

CHAPTER XLI.

To Incorporate the City of Winona.

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CHAPTER 1.—CITY BOUNDARIES.

Be it enacted by the Legislative Assembly of the Territory of Minnesota:

SECTION 1. All that part of the county of Winona contained within the limits and boundaries hereinafter described, shall be a City by the name of Winona, and the people now

Incorporation

inhabiting, and those who shall hereafter inhabit, within the district of country herein described, shall be a municipal corporation by the name of the City of Winona, and shall have the general powers possessed by municipal corporations at common law, and in addition thereto shall possess the powers hereinafter specially granted, and the authorities thereof shall have perpetual succession, shall be capable of contracting and being contracted with, of suing and being sued, pleading and being impleaded, in all courts of law and equity; and shall have a common seal, and may change and alter the same at pleasure.

Boundaries

SEC. 2. That Territory included within the following boundaries and limits, shall constitute the city of Winona, beginning at a point in the middle of the Mississippi river on the continuation of the east line of section number thirty-six (36), in township number one hundred and seven (107), north range number seven (7), west of the fifth (5), meridian, running thence south along the east line of section number twenty-five, (25), to the southeast corner of section twenty-five (25), thence west along the north line of sections number thirty-six (36), thirty-five (35), thirty four (34), and thirty-three (33); to the northwest corner of section number thirty-three, (33), thence north along the east line of sections number twenty-nine, (29), and twenty, (20) to the north east corner of section number twenty (20); thence east along the south line of sections number sixteen (16), fifteen (15), and the continuation of said line to a point in the Middle of the Mississippi river; thence easterly down the middle of said river to the place of beginning.

Wards

SEC. 3. The said city shall be divided into three Wards, as follows: All that part of said district which lies west of the middle of Johnson street and its extension to the south line of the city shall be the first Ward. All that part of said district which lies between the middle of Johnson street and its extensions to the south line of the city, and the middle of Lafayette street, and its extensions to the south line of the city, shall be called the Second Ward. And all that part of said district which lies east of the middle of Lafayette street and its extensions to the south line of the city shall be called the Third Ward.

Election officers

SEC. 4. On the first Monday of April next, an election shall be held in said city, for one Mayor, six Aldermen, one Recorder, one Justice of the Peace, Treasurer, Marshal, Attorney and Assessors and City Surveyor, and thereafter, on the first Monday of April, in each year, there shall be an election for one Mayor, three Aldermen and one Justice of the Peace, Recorder, Treasurer, Marshal, Attorney, Assessor and City Surveyor. The first election for the elective officers shall be held by the qualified voters residing within the limits of the city of Winona, as described in charter first and section second of this act. Each Ward in said city shall constitute an election precinct, and it shall be the duty of the

Commissioners of Winona county to appoint for each ward in said city of Winona, three Judges of election, whose duties shall be the same as prescribed by law, and it shall be the duty of the Clerk of the Board of County Commissioners of said county, to cause notice of the time and place of holding the first elections to be held under this charter, the same as is prescribed by law for precincts at regular elections and the returns shall be made to the said Clerk of the Board of County Commissioners, and he shall canvass the same and issue certificates of election to the person having the highest number of votes.

SEC. 5. The Board of Aldermen shall consist of six members, two from each Ward, to be chosen for two years by the Aldermen qualified voters of each respective Ward.

SEC. 6. At the first meeting of the City Council, the Aldermen in each Ward shall be divided by lot in two classes. The seats of those of the first class shall be vacated at the first annual election, and of the second class at the second annual election, so that one half of the said board shall be elected annually.

CHAPTER 2.—ELECTIONS.

SEC. 1. The annual elections of city officers shall be held on the first Monday in April of each year, at such places within the city as the City Council shall designate, and the polls shall be kept open from twelve o'clock, A. M., till four o'clock, P. M., in the afternoon, and ten days previous notice shall be given by the City Council, of the time and places of holding such elections, and the officers to be elected, by posting notices thereof in three of the most public places in the city, and by publishing the same not less than two successive weeks in at least one of the papers published in said city.

SEC. 2. The elective officers of said city shall be a Mayor, Recorder, Justice of the Peace and six Aldermen, Treasurer, Marshal, Attorney, Assessor, and City Surveyor. All other officers necessary for the proper management of the affairs of said city, shall be appointed by the City Council. All elective officers except the Aldermen shall hold their respective offices for one year, and until their successors are elected and qualified, *Provided, however,* that the City Council shall have power, for due cause, to expel any of their own members and to remove from office at pleasure any officer or agent under the city government, due notice in writing by the Recorder first being given to the officer complained of.

SEC. 3. Whenever a vacancy shall occur in the office of Mayor, such vacancy shall be filled by a new election, which shall be ordered and held within twelve days after such vacancy shall occur. Any vacancy occurring in any other office, shall be filled by the City Council. The person elected or appointed to fill a vacancy shall hold his office, and discharge

the duties thereof, for the unexpired term, with the same rights and subject to the same liabilities, as the person whose office he may be elected or appointed to fill.

Election by ballot SEC. 4. All elections by the people shall be by ballot, and a plurality of votes shall constitute an election. Whenever two or more candidates for an elective office shall receive an equal number of votes for the same office, the election shall be determined by the casting of lots in the presence of the City Council, at such time and in such manner as they may direct.

Six months' residence SEC. 5. All persons entitled to vote for County and Territorial officers, and who shall have resided in the city for six months next preceding the election, shall be entitled to vote, for any officer to be elected under this law, and to hold any office hereby created.

Inspectors SEC. 6. The election in said city shall be held and conducted by the City Councilors, or any two of them, who shall be Inspectors of elections, and who shall take the oath or affirmation prescribed by the general laws of this Territory to be taken by the Judges and Inspectors of Elections. The Inspectors shall have power, in the absence of the Recorder, to appoint a Clerk and to administer the necessary oaths. Said election shall be held and conducted in the same manner and under the same penalties, and vacancies in the Board of Inspectors thereof, filled as required by the general laws of this Territory, regarding elections.

Qualification SEC. 7. If either of the Inspectors shall suspect that any person offering to vote, does not possess the qualifications of an elector, the Inspectors, before receiving the vote of any such person, shall require him to take the following oath: You do solemnly swear (or affirm, as the case may be,) that you are twenty-one years of age, that you are a citizen of the United States, (or have declared your intentions to become a citizen, conformably to the laws of the United States, on the subject of naturalization;) that you have resided in this city two months, and that you have not voted at this election; and that you have made no bet or wager, or become directly or indirectly interested in any bet or wager, depending on the result of this election. And if the person offering to vote shall take such oath, his vote shall be received, otherwise, rejected. And if such person shall take such oath falsely, he shall be guilty of a wilful and corrupt perjury, and upon conviction thereof, upon indictment, shall suffer the punishment provided by law for persons guilty of perjury. If any person who is not a qualified voter shall vote at any election, he shall be liable to indictment, and on conviction thereof, shall forfeit and pay a sum not exceeding one hundred dollars, and not less than twenty-five dollars. And it shall be the duty of the Inspectors to keep a list of the names of all persons, whose votes may be challenged as aforesaid, and who shall swear in their votes; and if any Inspector shall knowingly and corruptly receive the vote of any person not authorized to

Oath

vote, or shall make out false returns of an election, or if any Clerk shall intentionally and corruptly fail to write down the name of every voter as he votes, or shall wilfully and corruptly make untrue and incorrect accounts and tellers of votes, each and every such Inspector and Clerk shall be liable to indictment, and on conviction thereof, shall severally forfeit and pay a sum not exceeding five hundred dollars. All such indictments shall be tried in the District Court of the county of Winona.

