a water closet, or a suitable number thereof, as determined by the bureau.

Whenever any vault, privy or drain shall become offensive or obstructed, the owner, agent or occupant of the property where situated shall clean or repair the same forthwith. No privy vault shall be cleaned, emptied or removed without a special permit from the bureau, except by a licensed scavenger. Whenever notified that any privy is offensive and needs cleaning the bureau shall notify the owner, agent or occupant of the property where situated to clean the same within a period named in

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said notice. In case no owner or agent can be found in the city the bureau shall cause such offensive vault to be cleaned or abolished. If the said owner, agent or occupant neglects or refuses to comply with the order, the bureau may cause said vault, privy or drain to be removed, altered or repaired, as it may deem expedient, at the expense of said owner, agent or occupant.

The cleaning, emptying and removing of the contents of privy vaults, shall be done in an inoffensive manner, and any scavenger having begun any such work shall, without interruption or delay, finish the same, and shall in every instance leave the privy in as good condition upon the vault as when the work was undertaken. The contents of privy vaults so removed shall be conveyed to such places as approved by the bureau in tight receptacles and disposed of in one of two ways, viz.: In trenches not less than three feet in depth, in which the contents of the privy vaults shall not exceed three inches in depth, said contents to be covered with dry earth in such a manner as not to be visible or offensive; or they may be deposited into pits made for that purpose, according to the directions of the bureau, and after each and every deposit said contents shall be covered with a layer of dry earth, which shall be at least four inches in thickness, or by one foot in thickness of dry manure. The contents of any privy vault or cesspool shall not be transported through the streets except in a manner to prevent the said contents from being agitated or exposed in the open air unless the bureau shall so permit in writing.

During the prevalence of epidemics or contagious diseases, all putrid and offensive matter and all night-soil and the contents of sinks, privies, vaults or cesspools, before their removal or exposure shall be disinfected and rendered inoffensive by the owner, lessee or occupant of the premises where situated, and if not so done then said disinfecting may be done by the contractor who removes the same; and the person, not being such tenant, owner or occupant, who shall so disinfect or remove the same, shall be entitled to demand and receive a compensation to be fixed by the bureau and paid by such tenant, owner or occupant.

No person shall deposit any slops, liquid of any offensive kind, garbage, contents of sink, privy or cesspool, manure, offal or anything which can become offensive to human beings or detrimental to public health, upon any street, lot or vacant place; nor deposit in any vault, privy, sink or cesspool, any offal, meat, fish or garbage; nor shall any slops or kitchen waste be permitted to run into any privy or cesspool; provided, however, that manure may be placed on private lands for the purpose of fertilizing in those parts of the city that are not built up, if no nuisance results therefrom.

When any lot or excavation shall from any cause whatsoever become the repository of stagnant water, or of any decaying or offensive substance, liquid or solid, it shall be the duty of the owner or occupant, within a specified time given in a written notice from the bureau, to cause such lot or excavation to be drained or to be filled with clean earth or other inoffensive substance.

Subdiv. (d). No person owning or occupying lands or buildings where cows, horses, dogs or other animals are kept shall continue to keep such animals after they know them to have become infected with a contagious or pestilential disease without a permit from the bureau, and no person owning or having the custody of any such sick animal shall kill or sell, or allow the same to be killed, sold or removed from such premises without such permit. When any authorized employee of the bureau discovers that any animal is infected with contagious or pestilential disease he may order such animal isolated. Any person owning or having the care or custody of such animal shall obey all such orders.

Veterinary surgeons shall give notice to the bureau of cattle affected by tuberculosis or other contagious disease, or of horses affected by glanders, farcy, or other contagious disease, within twenty-four hours after the same is discovered. They shall also give notice of suspected cases of such diseases.

No person shall keep or permit to be kept any cattle in any place where the water, ventilation and food are not sufficient for the preservation of the health of such cattle. Eight hundred cubic feet shall be the smallest space allowed each cow. The floor of the stable, and the ground beneath it shall be well drained. Every cow shall be well bedded and kept clean. No cow shall be fed wholly on swill, slops or undried brewers' grains.

Subdiv. (e). *Offensive Places of Business*—No person, firm or corporation shall build or use any asphalt factory, slaughter-house, cattle yard, phosphate or fertilizing works or store house, rendering establishment, or works for the reduction of garbage, dead animals or nightsoil or any soap factory, tannery or other place or establishment that shall give rise to nauseous or offensive odors without permission from the Common Council, which permission must be registered with the bureau; but nothing herein contained shall apply to the reduction of garbage or dead animals by the City of Rochester, its agents or contractors.

