

of which shall be filed with the recorder. The marshal by virtue of his office shall be chief of police; he shall not leave the city without the consent of the council, and in case he does so, his office may be declared vacant by the council; he shall keep a correct record of all arrests made by him or by and policeman, showing the time when such arrest was made, and shall submit to the council at its first meeting in each month, a report in writing, of arrests made and fines and taxes collected, and his other official acts for the preceding month; he shall perform such other duties and have such other powers as shall be provided by ordinance. He shall also make a report upon any matter or matters when ordered to do so by the mayor.

Section 67. It shall be the duty of the marshal to supervise all city property and to prevent the loss and destruction thereof; he shall attend all meetings of the council, and perform the duties or sergeant-at-arms of said body, and shall perform such other duties as may be imposed upon him by ordinance.

Section 68. The treasurer shall receive and safely keep all moneys that shall come into his hands belonging to the city of Sumpter and pay the same over upon the warrant or order signed by the recorder, and keep a correct account of his receipts and disbursements and at all times keep his books open for the inspection of the council; and at the expiration of his term of office he shall turn over to his successor all moneys, books and papers in his hands belonging to his said office. He shall also perform such other duties as are provided for by this act.

Section 69. The superintendent of streets shall keep himself informed of the condition of all public streets, alleys, highways, bridges, culverts, sewers, drains, street lights, parks and grounds; he shall, in connection with the council committee on streets and public property, have the supervision of all work done for the construction, improvement and repair thereof, whether such work is done by contract or by or at the expense of the owners of the adjacent property. He shall see that the provisions of all laws, ordinances and regulations relating to streets and public property herein designated are strictly enforced, and no claim for work, as herein specified, shall be allowed or paid without the certificate of the superintendent of streets or the council committee on streets and public property that the work has been done to their satisfaction; provided, that any contractor feeling himself aggrieved by the determination of the superintendent of streets or committee on streets and public property, may appeal to the council.

Section 70. The superintendent of streets shall keep proper records of all matters relating to the business of his office. When authorized by the council, he may appoint one or more deputies who shall have the power to perform any and all duties of superintendent of streets under his direction, except the acceptance and approval of work done. In case of a vacancy in the office of the superintendent of streets, if there is no deputy street superintendent, the marshal shall perform the duties of the superintendent of streets.

Section 71. The city attorney must attend to all actions, suits or proceedings in which the city is legally interested, and attend the prosecution of all persons charged with a violation of a city ordinance, and give his advice and opinion in writing concerning any matter in which the city is interested, when so required by the mayor or council.

CHAPTER VII.

OPENING, LAYING OUT, WIDENING AND VACATING OF STREETS AND ALLEYS.

Section 72. The council of the city of Sumpter is hereby granted power and authority within the limits of the said city of Sumpter, whenever it may deem it expedient, to open, lay out, establish, and widen streets, alleys and foot-ways, and to appropriate and condemn private property for the purposes above enumerated.

Section 73. Whenever the council shall deem it expedient to open, lay out and establish a new street or alley, it shall by resolution direct the city en-

gineer to make a survey of such new street or alley, or such proposed widening of a street or alley, as the case may be, and to make a plat of the same, and a written report containing a full and complete description of such new or widened street or alley, and of the boundaries thereof, and of the portion of each lot or lots, tract or tracts to be appropriated for such street or alley. The city engineer shall make such survey, report, plat and file the same with the recorder of the city of Sumpter within twenty days from the date the same was ordered by the council, unless said council grant him further time. Should the council deem said survey, plat and report satisfactory, it shall adopt the same by ordinance embodying such report.