Sec. 8. When an election shall be closed, and the number of votes for each candidate or person voted for, counted and ascertained, the said Inspectors shall make returns thereof, stating the number of votes for each person, for each and every office, and shall deliver or cause to be delivered such returns to the City Recorder, who shall forthwith give notice to each of the persons so elected of their respective elections. Make returns

Sec. 9. Special elections to fill vacancies, or for any other purpose, shall be held and conducted by the Councilmen, in the same manner, and the returns thereof shall be made in the same form and manner as general or annual elections, and within such time as may be prescribed by ordinance. Special elections

Sec. 10. Any officer removing from this city, or any officer who shall neglect or refuse for ten days after notice of his election or appointment, to qualify and enter upon the discharge of the duties of his office, shall be deemed to have vacated his office, and the City Council may proceed to fill such vacancy, as herein prescribed by ordinance not in conflict with the provisions hereof. Removal

Sec. 11. Should there be a failure by the people to elect any officer herein required to be elected, on the day designated, the city council may order a new election to be held, ten days notice of the time and place of holding the same, to be given as in general elections. Failure to elect

CHAPTER III.—OFFICERS—THEIR POWERS AND DUTIES.

Sec. 1. Every person elected or appointed to any office under this act shall, before he enters upon the duties of his office, take and subscribe an oath of office, and file the same, duly certified by the officers taking the same with the recorder of the city; and the Treasurer and Marshal and such other officers as the City Council may direct, shall severally, before they enter upon the duties of their respective offices, execute to the city of Winona, a Bond with at least two sureties to be approved by the City Council, and such bond shall contain such conditions as the City Council may deem proper, and they may from time to time require new or additional bonds, and remove from office any officer refusing or neglecting the same. Subscribe Oath

Sec. 2. The Mayor shall, when present, preside over the meetings of the City Council, and take care that the laws of the Territory and ordinances of the city be strictly en- Mayor

forced, and duly observed, and that all other executive officers of the city discharge their respective duties. The Mayor or any two Aldermen may call special meetings of the City Council. He shall inspect the conduct of all subordinate officers, and cause negligence and persistent violations of duty to be prosecuted and punished, and may require of any officer of the city, whenever he may deem it necessary, an exhibit of his books and papers. He shall, from time to time, communicate to the City Council, and recommend such measures as he may deem advantageous to the city. He shall have power to execute all act that may be required of him by any ordinance made in pursuance of this act, and is hereby authorized to call upon every male inhabitant of said city over the age of eighteen years to aid in enforcing the laws and ordinances, and in case of riot to call out the militia to aid him in suppressing the same, or carrying into effect any law or ordinance. Any person who shall not obey such call shall forfeit to said city a fine not exceeding twenty-five dollars, nor less than five dollars.

Indictment

SEC. 3. In case the Mayor shall be guilty of any wilful oppression, or corrupt partiality in the discharge of the duties of his office, he shall be liable to indictment, and on conviction thereof, shall pay a fine of not more than five hundred dollars, and the court shall have power, (upon the recommendation of the jury in the cause,) to add to the judgment for the fine, that he be removed from office.

Acting Mayor

SEC. 4. In case the Mayor shall be absent from any meeting of the City Council, they shall proceed to elect of their own number, a temporary presiding officer, who, for the time being, shall discharge all the duties of Mayor. In case of the absence of the Mayor from the city, or his inability, from any reason, to discharge the duties of his office, the council shall elect by ballot from their own number, an officer who shall be styled Acting Mayor, and all acts performed by him shall have the same force and validity as if performed by the Mayor.

Recorder

SEC. 5. The Recorder shall keep the corporate seal and all the papers and records of the city, and keep a record of all the proceedings of the City Council. He shall draw and counter-sign all orders on the treasury, in pursuance of any order or resolution of the City Council, and keep a full and accurate account thereof in books, provided for that purpose, and make a fair and full record of all the by-laws, rules or ordinances, made or passed by said City Council. The Recorder shall have power to administer oaths or affirmations, and copies of all papers filed in his office, and transcripts from the records of the City Council certified to by him under the corporate seal, shall be evidence in all courts in like manner as if the original were produced. He shall report annually on or about the first day of May to the council an estimate of the expenses of the city for the current year, and the revenue necessary to be raised therefor; and the fiscal year of the city shall

Oath**Expenses**

commence on the first day of May. He shall make or cause to be made estimates of the expense of any work to be done by the city, and countersign all contracts made in behalf of the city and all certificates of work by any officer of the city, **Contracts** or any committee of the City Council. He shall negotiate between the first of May, and the collection of taxes for the same year, such temporary loans for the city as the City Council shall direct, anticipating the revenue for the current year, and such loans shall be subject to the approval of the City Council. He shall examine the report, books, papers, vouchers, and accounts of the Treasurer, and from time to time shall perform such other duties as the council shall direct.

All claims against the city, before they are allowed by the City Council, shall be audited and adjudged by the Mayor, **Record** The Recorder shall keep a record of all his acts and doings, which record shall be at all times open to the inspection of all parties interested. He shall not be directly or indirectly interested in any contract or job to which the city is a party, or in any loan negotiated by the city.

SEC. 6. The City Attorney shall perform all professional duties incident to his office, and when required shall furnish written opinions upon any subject submitted to him by the City Council or its committees. **Attorney**

SEC. 7. The Treasurer shall receive all moneys belonging to the city, and keep an accurate and detailed account thereof, in such manner as the City Council shall, from time to time, **Treasurer** direct. The Treasurer shall exhibit to the City Council, at least fifteen days before the annual election, or sooner if required by them, a full and detailed account of all the receipts and expenditures after the date of the last annual report, and also the state of the treasury, which accounts shall be filed with the Recorder.

SEC. 8. The Marshal shall execute such orders as are made, and perform such duties as are prescribed by the City Council, for the collection of tolls, license moneys, and fines, for the preservation of the public peace, for the good order, cleanliness and government of the city, and for all other purposes. He shall possess the powers of constables at common law and under the statutes of this Territory, and receive like fees; but shall not serve civil process, except where the city is a party; and shall be collector of taxes. **Marshal**

SEC. 9. The City Council shall have power from time to time to require other and further duties to be performed by any officer whose duties are herein prescribed, and to appoint such other officers as may be necessary to carry into effect the provisions of this act, and to prescribe their duties and to fix the compensation of all officers elected or appointed by them, such compensation shall be fixed at the time the office is created, or at the commencement of the year, and shall not be increased or diminished during the time such officers shall remain in office. The City Council may at any time fix the **Compensation**

Newspapers compensation of any officers or committee for any incidental service by them performed.

SEC. 10. The City Council, at their first meeting in each year, or as soon thereafter as may be, shall designate one or two newspapers, in their discretion, printed in the city, in which shall be published all ordinances and other proceedings, and matters required by this act, as by the by-laws or ordinances of the City Council to be published in a public newspaper.

City printer SEC. 11. The City Printer or Printers, immediately after the publication of any notice, ordinance or resolution, or other matter which by this act is, or by city ordinance shall be required to be published, shall file with the Recorder a copy of such publication, with his affidavit or the affidavit of his foreman, of the length of time the same has been published, and such affidavit or affidavits, shall be conclusive evidence of the publication of such notice, ordinance, resolution or other matter.