Every person, firm or corporation owning, leasing or occupying any place where any cattle or swine have been, or hereafter shall be, killed or dressed, shall cause such place and their yards and apurtenances to be thoroughly cleansed and purified, and all offal, blood, fat, garbage, refuse or offensive matter to be removed therefrom at least once in every twenty-four hours after the use thereof for any of the purposes herein referred to.

Without permission from the bureau no person shall keep within the built up portions of the city, any place for the storage, drying, cleaning, or assorting of rags, unless the said premises be at least two hundred feet from any house, factory or building occupied by human beings.

Amended Feb. 26, 1907. Page 140—C. C. P.

No such person, firm or corporation shall drain into or so place that the same shall enter the sewers of the City of Rochester any of the product or waste of any of the aforesaid places until so much of the organic solids of the said product or waste have been removed and the remainder so treated by chlórination or other proper process so that all odors from any such matter which may enter the sewers shall be prevented and eliminated. Amended Dec. 23, 1924. Page 747—C. C. P.

Subdiv. (f). *Expectoration*—No person shall expectorate on the floor of any street car or other public conveyance, or public building, or on any sidewalk.

Subdiv. (g). *Impure Well Water*—No person shall use water from wells for drink or in the preparation of food for human beings.

Subdiv. (h). No article of human food shall be placed, kept or exposed on the sidewalk or beyond the lot line of any public street or highway in the city, except when and only as long as necessary for the purpose of loading or unloading.

Amended July 26, 1910. Page 416—C. C. P.

“Subdiv. (h). *Operation of Stone Crushers*—No person shall operate any stone crusher for more than 3 weeks in any one year, in any one place, without permission from the Common Council, which permission must be registered with the Bureau, and which permission shall specify the length of time for which the same is granted, but all permits to operate stone crushers shall be given upon the condition that the operator of such crusher shall provide and furnish a continuous sprinkling of the stone during the process of crushing, so as to prevent raising dust.”

Amended Aug. 27, 1907. Page 437—C. C. P.

Subdiv. (i). *Labels on Food Products*—No person shall paste or by means of mucilage, glue, paste or other adhesive, affix labels or pasters upon the surface of bread or other food stuff manufactured or intended for consumption, in whole or in part, within the City of Rochester; and no person shall sell, exhibit or offer for sale within the city any bread or other food stuff upon which, or upon the surface of which, any such labels or pasters have been so affixed by means of mucilage, glue, paste or other artificial adhesive.

Amended Dec. 26, 1911. Page 526—C. C. P.

Subdiv. (j). A towel kept for use, arranged or intended to be used by more than one person, shall not be placed, maintained or kept in a washroom, toilet room or lavatory which is maintained in or in connection with a municipal building, a school, or when patrons or customers are admitted to the same, in or in connection with a place of public resort, public accommodation or public trade.

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A cup or receptacle for drinking water kept for use, arranged or intended to be used in common, shall not be placed, maintained or kept in a public place, municipal building, school, or when patrons or customers have access to the same, in a place of public resort, public accommodation or public trade.

Amended Mar. 12, 1912. Page 157—C. C. P.

Subdiv. (k). A poplar tree, the circumference of the trunk of which is more than 20 inches measured at a distance of 4 feet from the ground level, shall not be planted or grown or allowed to be within 40 feet of any main sewer.

Amended Nov. 25, 1924. Page 661—C. C. P.

ARTICLE IV LICENSING AND REGULATION OF BUSINESS

Sec. 8. **Licensing**—For the protection of the public health, the bureau is given authority to license the professions and occupations herein mentioned:

Subdiv. (a). *Permits Without Fee*—No person shall practice as a physician or midwife or carry on the business of plumber or undertaker without registering with the bureau, and there receiving a permit, for which no fee shall be charged.

Note—The licensing and registration of physicians is provided for in the Public Health Law, Secs. 140-153; for act regulating midwifery in Rochester, See L. 1895, Ch. 842, published in full in Vol. 1, Municipal Code, at p. 371; licensing and registration of plumbers, General City Law, Secs. 40-57; licensing and registration of embalmers and undertakers, L. 1898, Ch. 555, as amended L. 1904, Ch. 498.

