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March 1, 1867. *An Act to Amend the Charter of the City of Winona.*

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Be it enacted by the Legislature of the State of Minnesota:

Amends incorporation act

SECTION 1. That the act entitled "An act to incorporate the city of Winona," passed March 6, 1857, and the acts amendatory thereof, are hereby amended so as to read as follows:

CHAPTER I.

SECTION 1. All that part of the county of Winona

in the State of Minnesota, contained in the limits and boundaries hereinafter described, shall be a city, and the inhabitants thereof shall be and form a municipal corporation, under the name and style of "The City of Winona," and shall have the powers generally possessed by municipal corporations at common law, and in addition thereto shall possess the powers hereinafter specifically granted, and be capable of contracting and being contracted with, suing and being sued, pleading and being impleaded in all courts of law and equity, and shall have a common seal and may change and alter the same at pleasure; and also take, hold, purchase, lease and convey such real and personal and mixed estate, as the purposes of the city may require, within or without the limits thereof.

City of Winona
to be incorporated.

SEC. 2. That territory included within the following boundaries shall constitute the city of Winona: Beginning at a point in the middle of the Mississippi river intersected by a continuation north of the east line of section No. twenty-five (25), in township No. one hundred and seven (107) north, of range No. seven (7) west of the fifth principal meridian, running thence south along said east line of section No. twenty-five (25) to the south-east corner of said section; thence running west along the south line of sections numbered twenty-five (25) and twenty-six (26) to the meander post on the lake; thence running from said meander post along the southerly shore of said lake in a westerly direction through sections thirty-five (35) twenty-six (26) and twenty-seven (27) to the south-east corner of lot No. two (2) in section No. twenty-eight (28); thence running west, on the south line of said lot two (2), to the centre of said section twenty-eight (28); thence running north to the centre of section No. twenty-one (21); thence running west, on the quarter section line to the west line of said section twenty-one (21); thence running north to the north-east corner of section No. twenty (20); thence running east to the north-west corner of section No. fifteen (15) in said township and range; thence running east on the south line of said section No. fifteen (15), and on a continuation thereof east, to the middle of the Mississippi river; thence south-easterly down the middle of said river, following its course, to the point of beginning.

Boundaries

To be divided into 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 said city shall constitute the first ward.

Boundaries.

All that part of said district which lies between the middle of said Johnson street and its extension to the south line of said city, and the middle of Market street and its extension to the south line of said city, shall constitute the second ward.

All that part of said district which lies east of the middle of the said Market street, and its extension to the south line of said city, shall constitute the third ward: *Provided*, however, that the boundaries of said wards may be changed or new wards created by ordinance of the city council of said city, adopted by a unanimous vote of all the members of said council.

CHAPTER II.

Election district.

SECTION 1. Each ward shall constitute an election district, and the judges of election shall be appointed, and the places for holding elections therein be designated by the city council: *Provided*, Whenever at any election it shall appear that more than six hundred votes have been cast in any one election district it shall be the duty of the city council, at least sixty days prior to the holding of another election, to divide such district into two or more districts, and at the proper time to appoint judges of election, and designate the places of holding elections therein.

Elections--when to be holden

SEC. 2. The annual election of city officers shall be held on the first Monday of April in each year, and the polls kept open in the several districts at the places designated by the city council, from nine o'clock in the forenoon until five o'clock in the afternoon of the same day. Notice of the time and place of holding such election shall be given by the recorder, by publishing such notice for two successive weeks in the official newspaper of the city.

Who shall be elective officers.

SEC. 3. The officers to be chosen by the people shall be a mayor, two aldermen for each ward, a treasurer, an assessor and two justices of the peace, and the city council shall at their first regular meet-

ing after the general city election in each year, appoint a recorder, marshal, surveyor, attorney and street commissioner, and all other officers necessary for the proper management of the affairs of said city, as provided by this act, or as the city council may from time to time direct.

SEC. 4. All officers of the city, elected or appointed, shall hold their respective offices for the term of one year, or until their successors are elected or appointed, except the aldermen and justices of the peace, who shall severally hold their respective offices for two years: *Provided*, That the city council shall have power to expel any of their members and remove from office any officer of the city by a vote of two-thirds of all the members of the city council. But no officer shall be so expelled or removed except for due cause, nor unless furnished with the charges in writing, and heard in his defence, and the city council shall have the power to compel the attendance of witnesses and the production of papers necessary for trial, and shall proceed within ten days to hear and determine the case. And if such officer neglect to appear and answer to such charges the city council may declare the office vacant. Any officer may be suspended until the disposition of charges, when preferred.

Term of office.