Successors to have books SEC. 12. Any person having been an officer in said city, shall within ten days after notification and request, deliver to his successor in office all property, books, papers and effects of every description in his possession, belonging to said city, or pertaining to the office he may have held; if he fails so to do after such notification and request, he shall forfeit and pay to the use of the city one hundred dollars, besides all damages caused by his neglect or refusal so to deliver; and such successor may recover the possession of such books, papers and effects, in the manner prescribed by the laws of this territory, in cases of unlawful detention of property.

No interest in contract. SEC. 13. No member of the City Council shall be party to or interested in any job or contract with the city, and any contract in which any member of the City Council may be so interested, shall be null and void.

Officers of the Peace SEC. 14. The Mayor, Sheriff of Winona county, and each and every Alderman, Justice of the Peace, Marshal, Recorder and Constables of the precinct of which said city is a part, shall be officers of the peace, and may command the peace and suppress in a summary manner all rioting behaviour within the limits of the city; and for such purpose may command the assistance of all bystanders, and if any person so commanded shall refuse to aid in maintaining the peace, every such person shall pay a fine of twenty-five dollars.

Justice of the Peace SEC. 15. The Justice of the Peace for the City shall possess all the authority, power and rights of a Justice of the Peace, except he shall in no case entertain any civil proceeding to which the City is not a party, and shall have sole exclusive jurisdiction to hear all complaints and conduct all examinations and trials in criminal cases within the city, cognizable before a Justice of the Peace, but warrants returnable before the said City Justice may be issued in criminal cases by any Justice of the Peace of the said county of Winona, but no

fee shall be received therefor by such Justices; said Justice shall have exclusive jurisdiction in all cases in which the City is a party, and he shall have the same power and authority in cases of contempt as other justices of the peace: *Provided*, That nothing herein contained shall be deemed to divest the District Judges of their authority as conservators of the peace, or affect in any manner the jurisdiction of the District Court of Winona county, or of the Territory. In case of the absence, sickness or other disability of said Justice, or for any sufficient reason, the Mayor, by warrant, may authorize any other Justice of the Peace within the limits of the city, to perform the duties of said Justice, and the Mayor shall thereupon inform the City Attorney and Marshal of such substitution, and make report thereof to the City Council, and they may confirm or set aside such appointment, or appoint some other Justice of the Peace, and the Justice so appointed shall, for the time being, and until his appointment is vacated, possess all the authority, powers and rights of said Justice of the Peace for this city.

SEC. 16. The Justice of the Peace shall quarterly report to the City Council a list of all proceedings instituted before him in behalf of the city, and the dispositions thereof; and shall at the same time account and pay over the amount of all penalties and costs collected, which may by law accrue to the city, and he shall be entitled to receive from the county of Winona such fees in criminal cases, as are allowed to other Justices of the county for similar services. Report quarterly

SEC. 17. There shall be annually elected a City Surveyor, who shall hold his office for one year, and until his successor be elected and qualified, and the City Council shall prescribe his duties, and fix the fees and compensation for any services performed by him. All surveys, profiles, plans and estimates, made by him for the city, shall be the property of the city, and shall be carefully preserved in the office of the Recorder, open to the inspection of the parties interested. City Surveyor

CHAPTER IV.—THE CITY COUNCIL—ITS GENERAL POWERS AND DUTIES.

SEC. 1. The Mayor Alderman and Recorder shall constitute the City Council, and the style of all ordinances shall be "The City Council of the city of Winona do ordain." The City Council shall meet at such time and place as they shall direct, and a majority shall constitute a quorum. The City Council shall determine the rules of its proceedings, and be the judges of the election and qualification of their own members, and have the power to compel the attendance of absent members. City Council

SEC. 2. The City Council shall have the management and control of the finances, and of all the property of the city, and the City Council shall likewise have full power and authority, to make, enact, ordain, establish, publish, enforce, Finances

alter, modify, correct and repeal all such ordinances, rules, and by-laws for the government and good order of the city, for suppression of vice, as they shall deem expedient; declaring and imposing penalties, and to enforce the same against any person or persons who may violate any of the provisions of such ordinances, rules or by-laws, and such ordinances, rules or by-laws are hereby declared to be and have the force of law, and for these purposes shall have authority by ordinances, resolutions or by-laws; *Provided*, That they be not repugnant to the Constitution and Laws of the United States or of this Territory.

By-laws

License

1st. To licence and regulate the exhibition of common showmen, or shows of any kind, or the exhibition of caravans, circuses, or theatrical performances, billiard tables, bowling saloons, and to provide for the abatement and removal of all nuisances under the ordinances, or at common law, or under this act, and to grant licences and to regulate groceries, taverns, victualing houses, and all persons vending or dealing in spirituous, fermented, vinous, or intoxicating liquors. *Provided*, That the license for so dealing in spirituous, vinous, fermented, mixed or intoxicating liquors shall be at least fifty dollars a year, and as much higher as the Council shall direct, and that no license shall be granted for a less term than one year.

Restrain gam-
ing

2nd. To restrain and prohibit all E. O. or rolettc tables, faro or pharo banks, and all gaming with cards, and all gambling tables, and to prohibit the use of all gambling devices whatever from being set up or used for gambling purposes, and to restrain and prohibit all descriptions of gaming and fraudulent devices and practices, and playing of cards, dice or other games of chance, for the purpose of gaining in said city, and to restrain and prohibit any person from vending, giving or dealing in spirituous, vinous, fermented, mixed or intoxicating liquors of any kind.

Riots

3d. To prevent any riots, noise, disturbance, disorderly assemblages, suppress and restrain disorderly houses, or groceries, and houses of ill-fame, and to authorize the destruction of all instruments used for the purpose of gaming, and of all spirituous vinous, fermented, mixed or intoxicating liquors of any kind that may be kept for sale or dealt in contrary to any ordinance of the city.

Nuisance

4th. To compel the owner or occupant of any grocery, cellars, tallow chandler's shop, soap factory, tannery, stable, barn, privy, sewer or other unwholesome or nauseous house or place, to cleanse, remove or abate the same, from time to time as often as it may be deemed necessary for the health, comfort and convenience of the inhabitants of the city.

Markets

5th. To direct the location and management of slaughter houses and markets in said city, and to regulate the sale, storage, keeping and conveying of gunpowder or other combustible materials.

6th. To prevent the encumbering of streets, side-walks,

lanes or alleys, with carriages, carts, wagons, boxes, sleighs, fire-wood, lumber, or any other material or substance whatever. Incumbering streets

7th. To prevent horse racing, immoderate riding or driving in the streets, and to regulate the places of bathing and swimming in the waters within the limits of said city. Horse racing

8th. To restrain the running at large of cattle, swine, sheep, poultry and geese, and to authorize the impounding, distraining, and sale of the same. Cattle, &c.