Subdiv. (b). *Permits With Fee*—No person shall collect or carry on the business of scavenger, collector of garbage, bones or kitchen refuse, ice dealer or milk dealer without a license from the bureau; but no license for the collection of garbage, dead animals, bones or kitchen refuse shall hereafter be issued except to the person or persons, firm or corporation having a contract with the city for the collection of garbage therein. The annual license fee for ice dealers and milk dealers shall be one dollar per vehicle used in the business; for collectors of garbage and scavengers, ten dollars. Licenses shall expire the December 31st after issue, shall not be transferred without the consent of the bureau, and may be revoked by the bureau for cause. The said fees shall be reduced proportionately to the amount of time of 1904 already expired for all licenses issued prior to January 1st, 1905. In addition to the fees fixed herein, the bureau shall collect for the City of Rochester one dollar for each metal sign bearing the year, license number and name of business issued under this ordinance."

Amended Dec. 10, 1907. Page 620—C. C. P.

Note—It will be observed that authority is given the bureau of health to license professions and occupations only where considerations of public health are concerned. For the licensing and regulation of occupations generally within the city of Rochester see Penal Ordinances, Ch. II, on "Licensed Occupations."

Sec. 9. **Regulation**—In regard to business the following regulations are established:

Subdiv. (a). *Sale and Inspection of Milk*—

Sale

No person shall

(1). Sell or exchange, or offer or expose for sale or exchange, any unclean, impure, unhealthy, adulterated or unwholesome milk or cream, or any article of food made from such milk or cream. The term "adulterated milk" shall be construed to cover milk containing more than eighty-eight per centum of water fluids, or less than twelve per centum of milk solids; or less than three per centum of fats; or drawn from animals within fifteen days before or five days after parturition; or drawn from cows kept in a crowded or unhealthy condition; or milk which has been diluted with water

or any other fluid; or to which has been added or into which has been introduced any foreign substance whatever. No person shall sell or exchange, at retail, any milk registering over fifty degrees Fahrenheit in temperature at time of delivery to consumer.

Amended Oct. 26, 1909. Page 437—C. C. P.

(2). Sell or offer for sale or have in possession for the purpose of sale, any milk from which the cream or any part of such cream has been removed, unless in a conspicuous place, above the center and on the outside of every vessel in which such milk is sold or kept, the words "skimmed milk" are distinctly marked in Gothic letters at least one inch in height soldered thereon.

Amended Dec. 26, 1907. Page 666—C. C. P.

(3). Deliver, sell, offer for sale, or have in possession for the purpose of sale, any milk or cream in glass jars, unless said jars have been thoroughly washed and cleaned before being last filled; and no person shall keep milk or fill glass jars with milk or cream in any barn or stable, or in any public street or place; nor shall any person sell or offer for sale or have in possession for the purpose of sale any milk or cream in glass jars other than in jars made of clear, uncolored transparent glass.

Amended July 28, 1908. Page 354—C. C. P.

(4). Sell, offer or expose for sale, milk from any vehicle unless said vehicle bears in a conspicuous place on the rear a metal sign issued annually by the bureau bearing the year, license number and name of business; and in case milk is sold from cans or vessels, where no vehicle is used, unless the license number shall be placed in a conspicuous place on such can or vessel; or, if such milk is sold, or exposed for sale, within a store or house, unless such license number shall be there exposed in some conspicuous place.

Amended Dec. 26, 1907. Page 666—C. C. P.

(5). Keep milk in a living or sleeping room, or in any room which is not kept clean at all times, or in which the plumbing is not constructed in accordance with the plumbing code of the city; or keep milk in any cans not made of well tinned iron with inner surfaces smooth and free from rust; or fail to report forthwith to the bureau any case of contagious disease on the premises where milk is produced or sold. The owner shall be held liable for the acts of his agent for any violation of the within "sub-division A" in regard to the sale of milk, and the intent of any person doing or omitting to do any such act is immaterial in prosecutions hereunder.

(6). *Inspection of Milk* in all dairies, and of all milk venders, shall be made under the direction of milk inspectors authorized by the bureau, and all persons selling, exchanging, or exposing for sale, or having in possession milk for sale, delivery or exchange, either on their own account or for any other person or corporation, shall at all times on demand furnish to the said milk inspectors of the bureau, and permit such inspectors to take from them, such samples as said inspectors may require; and such samples shall be given, or permitted to be taken, at such time and place as may be demanded by said inspectors. Every sample of milk delivered to any of the milk inspectors of the bureau, shall have a label attached to the vessel containing such sample, which shall have written thereon at the time of the delivery of such sample, the number of the dealers' license, the number of the sample, the date of collection and the name of the inspector, and a memorandum shall be made by the inspector collecting such sample of the number of the sample, the name of the owner and driver from whom collected, and a duplicate of the sample, sealed in the bottle or vessel, shall be delivered to the person from whom such sample is taken. Each sample shall be examined separately, according to its number, by the chemist of the bureau, or the milk inspector, who shall register the specific gravity, temperature, and the percentage of butter fat opposite a corresponding number in a book kept for the purpose, the name of the owner to be subsequently inserted.