SEC. 5. On the first Monday of April in each year, there shall be elected in said city a mayor, an alderman for each ward, a treasurer, and an assessor, and on the first Monday in April, A. D. 1868, and biennially thereafter, there shall be elected in said city two justices of the peace.

Officers—when elected.

SEC. 6. All officers of said city shall enter upon the duties of their respective offices within ten days after their election or appointment.

When to enter in-
to office.

SEC. 7. Any person entitled to vote for county and state officers shall be entitled to vote at any city election, (in the election district of which he shall at the time have been for ten days a resident,) for any officer to be elected under this act, and to hold any office hereby created.

Qualifications
for electors

SEC. 8. The elections in said city shall be held and conducted by the judges of election appointed by the city council for their respective districts, who shall, before entering upon the discharge of their duties,

Elections—how
conducted

take the oath or affirmation prescribed by the general statutes of this state to be taken by judges of election; said judges shall have power to appoint clerks and to administer the necessary oaths. Said elections shall be held and conducted in the same manner and under the same penalties, and vacancies in the board of judges of election filled, as prescribed by the general statutes of this state concerning elections.

Duties of judges
of election.

SEC. 9. When any city election is closed and the canvass of votes completed as by law required, the judges of election shall enclose the returns of such election in a cover, seal the same, and, together with the ballots cast, and the list of votes used, deliver the same to the recorder, who shall forthwith canvass said returns, and give notice of their respective elections to each of the persons so elected.

Vacancies—how
filled

SEC. 10. Whenever a vacancy shall occur in the office of mayor, such vacancy shall be filled by a new election, which shall be immediately 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, and with the same rights and subject to the same liabilities, as the person whose office he may be elected or appointed to fill.

Special elections
—how conducted.

SEC. 11. Special elections to fill vacancies, or for any other purpose, shall be held and conducted 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.

Elections to be
by ballot

SEC. 12. 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 said council may direct.

Council may or-
der new election
in certain cases.

SEC. 13. 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; twelve days notice of the time

and place of holding the same to be given as in general elections.

SEC. 14. Any officer who shall removed from this city, or shall engage or continue in any service, business or employment causing a continuous absence from the city for more than four months, 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, or any alderman who shall remove from the ward represented by him, shall be deemed to have vacated his office, and the city council may proceed to fill such vacancy, as herein prescribed.

Officers—when deemed vacated.

CHAPTER III.

OFFICERS—THEIR POWERS AND DUTIES.

SECTION 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 officer administering 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. They may also from time to time require new or additional bonds, and remove from office any officer refusing or neglecting to give the same.

Officers to take oath and give bonds

SEC. 2. The mayor shall, when present, preside over the meetings of the city council, and take care that the laws of the state and ordinances of the city be strictly enforced 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 violation of duty to be prosecuted and punished, and may also require of any officer of the city, whenever he may deem it nec-

Mayor to preside over council meetings.

Further powers cessary, an exhibit of his books and papers. He shall from time to time communicate to the city council, recommending such measures as he may deem advantageous to the city. He shall be authorized to take acknowledgments of deeds and other instruments of writing requiring to be acknowledged, and to administer any oath authorized to be taken by the laws of this state. He shall have power to execute all acts 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.

Malfeasance in office—how punished

SEC. 3. In case the mayor shall be guilty of any wilful oppression or corrupt partiality in the discharge of his official duties, he shall be liable to indictment, and on conviction thereof shall pay a fine of not exceeding five hundred dollars, and be removed from office.

Absence of mayor—council to appoint presiding officer

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 shall discharge the duties of mayor. In case of the absence of the mayor from the city, or his inability for any reason to discharge the duties of his office, the said 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.

Duties of recorder

SEC. 5. The recorder shall keep the corporate seal, and all the papers and records of said city, attend the meetings of the city council, and keep a correct record of the proceedings of the same, and of rules and ordinances made or passed by said council. Copies of all papers, and transcripts from the records of the city, certified by him under the corporate seal, shall be evidence in all courts in like manner as if the originals were produced. He shall have power to administer oaths and take acknowledgments of deeds or other instruments in writing requiring to be acknowledged before an offi-

cer. The recorder shall draw and countersign all orders on the city treasury in pursuance of any order or resolution of the city council, and keep a full and accurate account thereof, and of all receipts and expenditures of the city and its officers so far as he can ascertain the same, in books to be provided for that purpose. He shall report to the council annually, on or about the first day of August, a detailed estimate of the probable expenses of the city for the ensuing year, and the revenue necessary to be raised therefor. The fiscal year of the city shall commence on the first day of September. The recorder shall also countersign all contracts made in behalf of the city, and all certificates of work done, issued to any person by said city. He shall examine the books, vouchers and accounts of the city treasurer; and of all receipts issued by said treasurer for money received on behalf of said city, duplicates shall forthwith be filed in the office of the recorder.