9th. To prohibit the running at large of dogs, to impose fines upon their owners, and to authorize the destruction of the same when at large contrary to the ordinances. Dogs

10th. To prevent any person from bringing, depositing or having within the City any putrid carcass or other unwholesome substance, and to require the removal of the same, by any person who shall have the same upon his premises, or from any street, lane, or alley, if he shall have thrown or put the same in any street, lane, or alley, and on default to authorize the removal thereof by any competent officer, at the expense of such person or persons. Putrid Carcass

11th. To make and establish public pounds, well cisterns, and reservoirs, and to provide for the erection of water works for the supply of water to the inhabitants, to erect lamps or other means whereby to light the city, to regulate and license hacks, cabs, drays, carts, and charges of hackmen, coachmen, draymen, and cartmen in the City. Public Pounds

12th. To establish and regulate boards of health, provide hospitals and cemetery grounds, regulate the burial of the dead, and the returns of the bills of mortality, and to exempt burial grounds set apart for public use, from taxation. Board of health

13th. To regulate the assize and weight of bread, and to provide for the seizure and forfeiture of bread baked contrary thereto. Assize

14th. To prevent all persons from riding or driving any ox, cow, horse, mule or other animal on the sidewalks of the City, or in any way doing any damage to such sidewalks. Side walks

15th. To prevent shooting of firearms, cracker, rocket or any other projectiles, and to prevent the exhibition of any fireworks in any situation which may be deemed by the Council dangerous to the City, or any property therein, or annoying to any citizen thereof. Shooting

16th. To restrain drunkards, immoderate drinking of intoxicating beverages, brawling and obscenity in the streets or public places, and to provide for arresting, removing, and publishing any person who may be guilty of the same. Drunkards

17th. To restrain and regulate runners and solicitors for boats, vessels, stages, public houses, railroads, and other establishments, and to regulate the police of the City. Runners

18th. To establish public markets, and to enforce rules and regulations for the government of the same. Markets

19th. To regulate the place and manner of selling, and to provide for the inspection and weight of hay and stone coal, Hay and fuel

the measuring of charcoal, fire-wood, and other fuel, and to appoint suitable persons to inspect, superintend and conduct the same.

Incumbering streets &c 20th. To compel the owners or occupants of buildings or grounds to remove snow, dirt, or rubbish from the side-walks streets or alleys opposite thereto, and in his default to authorize the removal or destruction thereof by some officer of the city, at the expense of such owner or occupant.

Wharves 21st. To regulate the construction of wharves, or grading such wharves into the Mississippi river, within the corporate limits of the city, and to prescribe and control the prices of wharfage thereon.

Quarantine 22nd. To regulate, control, and prevent the landing of persons from boats or vessels wherein are contagious or infectious diseases or disorders, and to make other regulations as they shall deem proper to prevent the introduction of contagious diseases into the city.

Auction 23d. To regulate the time, place, and manner of holding public auctions or vendues.

Weights and measures 24th. To provide by ordinances for a standard of weights and measures, and for punishment of the use of false weights and measures.

Expenses 25th. To appropriate money, and provide for the payment of the debts and expenses of the city.

Streets 26th. To alter, abolish, open, widen, extend, establish, grade, repair, or otherwise improve, or keep in repair, streets, avenues, lanes and alleys.

Night watches 27th. To establish, regulate, and support night watches.

Public buildings 28th. To provide for the erection of all needful buildings for the use of the city.

Public grounds 29. To provide for the enclosing, improving and regulating of all public grounds belonging to the city, and for the adorning of the streets thereof with shade trees.

Merchants &c 30th. To regulate and tax merchants, retailers, taverns, groceries, ordinaries, hawkers, pawnbrokers, and money changers.

Porter 31st. To licence and regulate porters, and fix the price of portorage.

Inspection 32d. To provide for and regulate the inspection of tobacco, beef, pork, flour, meal, butter, and lard and other provisions.

Walls 33d. To regulate and order parapet walls, and other partition fences.

Census 34th. To provide for taking, from time to time, the enumeration of the inhabitants of the city.

OF FIRES.

Buildings 35th. To prescribe the limits within which wooden buildings, or buildings of other materials that shall not be deemed fire proof, shall not be erected, placed or repaired, and to direct that all and any buildings within the limits prescribed, shall be made and constructed of fire-proof materials, and to

prohibit the repairing and rebuilding of wooden buildings within such limits, when the same shall have been damaged to the extent of fifty per cent. of the value thereof, and to prescribe the manner of ascertaining such value and damages.

36th. To prevent the dangerous construction, placing and condition of chimneys, fire-places, hearths, stoves, and pipes, ovens, boilers and appurtenances used in and about any building, and to cause the same to be removed or placed in ^{Fire} a safe and secure condition, when considered dangerous, and to prevent the deposit of ashes in unsafe places, and to regulate and prevent the carrying on of manufactories, in causing or promoting fires within the city limits.

37th. The City Council shall have power to purchase fire engines and other fire apparatus, and to authorize the formation of fire engines, hook and ladder and hose companies, and to provide for the due support and regulation of the same; ^{Fire engines} and to order such companies to be disbanded, and their apparatus to be delivered up. Each company shall not have to exceed seventy-five members, and shall be formed by voluntary enlistment, and each member of every such company shall be exempt from full tax, from serving on juries and from military duty during the continuance of such membership.

SEC. 3. All laws, ordinances, regulations and by-laws shall be passed by an affirmative vote of the majority of the City Council, and be signed by the Mayor, and shall be published in the official paper of the city, or posted for ten days in three ^{Laws} of the most public places in the city, before the same shall be in force; and within twenty days thereafter they shall be recorded by the Recorder, in books provided for that purpose; but before any of the said laws, ordinances, regulations or by-laws shall be recorded, the posting of the same, or the publication thereof as aforesaid, respectively, shall be proved by the affidavit of the foreman or publisher of such newspaper, or the certificate of the Recorder of such posting, and the said affidavit or certificate shall be recorded therewith, and at all times shall be deemed and taken as sufficient evidence of the time, manner and place of such publication or posting. No appropriation shall be made without a majority of the members of the City Council voting in favor of it; and the vote shall be taken by ayes and noes, and entered among the proceedings of the council.

SEC. 4. The powers conferred upon the City Council, to provide for the abatement or removal of nuisances, shall not bar or hinder suits, prosecutions or proceedings in the courts according to law. Houses or buildings of any kind wherein more than twenty pounds of gunpowder are deposited, stored or kept at any time, gambling houses, houses of ill-fame, disorderly taverns or beer-shops, or places where spiritous, vinous, fermented, mixed or intoxicating liquors are sold, given away or dealt in, without a license required

LAW OFFICE OF
FRANK J. MASON,
LOAN AND TRUST BLDG.,
MINNEAPOLIS, MINN.

Abate nuisance

therefor, within the limits of said city, are hereby declared and shall be deemed public or common nuisances.

Examine acc'ts SEC. 5. The City Council shall examine and adjust the accounts of the Treasurer, Marshal, Recorder, and all other officers and agents of the city, at such times as they may deem proper, and at the end of each year, and before the term for which such officers were appointed or elected shall have expired. And the council shall require each and every such officer and agent to exhibit his books, accounts and vouchers for such examination and settlement, and if any such public officer or agent shall refuse to comply with the order of said council in discharge of their duties in pursuance of this section, the council shall declare the office of such persons vacant, and may commence suit or proceedings at law against any such officer or agent who may be found delinquent as defaulting in his accounts, or in the discharge of his official duties. The council shall make full record of all such settlements and adjustments.

Grading streets SEC. 6. The City Council shall have power to order and construct for the making, grading, repairing, cleansing, improving and adorning of streets, lanes, alleys, public grounds, reservoirs, gutters, sewers and wharfs within the city.

Repair side-walks SEC. 7. Whenever the City Council shall deem it necessary to construct or repair any sidewalk within the city, they shall direct the owners or occupant of any lot adjoining such sidewalk to make or repair the same at his or their own proper cost and charge, and in such a manner and within such time as in such direction specified. If such work is not done in the manner and within the time prescribed, the City Council shall cause the same to be done at the expense of the lot adjoining such side walk.