In the event such examination shall show said sample to be below the standard fixed by this ordinance, the dealer from whom the same was so taken shall be notified by the bureau within 36 hours as the result of said examination. Every retailer of

milk must register with the bureau the name and address of the person or persons from whom he obtains his milk by wholesale and must notify the bureau of any change in said name or address within forty-eight hours after such change occurs.

Amended Dec. 26, 1907. Page 666—C. C. P.

Memorandum on the Sale and Inspection of Milk

The adulteration and sale of adulterated milk is a misdemeanor, Penal Code, Sec. 407; the sale of skimmed milk a misdemeanor, id., Sec. 439; keeping cow in unhealthy place a misdemeanor, id., Sec. 662; impure milk defined, id., Sec. 669. The sale of adulterated milk prohibited and certified milk regulated, Agricultural Law, Sec. 22, as amended L. 1904, Chs. 480, 566; milk cans and bottles, id., Sec. 24, as amended L. 1904, Ch. 168; keeping milk in unclean places, id., Sec. 32, as amended L. 1904, Ch. 168. Seizure of adulterated milk, Public Health Law, Sec. 45. Ordinances regulating the sale of milk may be passed although state law exists on same subject, *Polinsky vs. People*, 11 Hun. 390. See also cases cited on milk inspection and adulteration, *McQuillin's Municipal Ordinances*, Sec. 484, and note on page 767.

History of milk laws reviewed

People vs. Arensberg, 103 N. Y., 388

Information need not allege in detail manner of milk inspection

People vs. Woodbeck, 55 App. Div., 277.

Rochester Ry. Co. vs. Robinson, 133 N. Y., 242.

Principal is liable for act of agent

People vs. Hills, 64 App. Div., 584.

The Fifth Ave. Bank of New York vs. The Forty-second Street and Grand St.

Ferry Rail Road Co., 137 N. Y., 231.

Proof of sale or exposure for sale

People vs. McDermott-Bunger Dairy Co., 38 Misc., 365.

People vs. Wright, 19 Misc., 135.

People vs. Kellina, 23 Misc., 134.

People vs. Koch, 19 Misc., 634.

Evidence as to ownership

People vs. Hills, 64 App. Div., 584.

Where fairness of sample taken is not impeached by defendant the question shall not be submitted to jury; whoever sells milk not up to standard is liable

People vs. Laesser, 79 App. Div., 384. (See cases cited on briefs in *Laesser* case, App. Div. Library, Vol. 1052, 4th Dept. Records).

Mere possession of adulterated milk does not make liability

People vs. Timmerman, 79 App. Div., 565.

An ordinance requiring milk dealers to furnish gratuitously samples sufficient for inspection is not unconstitutional or unreasonable.

State of Louisiana vs. Dupaquier, 26 L. R. A., 162.

The question of knowledge or intent does not enter into cases charging sale of adulterated milk

People vs. Kibler, 106 N. Y., 321.

People vs. Arensberg, 103 N. Y., 388.

State of Iowa vs. Schlenker, 51 L. R. A., 347.

Constitutionality of law punishing ignorant seller of adulterated food upheld; ignorance no excuse

People vs. Arensberg, 103 N. Y., 388.

United States vs. Bayaud, 16 Fed. Rep., 376 and cases cited.

Commonwealth vs. Smith, 103 Mass., 444.

Neither Federal nor State constitutions violated by provision that "no milk shall be received, held, kept, offered for sale or delivered" without a permit from the bureau of health

People ex rel. Lieberman vs. Vandecarr, 175 N. Y., 440, affirming 81 App. Div., 128.

Memorandum decisions, milk cases, fourth department

People vs. Baker, 59 App. Div., 627; People vs. Coon, 62 App. Div., 623; People vs. Guhl, 64 App. Div., 624; People vs. Gabel, 75 Supp., 1130; People vs. Van Dervoort, 57 App. Div., 635, affirmed, 173 N. Y., 594.

Subdiv. (b). *Sale of Ice*—No person shall sell, expose for sale, or use, for drinking or eating purposes, ice which has been obtained from any polluted or unclean pond, creek, river, lake or stream. Every person engaged in said business shall procure and exhibit in a conspicuous place on each vehicle so used a, metal sign issued annually by the bureau bearing the year, license number and name of business. Ice dealers shall notify the bureau of sources of the ice they keep or sell.