Section 74. Thereafter, within thirty days from the adoption of such report, the council shall appoint three disinterested free-holders of the city of Sumpter, no kin to any owner or person interested in any property to be appropriated, possessing the qualifications of jurors of the circuit court of Baker county, to view such proposed street and make an assessment of damages and benefits, as provided in the next following section of this act, and shall assign a day and place for them to meet, and shall cause a notice to be given, by the posting of written or printed notices in three public places in said city of Sumpter, or by publication for ten days in some daily or weekly newspaper published in the city of Sumpter, of the appointment of such viewers, with their names and the time and place appointed for them to meet, and specifying with convenient certainty the boundaries and termini of the proposed street or alley to be laid out, established or widened, as the case may be, and the boundaries and description of the private property to be appropriated for such purpose, and the recorder shall send by mail, post paid, a copy of such posted or published notice to each of the property owners whose property is proposed to be appropriated, or to the agent of such owner, when the address of such agent or owner is known to him, and if such postoffice address be unknown, then such notice shall be directed to such agent or owner at Sumpter, Oregon. The notice herein provided for shall be deemed conclusive notice to all owners of property whose property shall be appropriated by the laying out, opening or widening of any street or alley.

Section 75. The recorder shall, at least five days before the day set for such meeting, cause said viewers to be notified of their appointment and of the time and place of such meeting, and said viewers shall meet at the time and place designated, and shall then be sworn to faithfully discharge the duties assigned to them. They shall then, or on any subsequent day to which they may adjourn (which adjournment shall not exceed one week at a time) proceed to view the street or alley proposed to be opened, laid out or widened, as the case may be, and to determine and assess how much, if any, less valuable the lands, tenements and premises or any part thereof through or over which the proposed street or alley is to be laid out, established or widened, will be rendered thereby; and shall also ascertain the respective interests of all persons claiming to be the owners of the lands, tenements or premises aforesaid, or of the improvements thereon, and the damage which each of said owners will respectively sustain. Said viewers shall also make a just and equitable estimate and assessment of the value of the benefits and advantages of said street or alley proposed to be laid out, established or widened, as the case may be, to the respective owners and other persons interested in the lands, tenements and premises, any part of which is required to be appropriated by the laying out, establishing or widening of such street or alley. Said viewers shall also make a just and equitable estimate and assessment of the value of the benefits and advantages of such street or alley aforesaid to the respective owners or other persons interested in any lands, tenements or premises not required to be appropriated by the laying out, establishing or widening of said street or alley, but abutting on the marginal line of said proposed street or alley, or within one half of the distance to the next parallel street or alley on each side

thereof, if said lands, tenements or premises be laid out and platted in lots and blocks; and to a distance of two hundred feet on either side of said marginal lines of said proposed street or alley, in case such lands, tenements or premises aforesaid be not laid out or platted. Said viewers shall also make a just and equitable estimate of the benefits and advantages, if any, of said proposed street or alley so to be laid out, established or widened to the respective owners, lessees or other persons interested in any lands, tenements or premises situated, abutting on or within one hundred feet of the marginal line of the street or streets of which the said street so to be laid out, established or widened shall be a continuation or which shall connect therewith. Said viewers shall also ascertain and assess and include as benefits or advantages proportionately to the owner or owners of the lands, tenements or premises affected by the opening, laying out and establishing of said proposed street or alley, the cost of surveying the same, the cost of advertising such notices as may be required and also the compensation of the viewers. Said viewers shall thereupon at their earliest convenience report the assessment for damages and benefits as in this section required to the council. The viewers shall receive as compensation for their services the sum of three dollars per day, to be paid by the city and charged as costs as in this chapter provided.