Surveying streets SEC. 8. The costs and expense of surveying streets, lanes, alleys, sidewalks, sewers, public ground and reservoirs, and estimating work thereon, and of cleansing streets and alleys, and of constructing or repairing reservoirs and sewers, shall be paid out of the City funds; opening, grading, graveling, planking or paving streets and alleys, and to the center thereof, shall be chargeable to and payable by the lots fronting on such street or alley. Sewers may be ordered by the City Council, to be built at the expense of the lots or parcels of land to be benefitted thereby, and which shall be apportioned by said City Council, among said lots or parcels of land,

Sewers SEC. 9. Whenever the City Council shall determine to make any public improvement, as authorized by section six seven and eight, of this chapter, they shall cause to be made an estimate of the whole expense thereof, and the proportion to be assessed and charged to each lot, in case of grading streets, alleys and sidewalks, of the number of cubic yards to be filled in or excavated in front of each lot, and such estimate shall be filed in the office of the City Recorder, for the inspection of parties interested. The City Council shall give notice by advertisement for two weeks in the official paper,

Assessment

to the owners or occupants of the lots or parcels of land fronting on any street, alley or sidewalk, ordered to be graded, graveled, planked or paved, requiring them to do the work mentioned in such notice, within a reasonable time, therein to be specified, and if the said work be not done within such time, the City Council shall enter into contract for the doing thereof. Give notice

SEC. 10. Whenever the general interest of the City requires a deep cutting or extraordinary filling in any street, and the owners of the lots or parcels of land fronting on such deep cutting or filling shall deem themselves aggrieved thereby, and shall represent to the City Council, in writing, that the expense of such excavation or filling will exceed the benefit the same will be to the property assessed therefor, the City Council shall appoint five freeholders not interested in said lots or parcels of land, who, first being duly sworn, faithfully and impartially to discharge the trust reposed in them, shall examine the premises. If those first appointed refuse, or are incapacitated to serve, the council shall appoint others in their stead. Upon examination of the premises, if in their opinion the cost of such improvement shall exceed the benefits to be derived therefrom, it shall be their duty to report to the City Council, and shall specify in such report, what portion of the work to be performed shall be chargeable to such lots, and how much, or what proportion shall be chargeable to the City fund, and such part or proportion shall be so reported as properly chargeable to the lots or parcels aforesaid, shall be assessed upon the same, and levied and collected as other taxes or assessments, and the remainder paid out of the City fund: *Provided*, That no such representation or petition shall be received, unless presented within ten days after the first publication of the notice requiring the work to be done: *And provided further*, That it shall be the duty of the City Council to appoint such commissioners whenever it shall appear to them that such lands or lots belong to infants, or other persons under legal disabilities, not represented by guardians. Grading
Freeholders to examine

SEC. 11. The City Council shall have power to regulate and cause to be constructed, altered and maintained, wharves along the Mississippi river, and shall have and exercise the same control over the said river to the centre thereof, that they possess by virtue of this act over the streets and alleys in said city. The expense of constructing, altering, grading, paving and maintaining the same, shall be apportioned by the City Council, and is hereby made payable by the lots or parcel of land extending to said river, in proportion to the work done opposite to said lots or parcel of land, to be estimated by the surveyor: *Provided however*, That before causing such work to be done, the same notice shall be given as is required in the cases of grading streets: *Provided further*, That the owners of such lots shall have the same power of petitioning when the same measures shall be proceeded in as is provided by Wharves

section ten of this chapter in regard to the grading of streets and alleys.

Certificate **Transferable** **City not responsible**

SEC. 12. After the completion of any contract entered into by the City Council for work chargeable to lots or lands by virtue of this act, they shall give to the contractor or contractors a certificate, under the hand of the Mayor and seal of said City Council, stating therein the amount of work done by such contractor, the nature thereof, and description of the lot or parcel of land upon which the same is chargeable, which said certificate shall be transferable by endorsement thereon, and shall bear interest at such rate as the council shall direct; and if the amount thereof shall not be paid before the time of making out the annual assessment roll, the same shall be assessed and levied upon the said lots or parcels of lands respectively, and collected, together with interest, up to the time of such collection, such as the certificate shall bear, for the use and benefit of the holder of such certificate, as other taxes on real estate are collected by virtue of this act; and if the notice to do the work required shall have been given, no informality or error in the proceedings shall vitiate such assessment, and in no event where the work is ordered to be done at the expense of any lot or parcel of land, shall the City be held responsible for the payment thereof.

Appeal

SEC. 13. In all cases where work shall be ordered to be done by the owner of any lot, under the provision of this act, such owner may make his appeal as hereinbefore provided, in cases of taking property for the public use, at any time within twenty days after the publication of the notice required to be given, and until the expiration of twenty days no such order shall be executed.

CHAPTER V.—ASSESSING, LEVYING AND COLLECTING TAXES.

Taxation

SEC. 1. All property, real and personal, within the city, except such as may be exempt by laws of this Territory, or by ordinance of this city, shall be subject to taxation for the support of the city government, and the payment of its debts and liabilities, and the same shall be assessed in the manner hereinafter provided.

Assessors

SEC. 2. The City Assessors, who shall have and possess the same powers that are or may be enforced by the laws of this Territory upon township or county assessors, except so far as they may be altered by this act: *Provided*, That the City Council may prescribe the form of the assessment rolls, and may fully define the duties of assessors, and make such rules and regulations in regard to revising, altering or adding to such rolls, as they may from time to time deem advisable.

Administer Oaths

SEC. 3. The assessor so elected hereby authorized to administer such oath as shall be required by this chapter, and within thirty days after his election, shall make out a complete and accurate assessment roll, which shall contain a description sufficient to identify all the lands, lots or parcels

of land within said city, and also of all persons, or bodies politic liable to pay taxes on personal property, or capitation tax; and opposite to each parcel or lot of land shall be affixed the value thereof, and opposite to the name of each person or body politic, shall be affixed the value of the personal property for which such person or body politic shall be assessed. When there are buildings upon any lot or parcel of land, this value shall be set forth in a separate column. The assessor may assess any lot or tract of land in such parcels or subdivisions as they may deem proper, but it shall not be necessary to enter the name of the owner opposite to any tract or parcel of land.

SEC. 4. When the assessment roll shall be complete, the assessor shall fix a time and a place where they will meet for the purpose of hearing any objections of parties deeming themselves aggrieved by such assessment, and give one week's notice thereof in the official paper, or give notice thereof by posting notices in three of the most public places in the city, and after hearing such objections the assessor may make such alterations or revisions as justice and equity may require. Objection

SEC. 5. Within six days after the time limited for hearing such objections, the assessor shall return the said Assessment roll to the City Council, and they may confirm or refer the same back to the assessor. The City Council may supply omissions in said roll, and for the purpose of equalizing the same, may alter, add to, take from, and otherwise revise and correct the same: *Provided*, They shall not increase the amount of said roll, except by the value of such real property as may have been omitted by the assessor. Assessment Roll

SEC. 6. When the assessment roll shall have been revised and corrected, the same shall be filed with the Recorder, and an order confirming the same shall be entered in the proceedings of the City Council. Thereupon the said City Council shall, by resolution, levy such sum or sums of money as may be sufficient for the purpose for which taxes are herein authorized to be levied, but not exceeding the authorized limits. Filed

SEC. 7. All taxes and assessments, general or special, levied under this act, shall be and remain a lien upon the lands and tenements upon which they may be assessed, from the time of the order confirming the assessment roll, and on all personal property of any person or body politic, from the time of the delivery of the warrant for the collection thereof, until such tax shall be paid; and no sale or transfer of such real or personal estate, after said times, shall affect said lien. Any personal property belonging to the person taxed, may be taken and sold for the payment of taxes upon personal property. A Lien

SEC. 8. As soon as the tax shall be levied, the Recorder shall copy the same in a book provided for that purpose, setting opposite to each tract of land, and to each person named, Tax List

Collection

under the proper column, such sum or sums as may have been levied upon such lot or against such person. The said copy shall be designated the Tax List, and to it shall be appended a warrant, signed by the Mayor and Recorder, and sealed with the corporate seal of said city, directed to the Marshal, requiring and commanding him, to collect the taxes and assessments on said list, specified in the manner prescribed in this act; and in case said taxes and assessments shall not be paid within such time as therein directed and specified, then that he shall proceed to sell the several lots and parcels of land, or those parts thereof upon which said taxes and assessments shall remain unpaid, and make due return to the City Council within such time as shall be fixed in such warrant.