Subdiv. (c). *Sale of Food Products*—No person shall bring into the city, or keep or offer for sale for food therein, any meat, fish, birds, fowls, fruit or vegetables that are not healthy, fresh and wholesome; or any veal of a calf under four weeks old; or pork of a pig under five weeks old; or mutton of a lamb under eight weeks old. Any of the unwholesome food products herein mentioned shall be seized wherever found by an authorized agent of the bureau, and destroyed as the bureau may direct.

No person shall keep any article of human food in any receptacle that has become musty or otherwise polluted.

Offering tainted food for sale a misdemeanor, Penal Code, Sec. 408; makes offender liable to a fine of one hundred dollars, Public Health Law, Sec. 41.

Subdiv. (d). *Undertakers*—No dead body of any human being shall be buried nor be removed for the purpose of burial, unless accompanied to its burial place by a burial or transit permit issued by the bureau upon receipt of a full, complete and legible death certificate of the deceased signed by the physician who last attended upon the deceased or by one of the coroners of the county. Bodies brought to the city from other places shall not be received for burial in any cemetery until the bureau shall have issued or indorsed the burial permit. No physician shall issue any certificate of death under this ordinance or the laws of this state unless he was the medical attendant on the person named in said certificate during his or her last illness, provided said person died from natural causes. No burial or transfer permit will be granted upon a certificate signed by any physician who fails to comply with the provisions of this ordinance as to registration with the bureau. No person other than the said physician shall make such certificate. Under no circumstances shall an undertaker fill out in a death certificate the part required of him, except when the full name of the deceased has been written in ink thereon at the proper place by the attending physician or the coroner of this county. The keeper of every cemetery shall demand and receive from the undertaker said burial permit before the body is allowed to be buried. No dead body shall be kept unburied longer than four days without a permit from the bureau. No person shall bury any human body within the city, except in Mount Hope Cemetery, or the Rapids Cemetery, or except in a cemetery within the limits of the Twenty-first Ward of said city that was a public cemetery of the town of Brighton on the first day of April, 1905. Undertakers shall give immediate notice to the bureau when requested to bury bodies dead of contagious diseases.

Amended Dec. 26, 1907. Page 666—C. C. P.

Note—Sanitary regulations for the burial of the dead required by Public Health Law, Sec. 23.

Subdiv. (e). *Garbage Collectors and Scavenger*—Every person carrying on the business of garbage collector or scavenger shall procure and exhibit in a conspicuous place on the rear of each vehicle so used a metal sign, issued annually by the bureau, bearing the year, license number and name of business.

Amended Dec. 26, 1907. Page 666—C. C. P.

“Subdiv. (f). *Plumbing and Draining*.—Every structure built to be used, or used for human habitation or for regular and continuous human occupation or employment, shall be provided with adequate water closets, properly lighted and

ventilated, which shall be connected with the public water service and the city sanitary sewer."

Amended, Dec. 27, 1921. Page 558—C. C. P.

"Subdiv. (g). *Plumbing in Barber Shops*—Every barber shop shall be supplied with hot and cold running water with proper fixtures.

Amended Dec. 27, 1921. Page 558—C. C. P.

Note—Plumbing and drainage. The trade of plumbers and the construction and maintenance of plumbing and drainage in the city of Rochester are regulated by the General City Law and by Plumbing Rules passed under authority of said law by the examining board of plumbers in conjunction with the commissioner of public safety. The said examining board has adopted also a Constitution and By-Laws for the regulation of its business, including the examination of applicants for certificates of competency. These provisions of the General City Law, the Plumbing Rules, and the Constitution and By-Laws are printed together as **The Plumbing Code** and can be obtained at the office of the bureau of health.

ARTICLE V PENALTIES AND REPEALS

Sec. 10. Penalties—Any persons violating the provisions of this ordinance shall be guilty of a misdemeanor and be liable to a fine not exceeding one hundred and fifty dollars or to imprisonment not exceeding one hundred and fifty days, or to pay to the city of Rochester a penalty not exceeding five hundred dollars to be recovered in a civil action or to both fine and imprisonment.

Sec. 11. Repeals—All ordinances or parts of ordinances, inconsistent herewith are hereby repealed.

The following ordinances and all amendments thereto are hereby specifically repealed:

An ordinance relating to scavengers and removal of night-soil, passed June 19, 1900.

An ordinance relating to food products and for the protection of the public health, passed June 19, 1900.

An ordinance relating to expectoration in public places, passed April 25, 1902.