Section 76. Upon the filing of said report of the viewers with the recorder he shall immediately cause a notice to be given by the posting of written or printed notices in three public places in the city of Sumpter or by publication for a period of one week in some daily or weekly newspaper published in the city of Sumpter of the filing of said report, giving the date when the same will be considered by the council, notifying all persons interested to present their objections to said report, if any they have, and said objections, if any there be, together with said report, shall be heard and determined by the council. If it shall appear to the council that the damages assessed are unreasonable or that the benefit assessed are insufficient in any respect, they may cause said report to be amended so as to conform the same to a just and equitable assessment of damages and benefits. If such report shall appear to the council to be in all respects reasonable and just, or after the same has been amended as herein provided, the council may by ordinance adopt such report, and thereafter the excess of the respective sums of benefits over damages so assessed upon the owners, lessees or other parties in interest in the lands, tenements or premises deemed by said viewers to be benefitted by the opening, laying out or widening of any street or alley under the provisions of this act shall when docketed as in this section below provided, be a lien or charge upon the estate and interest of the respective owners, lessees and other persons interested in such lands, tenements and premises for and on account of which the respective sums shall be assessed by the said viewers upon the respective owners or other parties interested therein, and shall, as soon as the appropriation mentioned in section 82 of this act shall have been made, be entered on the docket of city liens in like manner as assessments for street improvements in said city of Sumpter, and the said owners, lessees and other persons interested as aforesaid, shall be more-over respectively and severally liable to pay such excess, and in case no application to public use, and all roads, deal or other proceedings in court be taken as to any such assessment of damages or benefits the said excess so assessed shall be paid to the treasurer of the city of Sumpter within thirty days from the time of entering the same on the docket of city liens or the same shall be deemed delinquent; and thereupon, whenever the council shall so order, shall be collected in like manner as provided for the collection of other delinquent assessments by this act. All moneys arising from such assessments of benefits shall be kept in a separate fund and be applicable to the satisfaction of the excess of damages over benefits assessed to the owners and other persons interested in the prop-

erty taken or damaged for the purpose of laying out, establishing or widening the streets or alleys in the matter in which such benefits are assessed, and for the payment of expenses incurred by the city for surveying, advertising and viewers in said proceedings.

Section 77. The owner or owners of any lot or part thereof or of any lands sought to be appropriated as aforesaid or of the improvements thereon or any person having an interest therein or any person against whom an assessment of benefits has been made may appeal to the circuit court of the state of Oregon for the county of Baker from such report and assessment of damages and benefits. Any number of persons may join in such appeal, and the only question to be determined by such appeal shall be the question of the excess of damages over benefits and the excess of benefits over damages suffered and received by each person joining in such appeal.

Section 78. An appeal shall be taken by serving notice of appeal within twenty days from the adopting of the report of the viewers by the council upon the mayor or recorder of the city and filing an undertaking with one or more sureties, who shall justify in the same manner as bail upon arrest in civil action, conditioned that the appellants will pay all costs and disbursements that may be awarded against them on appeal, not exceeding \$300, together with the proof of service of such notice. In the office of the county clerk of said county.

Section 79. The city shall be considered the plaintiff, and such appeal shall be conducted and be heard and determined and the judgment thereon be enforced as far as practicable in the same manner as an action at law. The verdict of the jury shall be a final and conclusive determination of such assessment.

Section 80. If the appellants or any of them fail to recover greater damages or to secure a more favorable assessment of benefits, as the case may be, than were assessed by the viewers, judgment shall be rendered against each of them and their sureties, on the appeal bond for their proportion of the costs of such appeal, to be paid pro rata, according to the amount of damages and benefits assessed.

Section 81. The same fees and costs shall be taxed and paid upon such appeal as are allowed in other actions.

Section 82. The council shall, at the expiration of the time limited for appeal if no appeal be taken, or immediately after judgment is rendered, if any appeal be taken, make an appropriation for the amount of damage or damages and costs, as the case may be, assessed by such viewers or by the jury on appeal against the city, and shall order warrants drawn on the treasurer, payable out of the fund to be provided for that purpose, for the amount of damage or damages and costs assessed to the owner or owners or other parties interested in each lot or part thereof, or of the improvements thereon in favor of the owner or owners or other persons in interest, and as soon thereafter as the full amount of such appropriation shall be in the city treasury subject to such warrants, and the warrants therefor drawn ready for delivery to the parties entitled to the same, such property shall be deemed appropriated for the purpose of such street or alley, and not otherwise; provided, that no process of any court shall issue to compel any appropriation for damages or the issuing of warrants for the same. And that unless such appropriation shall be made, and said warrants so drawn and ready for delivery, and the full amount of such appropriation shall be in the city treasury subject to the payment of such warrants within six months after the termination of the time limited for appeal, or within six months from the time of the rendition of judgment or decree on appeal, all acts and proceedings under such survey and view shall be null and void.

Section 83. The power and authority granted to the council by this act is granted to the municipal corporation of the city of Sumpter, to be exercised according to the provisions of the act creating such corporation, unless otherwise specially provided therein. The power to approve and adopt the survey of any street or any