Affix certificate

SEC. 9. Such tax list before being delivered to the City Marshal, shall be compared by the Recorder with the assessment roll as confirmed; he shall affix to it his certificate that the same has been so compared by him and that the whole of the said assessment roll has been copied into such tax list, and the said tax list, when so certified shall be *prima facie* evidence in any court that the lands and persons therein named were subject to taxation, and that the assessments were just and equal.

Notice

SEC. 10. On the receipts thereof, the Marshal shall give one week's notice thereof in the official paper, or shall give ten days' notice thereof by posting up notices in three of the most public places in the city. Such notice shall specify that taxes on personal property shall be paid within thirty days from the first publication of such notice, or from the first day of posting the same; and taxes and assessments on real estate before the first day of August, following, or the last day of December following; that if such taxes are not paid till after the said first day of August, interest will be charged at the rate of two per cent. a month after said first day of August, upon all unpaid taxes, and that if paid before said first day of August, no interest will be charged, and that all taxes or assessments specified in said tax list, upon which the taxes and assessments shall not be paid by the last of December, will be sold at a certain time and place therein to be specified, for the payment of such taxes and assessments, and the publication or posting of such notice or notices shall be deemed a demand, and a neglect to pay the taxes and assessments within the time specified shall be deemed a refusal to pay the same.

Interest**Enforce collection**

SEC. 11. At the expiration of thirty days mentioned in the preceding section, the Marshal shall proceed to enforce the collection of the taxes on personal property in the manner prescribed in chapter twelve of the Revised Statutes of this Territory; and if any such personal taxes shall not be paid or collected in consequence of the neglect or delay of the Marshal, the City Council may sue for and recover the amount thereof from the said Marshal and his sureties.

Sec. 12. On the day and at the place designated in the Marshal's notice, he shall commence by public auction the sale of all tracts and lots of land or parts thereof, upon which the taxes or assessments shall remain unpaid, and continue the said sale from day to day, until the whole of such tracts, lots or parts of lots are disposed of. The sale to be made for the smallest undivided portion of the tract for which any person will take the same and pay the taxes and charges thereon. On receiving the amount of such purchase money, the Marshal shall issue to the purchaser a certificate containing the name of the purchaser, a description of the premises sold, the amount paid thereof, the rate of interest said certificate may bear, and the time when to redeem shall expire. The Marshal shall keep a record of the lots or tracts sold, the name of the purchaser, the date of sale, and amount received for taxes and charges respectively, the time when, by whom, and for what amount the same was redeemed, and the time and to whom the same was conveyed, if not redeemed. And the Recorder shall act as Clerk at such sale. Sale
Record

Sec. 13. In case any purchaser at such tax sale, shall neglect or refuse to pay the amount for which any tract or lot was sold, before ten o'clock in the morning following the day of sale, the Marshal shall immediately offer such tract again for sale: any person bidding off at any such sale, any tract or lot of land, and refusing or neglecting to pay for the same by ten o'clock of the day following the day of sale, shall forfeit and pay to the city five dollars for each lot so purchased and refused or neglected to be paid for, to be sued for and collected as other penalties under this act. Refuse to pay
Penalty

Sec. 14. Any lot or tract of land so sold may be redeemed by the owner thereof, his agent or attorney, or by any other person having an interest therein, at any time within three years of the day of sale by paying to the Marshal the amount for which the same was sold, including taxes and charges, together with interest thereon at the rate of twenty-five per cent. per annum, and the legal charges and taxes thereon, since the time of sale: if the estate of an infant or lunatic be sold, the same may be redeemed upon like terms within one year after such disability is removed, or at any time before the expiration of such time. Redeem

Sec. 15. Any tract or parcel of land sold in pursuance of this act, or any part thereof, which shall not be redeemed within three years from the day of sale, shall be conveyed to the purchaser, his heirs or assigns, as herein provided. Convey

Sec. 16. Any such tax certificate shall be assignable by endorsement, and the assignee thereof shall be entitled to receive a deed of the premises in such certificate described, in his own name, and with the same effect as though he had been the original purchaser. Deed

Sec. 17. In case at any sale of real or personal estate for taxes or assessments, no bid shall be made for any parcel of land or any goods or chattles, the same shall be struck off

No bid

to the City, and thereupon the Marshal shall execute to the City in its corporate name, a certificate of the sale thereof, specifying the same facts as a certificate issued to other purchasers, and the city shall be vested with the same rights as are other purchasers, and which said certificate shall be filed with the City Treasurer. If the city shall become the purchaser of any personal property by virtue of this chapter, the Treasurer shall have the power to sell the same at public sale, and in case the City shall become the purchaser of any real estate, at any tax sale, the City Council may authorize the Treasurer to sell the certificate issued therefor, for the amount paid therefor, with interest, and to endorse and transfer such certificate to the purchasers thereof.

Sale

Omitted

Taxes

Sec. 18. If it shall appear to the assessor that any lot or parcel of land was omitted in the assessment roll of either or both of the two preceding years, and that the same was then liable to taxation, they shall, in addition to the assessment for that year, assess upon the lot or parcel of land so omitted, for such year or years that it shall have been so omitted, the just value thereof, noting the year when such omission occurred, and such assessment shall have the same force and effect as it would have had if made the year when the same was omitted. And the City Council shall, in addition to the tax for the current year, lay such tax upon such lot or tract of land, as the same would have been chargeable with had not the same been so omitted, and such tax shall be collected as other taxes or assessments for the current year. All lands shall be subject to taxes that may have been omitted, in whatsoever hands they may have come. Should any tax or assessment upon any lot or parcel of land be set aside, or declared void, by reason of any defect or informality in the assessing, levying, selling or conveying of the same, or other matter, but not affecting the equity or justice of the tax itself, the City Council shall cause the tax for assessment so set aside or declared void, to be re-levied, in such manner as they shall by ordinance direct: *Provided*, That if the defect was in the assessment, the same shall be again assessed at such time as the City Council may direct; and the said tax or assessment so re-assessed or re-levied shall be and continue a lien upon said tract or lot, and shall be collected as other taxes or assessments are collected under this act.

Evidence

Sec. 19. All deeds purporting on their face to be executed on account of sales for taxes or assessment under this act, shall be in all cases *prima facie* evidence of the validity of such tax, and in case the title conveyed by such deed shall come in question, the same shall be *prima facie* evidence of all facts recited in such deeds, so far as they affect the force or validity of the title conveyed, or purporting to be conveyed, by such deeds.

Informality

Sec. 20. All the instructions and directions herein given for the assessing of lands and personal property, and the levying and collecting of taxes and assessments, shall be deemed

only directory, and no error or informality in the proceedings of any of the officers entrusted with the same, and not affecting the substantial justice of the tax itself, shall vitiate or in anywise affect the validity of the tax or assessment, or of the title conveyed under any sale for taxes under this chapter.