An ordinance relating to the sale of adulterated milk, passed June 18, 1901.

An ordinance relating to the keeping and vending of milk, passed July 17, 1900.

An ordinance relating to the keeping and vending of milk, passed April 14, 1903.

Sec. 12. When in effect—This ordinance shall take effect immediately.

Note—As to the powers and duties of boards of health, and health ordinances generally, see the following: "Boards of Health," and cases there cited, Am. and Eng. Enc. of Law, 2d edn., vol. 4, pp. 596-608; "The Health Officers' Manual," by L. L. Boyce (Albany, Matthew Bender, 1902); "The Law of Public Health and the Powers and Duties of Boards of Health," by Leroy Parker and Robert H. Worthington (Albany, Matthew Bender, 1892); "A Manual for Boards of Health and Health Officers," by Lewis Balch (Albany, Banks and Co., 1902); "Adulteration of Food; Statutes and Cases," by Douglas C. Bartley (London, Stevens and Sons, 1895); Briefs and notes, indexed under "Health" in Lawyers Reports Annotated; "The Law of Municipal Ordinances," by Eugene McQuillin (Chicago, Callaghan and Co., 1904); "Municipal Police Ordinances" by Norton T. Horr and Alton A. Bemis (Cincinnati, Robert Clarke and Co., 1887).

ORDINANCE RELATING TO THE PASTEURIZATION OF MILK

Section 1. Short Title. This ordinance shall be known as the ordinance relating to the pasteurization of milk.

Sec. 2. Definitions.

B 384459

10. : ORDINANCE RELATING TO PASTEURIZATION OF MILK

1. "Dairy" as used in this ordinance means the farm or place where milk is produced.

2. "Bottling plant" as used in this ordinance means any place where milk or cream is bottled or placed in containers other than the farm or place where milk or cream is produced.

3. "Certified milk or cream" means such as conforms to the following requirements:

The dealer selling or delivering such milk or cream must hold a permit from the local health officer.

All cows producing such milk or cream must have been tested at least once during the previous year with tuberculin, and any cow reacting thereto must have been promptly excluded from the herd. The reports of such tuberculin tests must be filed with the local health officer and the milk commission of the County Medical Society in the municipality and county respectively in which such milk is delivered to the consumer.

Such milk must not at any time previous to delivery to the consumer contain more than 10,000 bacteria per cubic centimeter and such cream not more than 50,000 bacteria per cubic centimeter.

Such milk and cream must be produced on farms which are duly scored on the score card prescribed by the State Commissioner of Health, not less than thirty-five per cent for equipment and not less than fifty-five per cent for methods.

Such milk and cream must be delivered within thirty-six hours of the time of milking.

Such milk and cream must be delivered to consumers only in containers filled at the dairy or central bottling plant.

The caps must contain the word "Certified" and bear the certification of a milk commission appointed by the County Medical Society organized under and chartered by the Medical Society of the State of New York, and must also contain the name and address of the dairy as well as the date of milking.

Every employee before entering upon the performance of his duties shall be examined by a duly licensed physician and the reports of such examination shall be sent to the milk commission certifying the milk from such dairy.

The milkers and all persons handling the milk must be provided with suits and caps of washable material which shall be worn while milking or handling the milk and shall not be worn at other times. When not in use these garments must be kept in a clean place free from dust. Not less than two clean suits and caps must be furnished weekly. The hands of the milkers must be washed with soap and hot water, and well dried with a clean towel, before milking.

4. "Rochester standard raw milk or cream" means such as conforms to the following requirements:

The dealer selling or delivering such milk or cream must hold a permit from the Local Health Officer.

All cows producing such milk or cream must have been tested at least once during the previous year with tuberculin, and any cow reacting thereto must have been promptly excluded from the herd.

Such milk must not at any time previous to delivery to the customer contain more than 60,000 bacteria per cubic centimeter, and such cream not more than 300,000 bacteria per cubic centimeter.

Such milk and cream must be produced on farms which are duly scored on the score card prescribed by the State Commissioner of Health not less than twenty-five per cent for equipment, and not less than fifty per cent for methods.

ORDINANCE RELATING TO PASTEURIZATION OF MILK

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Such milk and cream must be delivered within thirty-six hours from the time of milking, unless a shorter time shall be prescribed by the local health authorities.

Such milk and cream must be delivered to consumers only in containers sealed at the dairy or at a bottling plant. The caps or tags must be white and contain the term "Rochester standard raw" in large black type, and the name and address of the dealer.