SEC. 6. 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 direct. The treasurer shall exhibit to the city council, at least fifteen days before the annual election, or at such other time as the city council may direct, a detailed account of all receipts and disbursements made by him since the date of his last report, which shall be filed with the recorder. The treasurer shall also exhibit to any committee appointed by the city council for that purpose the funds in the treasury, and deliver to such committee, upon demand, all vouchers for cancellation.

Duties of treasurer

SEC. 7. The marshal shall execute all orders 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 said city, and for all other purposes. He shall possess the powers of constables at common law and under the statutes of this state, and receive like fees. The marshal shall also have power, by and with the consent of the city council, to appoint one or more deputies, for whose acts he shall be responsible, and whom he may remove at pleasure. Every such deputy shall, before entering upon his official duties, take an oath of office,

Duties of marshal

which oath and appointment shall be filed with the city recorder.

Justices of the Peace—their powers and duties

SEC. 8. The justices of the peace shall possess all and singular the powers, rights and authority of justices of the peace under the general laws of this state, and in addition thereto shall have exclusive jurisdiction of all actions arising under the laws, ordinances, by-laws and police regulations of said city.

Justices to report to council

SEC. 9. The justices of the peace shall quarterly report to the city council a list of all suits or proceedings instituted before them in behalf of the city and the disposition made thereof, and shall at the same time account and pay over to the city treasurer the amount of all fines, penalties and costs collected which may by law accrue to the city; and in all such cases they shall be entitled to receive from said city the same fees as are allowed by law to other justices of the peace for similar services.

Further powers of council

SEC. 10. The city council shall prescribe the duties of the city surveyor, and fix the fees and compensation for any services to be performed by him. He shall possess the same powers in making surveys and plats within the city as are given by law to county surveyors; and the like effect and validity shall be given to his acts, and to all plats and surveys made by such city surveyor, as are, or may be given by law to the acts, plats and surveys of county surveyors. All surveys, profiles, plans or estimates made for the city by such surveyor, shall be the property of the city, and shall be carefully preserved in the office of the city recorder for the inspection of all parties interested.

Street commissioner—his powers and duties

SEC. 11. The street commissioner shall have general supervision of the streets, lanes, alleys and public grounds within the city. It shall be his duty to see that all by-laws and ordinances of the city council in regard to the cleansing and keeping the same in repair are properly observed and enforced. He shall, when directed by the city council, superintend the filling, grading, paving, planking, cleansing and improving of streets and alleys, and the constructing or repairing of sidewalks, sewers and drains, and shall perform such other duties as may be required of him by the city council.

SEC. 12. The mayor, sheriff of Winona county, and each and every alderman and justice of the peace, marshal, deputy marshal, and all police officers of the city, shall be officers of the peace, and may command the peace, and suppress in a summary manner all riotous behavior within the limits of said city, and for such purpose may command the assistance of all by-standers. 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.

Who to be officers of the peace

SEC. 13. 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 such office is created, or at the commencement of the year, and shall not be increased or diminished during the term for which such officer shall have been elected or appointed. The city council may at any time fix the compensation of any officer or committees for any incidental service by them performed.

Further powers of council

SEC. 14. Any person having been an officer of 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 fail so to do within the time required, 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 State in cases of unlawful detention of property.

Penalty for refusing to deliver books, &c.

SEC. 15. 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

Council to examine books of certain officers

officers were elected or appointed has expired. And the city council shall require each and every such officer or 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 hereof, the said council shall declare the office held by such person vacant, and may commence suit or proceedings at law against any such officer or agent who may be found delinquent or defaulting in his accounts, or in the discharge of his official duties. The said council shall make full record of all such settlements and adjustments.

Council to designate city printer

SEC. 16. The city council at their first regular meeting after the annual election, or as soon thereafter as may be, shall designate one or two newspapers published in said city, in which shall be published all ordinances and other proceedings and matters—by this act or by the by-laws or ordinance of the city council—required to be published in a public newspaper.

Duties of city printer

SEC. 17. The publisher or printer of such newspaper, immediately after the publication of any notice, ordinance, 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.

City officials not to be interested in contracts

SEC. 18. No officer of the city shall be party to, or interested in any job or contract with the city, and any contract in which any such officer may be so interested, shall be null and void.

CHAPTER IV.

THE CITY COUNCIL—GENERAL POWERS AND DUTIES.