SEC. 21. The Marshal shall receive the moneys that may be legally tendered him for the redemption of lands sold for taxes, and he shall keep account thereof, and immediately pay the same over to the City Treasurer, and take his receipt therefor, who shall also keep an account thereof, and the Treasurer shall pay the same over on demand to the person entitled to receive the same. The Treasurer shall cancel all certificates so redeemed, and preserve the same in his office; and at the expiration of his term of office, he shall deliver to his successor all redemption moneys in his hands, with a statement of the amount so received. Funds

SEC. 22. In all cases under the provisions of this act, where- by any charge or assessment is made a lien upon the land, the amount of such charge or assessment shall be carried out in a separate column or columns opposite to the lot or tract upon which the same may be a lien, and the Marshal may collect and sell, and do all other acts in regard thereto, in the same manner as if the amount of such lien was a general tax. Collect and sell

SEC. 23. The Marshal, in addition to such sum as the City Council may allow him, shall be allowed the following fees, Fees to wit:

Four per cent. on all sums collected on personal tax of each person taxed, and in case of distress and sale by him of goods and chattels for the payment of any tax, he shall be entitled to such fees as sheriffs are allowed by law upon sale of goods under execution.

For each certificate by him issued on sale of lands for payment of taxes, fifteen cents, to be added to the amount of such tax or assessment, and included in such certificate.

For each lot or parcel of land redeemed, for which he shall issue a certificate, twenty-five cents, and five cents for each additional lot or parcel, embraced in such certificate, to be paid by the persons redeeming before shall be entitled to redeem.

For each tax deed executed by him, one dollar and twenty-five cents, to be paid by the person receiving the same.

SEC. 24. Whenever any person shall bid off any lot or parcel of land offered for sale for taxes, which lot shall have been bid off in the name of the city, for taxes of any previous year, and shall, at the time of such subsequent sale, remain the property of the city, such person shall, before being entitled to his certificate of such sale and purchase, purchase of the city its certificate, by paying the amount of principal, interest and charges thereon, and receive from the Treasurer an assignment thereof; and if such purchase of the city be not paid and executed before ten o'clock of the day following, Purchase certificate

the bill thereof shall be considered as null, and the land again offered for sale.

SEC. 25. When there shall be a sale by the Register of Deeds of Winona county, or other county officer, and by the City Marshal, of any lot or parcel of land for taxes, in the same year, the purchaser of any such lot or parcel, who shall be first in point of time, may redeem the same from the subsequent purchaser; and in case he should not redeem, the right of the last purchaser shall be held paramount, if he obtains a deed therefor. If the first purchaser in point of time shall so redeem, it shall be the duty of the proper officer to make an entry in the sale book of the character in which such person may have redeemed, and the person so redeeming shall be substituted to all the rights of the holder of the certificate so redeemed as aforesaid.

Tender **Pay-**
ment **ment**

SEC. 26. No person shall be permitted to institute any proceeding to set aside any assessment or special tax hereafter levied or assessed upon any lot or tract of land, or to set aside a deed executed, by reason of the non payment of such taxes upon the sale of the premises therefor, unless such person shall first pay or tender to the proper party, or deposit to his use with the Treasurer, the amount of all city taxes that remain unpaid, and that have been paid, upon such lot or tract since the sale thereof for taxes, by the purchasers, together with the interest and charges thereon.

CHAPTER VI.—OPENING OF STREETS, ALLEYS, &c.

Powers of City Council

SEC. 1. The City Council shall have power to lay out Public Squares, Grounds, Streets, Lanes, Alleys, and to widen and enlarge the same as follows:

Whereas, twenty or more freeholders, residing in said city, by petition represent to the City Council that it is necessary to take certain lands within the city, for the purpose of laying out Public Squares, Grounds, Streets or Alleys, or the enlarging or widening the same; the courses, distances, metes and bounds of lands proposed to be taken, together with the names and residences of the owners of such premises, if known to the petitioners, to set forth in the petition, the City Council should thereupon cause notice of such application to be given to the occupant or occupants of such lands, if there be any, and if such lands, or any portion of them, shall not be in actual occupation of any one, then the City Council shall cause such notice describing, as near as may be, the premises proposed to be taken, to be published in the official paper, for three weeks successively, once, at least, in each week and the publisher of such paper, or his foreman, shall make affidavit of such publication, and deposit the same with the City Recorder.

Commissioners

SEC. 2. Such notice shall state that on a certain day there-
in named, not less than six days from the day of service

of such notice, or the expiration of such publication, as the case may be, the City Council will appoint three Commissioners to review said premises, and to determine whether it is necessary to take the same for the purpose specified in said petition.

And at the time specified, the said City Council shall proceed and appoint three reputable freeholders, residents of this city, but not interested in the result of said petition, and shall enter an order in their proceedings, requesting the said Commissioners, within thirty days, to view said premises, to be specified in said order, and to make return to the City Council whether, in their judgment, it is necessary to take said premises for the public use, for the purposes specified in the petition.

SEC. 3. The Recorder shall, within three days, notify the said Commissioners of their appointment, embracing therein a copy of such order, and if any of the said Commissioners shall be disqualified from acting, or shall at any time refuse to act, the City Council shall appoint others in their places, whom the Recorder shall likewise notify, and a memorandum of such substitution shall be endorsed on the notice. Notify

SEC. 4. The said Commissioners, at such time as they may agree upon, within thirty days of the time of their appointment, shall proceed to view the premises in question; and shall hear such testimony as may be offered by any party interested, which testimony shall be reduced to writing by one of their number, and either of the Commissioners shall be authorized to administer the necessary oath to witnesses. View

SEC. 5. After viewing the premises and hearing such testimony as may be offered, the Commissioners shall make a report of their proceedings to the City Council, which shall be signed by them respectively, and which shall state whether in their judgment, it is necessary to take the premises in question for the public use, which said notice, report, and testimony shall be returned to the said City Council within the said thirty days. Report

SEC. 6. Should the Commissioners report that it is necessary to take such premises for the public use, the City Council shall enter an order among their proceedings, confirming said report, and directing the said Commissioners, within twenty days thereafter, to again view said premises, for the purpose of ascertaining and determining the amount of damages to be paid to the owner or owners of the property proposed to be taken, and also what lands or premises will be benefitted by such taking, and to assess such damages and benefits and return the same to the City Council within the time limited. Damages and benefits

SEC. 7. Said Commissioners within the time limited, shall again view and examine the premises proposed to be taken, and all such other premises as will in their judgment be injured or benefitted thereby. They shall hear such testimony as may be offered by any party interested, which testimony Evidence

shall be reduced to writing by one of the Commissioners, they shall proceed to make their assessment and determine and appraise to the owner or other parties having an interest in the premises, the value of the premises proposed to be taken, and the injury arising to them respectively in consequence of the taking thereof, after making due allowance for any benefit that such owner or owners may respectively derive from the taking of such property for the public use. Such injury, after making such allowance, shall be awarded to such persons respectively as damages.

Offset SEC. 8. If the damage to any person be greater than the benefits received, or if the benefits be greater than the damages, in either case the Commissioners shall strike a balance and carry the difference forward to another column, so that the assessment shall show what amount is to be received or paid by such owner or owners or persons interested, respectively, and the difference only shall in any case be collected of them or payable to them.

Award SEC. 9. If the lands or buildings belong to different persons, or if the land be subject to lease, judgment, mortgage or lien, or if there be any estate in it less than an estate in fee, the injury done to such person or interests respectively may be awarded to them by the Commissioners, less the benefits resulting to them respectively, from the proposed appropriation to the public use.