5. "Rochester standard pasteurized milk or cream," means such as conforms to the following requirements:

The dealer selling or delivering such milk or cream must hold a permit from the local health officer.

All cows producing such milk or cream must be healthy as disclosed by an annual physical examination.

Such milk or cream before pasteurization must not contain more than 300,000 bacteria per cubic centimeter.

Such milk must not at any time after pasteurization and previous to delivery to the consumer contain more than 50,000 bacteria per cubic centimeter, and such cream not more than 200,000 bacteria per cubic centimeter.

Such milk and cream must be produced on farms which are duly scored on the score card prescribed by the State Commissioner of Health not less than twenty-three per cent for equipment and not less than thirty-seven per cent for methods.

Such milk and cream must be delivered within thirty-six hours after pasteurization.

Such milk and cream must be delivered to consumers only in containers sealed at the dairy or at a bottling plant. The caps or tags on the containers must be white and contain the term "Rochester standard pasteurized" in large, bright green type.

6. Complete pasteurization process for milk or cream means and is as follows:

The milk or cream shall be subjected to a temperature of 142 to 145 degrees Fahrenheit for not less than thirty minutes. After such heating and retention to heat or pasteurization, the milk or cream shall be immediately cooled to below 50 degrees Fahrenheit and placed in clean sterile containers which shall be immediately sealed, or the milk or cream shall be placed in sterile bottles and the bottles and contents subjected to such heating, retention of heat, cooling and sealing.

7. Whenever in this ordinance the quantity of bacteria in milk or cream is mentioned, the count determining such quantity shall be made by the standard culture method.

Sec. 3. No person or corporation shall sell or offer for sale in the City of Rochester any milk or cream except "certified milk or cream," "Rochester standard raw milk or cream" or "Rochester standard pasteurized milk or cream."

Sec. 4. No person or corporation shall sell or offer for sale in the City of Rochester any milk or cream which has been heated by any method or in any manner except as provided for herein by the complete process of pasteurization. This section shall not, however, apply to any restaurant, hotel or similar place, heating milk or cream to be served to patrons.

Sec. 5. No person or corporation shall sell or offer for sale in the City of Rochester any milk or cream which has been treated by or subjected to any method of pasteurization except the complete process of pasteurization as herein defined.

Sec. 6. All persons holding a license to sell milk, issued by the Health Bureau of the City of Rochester, shall, on or before May 18, 1922, file with the Health Officer of the City of Rochester a statement showing the names and addresses of all persons or corporations from whom the said holder of the license purchased his milk, together with the approximate amount received from each dealer. The statement shall also contain the time of day when the said milk is delivered to the holder of the

license in the City of Rochester, N. Y., and also the route by which the same is conveyed to the City of Rochester, stating the name of the railroad, if it is brought by a railroad, and the said statement shall also designate a point within the City of Rochester where the said milk will be received by him and where samples can be taken. Whenever any change is made in the persons from whom milk is purchased, the said milk dealer shall forthwith file a statement with the Health Officer containing the names and addresses of the persons from whom milk was purchased not mentioned in the original statement, together with the approximate amount received from each dealer. Also whenever any change is made in the time or in the route by which milk is received, a statement shall forthwith be filed by the said dealer with the Health Officer showing such change.

Sec. 7. No person or corporation shall pasteurize milk or cream having a bacterial count of more than 300,000 per cubic centimeter, which milk or cream is sold or offered for sale in the City of Rochester, nor unless such person or corporation holds a license therefor issued by the Health Officer of the City of Rochester.

Sec. 8. No person or corporation shall sell or offer for sale in the City of Rochester any milk or cream which has been subjected to heating or the complete process of pasteurization outside of the City of Rochester, unless such process has been conducted in the manner herein provided, and unless the person or corporation conducting the complete process of pasteurization holds a certificate of approval issued by the Health Officer of the City of Rochester, and no such person or corporation conducting the said process of pasteurization shall pasteurize milk or cream having a bacterial count of more than 300,000 per cubic centimeter, which milk or cream is to be sold or offered for sale in the City of Rochester.

Sec. 9. No person or corporation shall more than once heat or pasteurize milk or cream which is sold or offered for sale in the City of Rochester.

Sec. 10. The Health Officer of the City of Rochester shall issue and revoke licenses for carrying on the complete process of pasteurization of milk or cream in the City of Rochester, and shall issue and revoke certificates of approval for carrying on the complete process of pasteurization of milk or cream sold or offered for sale outside the City of Rochester. A fee shall be required of five dollars for original issuance of a license or certificate of approval, and a fee of three dollars shall be required for renewals of licenses or certificates of approval. Each license or certificate of approval shall be issued for the remainder or all of a calendar year, and all licenses and certificates shall expire on December 31 of each year. The issuance and revocation of all licenses and certificates of approval shall be in the discretion of the Health Officer of the City of Rochester, subject to an appeal to the Commissioner of Public Safety under the provisions of Section 342 of the Charter of the City of Rochester.