Who to constitute city council

SECTION 1. The mayor and the aldermen of the several wards 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 judges of the election and qualification of their own members, and shall have the power to compel the attendance of absent members.

SEC. 2. The city council shall have the management and control of the finances and of all the property of the city, and shall likewise have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify, correct and repeal all ordinances, rules and by-laws for the government and good order of the city, and for the suppression of vice, as they may 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, by-laws, and such ordinances, rules and 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 of the United States or of this state.

Powers of city council

First—To license 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 or alleys, 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 licenses and to regulate groceries, taverns, victualing houses, and all persons vending or dealing in spirituous, vinous, fermented, mixed or intoxicating liquors: *Provided*, That the license for so dealing in spirituous, vinous, fermented, mixed or intoxicating liquors shall be not less than ten dollars, nor more than one hundred dollars a year.

Further powers

Second—To restrain and prohibit all E. O. or roulette tables, faro, or faro banks, gambling tables, and all gaming with cards, and to prohibit all gambling devices whatever from being set up or used for gambling purposes, and to prohibit all descriptions of gaming and fraudulent devices and practices, and playing of cards, dice or other games of chance for the purposes of gaming in said city, and to restrain and pro-

Further powers

Further powers

hibit any person from vending, giving or dealing in spirituous, vinous, fermented, mixed or intoxicating liquors of any kind.

Third—To prevent any riots, noise, disturbance, and 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, given away or dealt in contrary to any ordinance of the city.

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

Fifth—To authorize the arrest, fine and imprisonment in the city prison, or in the jail of Winona county, as vagrants, all persons, who, not having any visible means to maintain themselves, are without employment, idly loitering or rambling about, or staying in groceries, drinking saloons, houses of ill fame or houses of bad repute, gambling houses, taverns or railroad depots, or who shall be found trespassing in the night time upon the private premises of others, or placing themselves in the streets or other public places to beg or receive alms; also keepers, exhibitors or visitors at any gaming table, gambling house or other place of device, and all persons who go about for the purpose of gaming or watch-stuffing, or who shall have in their possession any article or thing used for gaming or obtaining money under false pretenses.

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

Seventh—To prevent any person from bringing, depositing or having within the city any putrid carcass, or other unwholesome substance, and to require the removal thereof by the person having the same on his premises, or from any street, alley, or public place

where he shall have thrown or put the same; and on default to authorize the removal thereof by a competent officer, at the expense of such person or persons.

Further powers

Eighth—To restrain, regulate and license hackmen, draymen, carters, porters, omnibus drivers, cabmen, carmen, and all others, whether in the permanent employment of any individual, firm, or corporation, or otherwise, who may pursue like occupation with or without vehicles, and to fix and prescribe their compensation.

Ninth—To restrain, regulate and license runners and solicitors for boats, vessels, stages, public houses, railroads and other establishments.

Tenth—To regulate, control and prevent the landing of persons from boats or vessels, wherein are contagious or infectious diseases or disorders, and to make such regulations as they shall deem proper, to prevent the introduction into said city of all such contagious or infectious diseases or disorders.

Eleventh—To establish and regulate boards of health, provide hospitals and cemetery grounds, regulate the burial of the dead, and the registration of births and deaths, provide for the keeping and returning of bills of mortality, and to impose penalties on physicians and others for any default in the premises.

Twelfth—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.

Thirteenth—To establish and maintain public markets and market houses, and to prescribe and enforce rules and regulations for the government of the same.

Fourteenth—To regulate the place and manner of selling, and to provide for the inspection and weight of hay and coal, the measuring of charcoal, fire-wood and other fuel, and to appoint suitable persons to inspect, superintend and conduct the same.

Fifteenth—To provide for and regulate the inspection of tobacco, beef, pork, flour, meal, butter, lard and other provisions.

Sixteenth—To provide by ordinance for a standard of weights and measures, to require the inspection and sealing of weights and measures, and to prescribe penalties for any default in the premises.

Seventeenth—To regulate the size and weight of bread, and to provide for the seizure and forfeiture of bread baked contrary thereto.

Further powers

Eighteenth—To regulate and tax merchants, retailers, taverns, groceries, ordinaries, hawkers, pawn-brokers and money changers.

Nineteenth—To restrain the running at large of horses, mules, cattle, swine, sheep and poultry of any kind, and to authorize the impounding, distraining and sale of the same.

Twentieth—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 ordinance.

Twenty-first—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.

Twenty-second—To prevent all persons 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.

Twenty-third—To prevent the incumbrance of streets, sidewalks, lanes or alleys with carriages, carts, wagons, boxes, sleighs, firewood, lumber, or any other material or substance whatever.