Apportion and assess SEC. 10. Having ascertained the damages and expenses of the proposed improvement as aforesaid, the Commissioners shall thereupon apportion and assess the same, together with the costs of the proceedings from the real estate by them deemed benefitted in proportion to the benefits resulting thereto from the proposed improvement, as nearly as may be, and shall as near may be, describe the real estate upon which this assessment may be made. The award of said Commissioners shall be signed by them together with the testimony taken, and returned to the City Council, within the time limited in this order of appointment. Should they fail so to do, they shall receive no compensation for their services, and the City Council shall appoint new Commissioners, unless further time is granted to said first appointed Commissioners, which further time the said Council may by order grant.

Marshal to collect SEC. 11. The said assessment shall be collected by the city Marshal in the same manner as he is by law empowered to collect taxes upon personal property and upon real estate, *Provided*, If the said assessment cannot be collected from sale of personal property, and the return of the Marshal shall be conclusive evidence of that fact.

Damages SEC. 12. The land required to be taken for the purposes mentioned in this Chapter, shall not be taken till, the damages awarded to the owner thereof for the taking of the same, shall be paid or tendered the owner or his agent, or deposited to his use with the City Treasurer, in case said owner or

his agent are unknown; and the said lands and premises so taken and appropriated shall thereafter be subject to all the laws and ordinances of the city in the same manner as streets, alleys or public grounds, heretofore opened or laid out, and the damage so assessed shall be paid or tendered or so deposited within eight months of the confirmation of such assessment and report, and if not so paid, tendered, or deposited, all the proceedings in any such case shall be void, the benefits so assessed shall be a lien upon the premises assessed, from the confirmation of such report.

Sec. 13. Where the whole of any tract of land or other premises, under lease or other contract, shall be taken by virtue of this act, all the covenants, contracts, and engagements between landlords and tenant, or any other contracting parties, touching the same or any part thereof, upon the confirmation of the Commissioners' Report, shall respectively cease and be absolutely null, and the parties discharged therefrom.

Landlord and
tenant

Sec. 14. When only a part of a tract of land or other premises, so under lease or other contract shall be taken as aforesaid, all the covenants, contracts and agreements respecting the same, upon the confirmation of such report shall, be absolutely discharged as to the part thereof so taken, but shall remain valid as to the residue thereof, and the rents, considerations, and payments reserved payable and to be paid for or in respect to the same, shall be so apportioned that the part thereof justly and equitably payable for such residue, and no more, shall be paid for or in respect to the same.

Contracts and
agreements

Sec. 15. When any known owner of any lands or premises affected by any proceeding under this act, shall be an infant, or labor under any other legal disability, the Judge of Probate of Winona county, shall, upon the application of the person laboring under such disability, his next friend, or the City Council, appoint a guardian for such person, upon whom shall be served all notices required by this act.

Judge of Pro-
bate

Sec. 16. The said Commissioners, before entering upon the discharge of their duties, shall severally take an oath that they are freeholders of said city, and not interested in the premises proposed to be taken, and that they will faithfully and honestly discharge the trust reposed in them.

Oath

Sec. 17. Any person whose property is taken, or against whom an assessment is made, may, within ten days after the return of the said Commissioners to the City Council, appeal from such determination of damages or benefits, to the District Court of Winona county, where such appeal shall be tried as in ordinary cases of appeal in said court. The City Council shall have the same right to appeal.

Appeal

Sec. 18. Whenever any public ground, street or alleys shall be laid out, widened or enlarged, under the provisions of this chapter, the City Council shall cause an accurate survey and profile thereof to be made and filed in the office of the City Surveyor.

Survey

CHAPTER VII.—MISCELLANEOUS PROVISIONS.

- Funds** SEC. 1. All funds in the City Treasury, shall be under the control of the City Council, and shall be drawn out upon the order of the Mayor and Recorder, duly authorized by vote of the City Council; and all orders drawn upon the Treasurer shall specify the purpose for which they were drawn and shall be payable out of any funds in the City Treasury belonging to the city, and all such orders shall be received in payment of any tax or assessment levied by authority of the city. All orders shall be payable to the order of the person in whose favor they may be drawn, and shall be transferable by endorsement. No money shall be appropriated for any purpose, whatever, except such as are expressly authorized by this act.
- Actions** SEC. 2. All actions brought to recover any penalty or forfeiture under this act, or the ordinances, by-laws, or police or health regulation, made in pursuance thereof, shall be brought in the corporate name of the city. It shall be lawful to declare generally in debt for such penalty or forfeiture, stating the clause of the act, by-law, ordinance or regulation, under, which the forfeiture is claimed, and to give the special matter in evidence under it.
- Judgments** SEC. 3. No judgment covered, in favor of the city, should be remitted or discharged, except by vote of four-fifths of the City Council.
- Incompetent judge** SEC. 4. No person shall be an incompetent judge, justice, witness, juror or commissioner, by reason of his being an inhabitant of the city, in any action or proceeding in which the city shall be a party in interest.
- Exempt from levy sale** SEC. 5. The following property, now, or at any time hereafter, belonging to said city, shall be exempt from levy sale under or by virtue of any execution, to wit: all engine houses, hook and ladder houses, and the grounds upon which they are situated, all fire engines, carriages, books, ladders, buckets, hose or any other fire apparatus used by any fire company, erected or authorized, by the City Council; school houses and the furniture thereof and the furniture of the City Council, and office rooms of the officers of the city.
- Contract** SEC. 6. All work for the city shall be let by contract to the lowest responsible bidder therefor, and the City Council may require of the bidder a bond, with sureties for the faithful performance of the contract; due notice should be given of the time and place of letting such contract.
- Informality** SEC. 7. If any election by the people for City Officers for any cause, shall not be held in the manner and at the time herein prescribed, it shall not be considered a reason for arresting, suspending or absolving said corporation, but such election may be held upon any subsequent day; and if any of the duties enjoined by this act, as the ordinance, by-laws, rules or regulations of the city, to be done by any officer at any specified time, be not done or performed at that time, the

City Council may appoint another time at which the said acts may be done and performed.

SEC. 8. The city may lease, purchase and hold real or personal estate sufficient for the convenience of the inhabitants *Convey* and the due administration of the government of the city, and may sue and convey the same at pleasure, and the same shall be free from taxation.

SEC. 9. No general laws of this Territory contravening *General law* the provisions of this act shall be considered as repealing, amending or modifying the same, unless such purpose be expressly set forth in such law.

SEC. 10. Appeals *certioraris* shall be allowed from decisions, *Appeals* in all cases arising under the provisions of this act, or any ordinances, rules, by-laws or regulations passed in pursuance thereof, to the District Court of Winona county, and every such appeal shall be taken and granted in the same manner and with like effect as appeals are taken from and granted by Justices of the Peace to the District Court, under the general laws of this Territory.

SEC. 11. Said Corporation shall be allowed the use of the jail of the county, for the imprisonment of such persons as may be liable to imprisonment under the by-laws and ordinances of said corporation, and such persons shall be under the charge of the Sheriff of said county as in other cases.

SEC. 12. This act is hereby declared to be a public act, *Public act* and may be read in evidence in all courts of law in this Territory without proof.

SEC. 13. This act shall take effect from the passage there- *Take effect* of and the Legislature may alter or repeal the same at any time.

J. W. FURBER,
Speaker of the House of Representatives.

JOHN B. BRISBIN,
President of the Council.

APPROVED—March sixth, one thousand eight hundred and fifty-seven.

W. A. GORMAN.

SECRETARY'S OFFICE, Minnesota, }
SAINT PAUL, March 10, 1857. }

I certify the above to be a true copy of the original on file in this office.

J. J. McCULLOUGH,
Acting Secretary.