Sec. 11. The Health Officer of the City of Rochester shall have the approval of all apparatus and methods used in the complete process of pasteurization.

Sec. 12. Every person or corporation carrying on the complete process of pasteurization must do so in accordance with the following requirements, and such further or additional reasonable requirements as may be made by the Health Officer:

1. *Apparatus*—All cans, utensils, bottles and other things and apparatus used in the process of cleaning and sterilizing shall be subject to the approval of the Health Officer.

2. *Methods*—All methods of operation relating to cleaning and sterilizing utensils in the pasteurization of milk or cream shall be subject to the approval of the Health Officer.

3. *Requirements for Apparatus*—The apparatus used and the time elapsing in the application of the sterilizing method to the cans, utensils, bottles and containers shall be such as to make them sterile. The pasteurizing apparatus shall be properly operated and the time elapsing in using it sufficient to destroy all of the organisms in the milk or cream pasteurized.

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4. *Bottling and Placing Milk or Cream in Containers*—Where the milk or cream is pasteurized before it is placed in the containers, they shall be clean and sterile and the milk or cream shall be placed in the containers in which it is finally to be sold in such a manner as shall prevent its contamination either by dust or foreign matter carried to it in any way. This, however, shall not prevent a person or corporation pasteurizing milk or cream for a dealer or selling milk which has been pasteurized to a dealer, and the said dealer taking said pasteurized milk or cream to his bottling plant and there bottling it for distribution as provided herein, said milk or cream so pasteurized or sold shall, however, as soon as pasteurized be placed in sealed containers which shall remain sealed until immediately preceding the bottling of said milk or cream, but said person or corporation thus pasteurizing said milk shall keep a record thereof showing the number of quarts of milk thus pasteurized or sold, together with the date upon which said milk was pasteurized or sold, which record shall be at all times open to the inspection of the Health Bureau, and such person or corporation shall upon request of the Health Bureau furnish an affidavit of the amount of milk pasteurized for any dealer upon any date and the exact time when the same was pasteurized.

5. *Temperature Regulator*—Every piece of pasteurizing apparatus of the continuous type shall have connected therewith a temperature regulator and a recording chart, and every piece of pasteurizing apparatus of the vat or batch of bottle type shall have connected therewith a recording chart, dated on the day on which the pasteurizing process shall be recorded and the temperature of the milk, and the charts shall be saved for at least one month for submission to the inspectors of the Health Bureau.

Sec. 13. It shall be a good defense to any prosecution or suit for a penalty, under the provisions of this ordinance, that the dealer so prosecuted or sued had bought the milk or cream for the sale or offering for sale of which he is being prosecuted or sued from a person or corporation who holds a certificate of approval issued by the Health Officer of the City of Rochester, who pasteurized and bottled or placed the said milk or cream in sealed containers, the seals of which had not been broken, on the premises where the said milk or cream was produced.

Sec. 14. It shall be a good defense to any prosecution or suit for a penalty under the provisions of this ordinance to a dealer so prosecuted or sued, if it shall appear that a sample of the milk was taken by the Health Department at or prior to its being delivered to the dealer in the City of Rochester, from which sample a count of the bacteria had been made and the same had been over 300,000 per cubic centimeter, unless the dealer has received a notice provided for in Section 15 herein.

Sec. 15. No person or corporation shall sell or offer for sale in the City of Rochester any milk or cream which has been purchased from any producer or dealer after the said person or corporation has been notified by the Health Officer of the City of Rochester, N. Y., that the milk of the said producer or dealer contains more than 300,000 bacteria per cubic centimeter.

Sec. 16. Any person or corporation violating any of the provisions of this ordinance shall, upon conviction, be punishable by a fine not exceeding one hundred fifty dollars, or by imprisonment not exceeding one hundred fifty days, or both by such fine and imprisonment, or by a penalty not less than five dollars or more than five hundred dollars, to be recovered by the City of Rochester in a civil action.

Sec. 17. The ordinance adopted by the Common Council on the 27th day of December, 1921, and thereafter amended, and known as the ordinance relating to the pasteurization of milk, is hereby repealed.

Sec. 18. This ordinance shall take effect May 15, 1922.

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