Twenty-fourth—To regulate and prohibit the use of locomotives, engines within the city, and to require railroad cars to be propelled by other power than that of steam. To direct and control the location of railroad tracks and to require railroad companies to construct, at their own expense, such bridges, tunnels or other conveniences, at public railroad crossings, as the city council may deem necessary: Also to regulate the running of horse-railway cars, the laying down of tracks for the same, the transportation of passengers thereon, and the kind of rail to be used.

Twenty-fifth—To compel the owners or occupants of buildings or grounds to remove snow, dirt or rubbish from the sidewalks, streets or alleys opposite thereto, and in default thereof, to authorize the removal thereof by some officer of the city, at the expense of such owner or occupant.

Twenty-sixth—To alter, vacate, abolish, open,

widen, extend, establish, grade, repair or otherwise improve or keep in repair streets, avenues, lanes and alleys.

Further powers

Twenty-seventh—To regulate the construction of wharves into the Mississippi river, within the corporate limits of the city, and to prescribe and control the price of wharfage thereon.

Twenty-eighth—To provide for the enclosing, improving and regulating of all public grounds belonging to the city, and provide for and regulate the adorning of streets with shade or ornamental trees.

Twenty-ninth—To provide for the erection of all needful buildings for the use of the city.

Thirtieth—To make and establish public pounds, wells, cisterns and reservoirs, and to provide for the erection of water works for the supply of water to the inhabitants. And to provide for the erection of lamps or other means whereby to light the city, and make all necessary regulations in the premises.

Thirty-first—To establish, support and regulate a police and night watches.

Thirty-second—To erect and establish, either within or without the corporate limits of the city, a bridewell or house of correction, purchase grounds therefor, pass all necessary ordinances for the regulation thereof; and to authorize the confinement in said bridewell or house of correction of all vagrants, stragglers or disorderly persons who may be committed thereto by any criminal court or magistrate in and for the said city.

Thirty-third—To appropriate money and provide for the payment of debts and expenses of the city.

Thirty-fourth—To regulate the time, place and manner of holding public auctions or vendues.

Thirty-fifth—To regulate and order party walls and partition fences.

Thirty-sixth—To provide for taking, from time to time, the enumeration of the inhabitants of the city.

Thirty-seventh—To prevent the shooting of firearms, cracker, rocket or other projectiles, and to prevent the exhibition of fireworks in any situation which may be deemed by the council dangerous to the city, or any property therein, or annoyance to the citizens thereof.

Further powers

Thirty-eighth—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 or 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.

Thirty-ninth—To regulate and prohibit the keeping of any lumber yard, and the placing, depositing or selling lumber, timber, wood or other combustible material within the fire limits of said city.

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

Forty-first—To purchase fire engines and other apparatus, and to authorize the formation of fire-engine, hook and ladder, and hose companies and to provide for the due support and regulation of the same, and to order such companies to be disbanded and their apparatus to be delivered up; and each member of such company shall be exempt from serving on juries, and from military duty during such membership.

Forty-second—To cause any street, alley, lane or highway to be filled, graded, levelled, paved, curbed, walled, gravelled, macadamized or planked, and keep the same in repair. To cause cross and side-walks, area-walls, lampposts, sewers and private drains to be constructed and laid, re-laid, erected, cleansed and repaired.

Forty-third—To enforce all ordinances, by-laws and police and other regulations, by punishment of fine and imprisonment in the city or county jail, or by both fine and imprisonment, in the discretion of the magistrate or court before whom conviction may be had:

Provided, Such fine shall not exceed one hundred dollars, nor such imprisonment the term of three months. Any justice of the peace shall have jurisdiction of all prosecutions for the violation of all or any ordinance, by-law, police or other regulation passed by the city council under this act. And it shall be the duty of any justice of the peace residing in said city, and he is hereby authorized and empowered on complaint being made to him on oath or affirmation, of the violation of any law or ordinance of said city, or of the neglect or violation of any duty imposed thereby, to issue his warrant directed to the city marshal or to the sheriff of Winona county, or any police officer of said city, to arrest the offender or offenders and bring them forthwith before him; and the trial of such offenders shall be conducted in the same manner and in accordance with the general laws of this state in regard to the trial of criminal cases before justices of the peace, so far as applicable thereto. And upon plea of guilty, or upon conviction of such offender, such justice shall impose such fine or imprisonment, or both, as may be prescribed by such by-law or ordinance. And the said justice shall have power to enforce such judgment, in the same manner as he might enforce his judgment in criminal cases under the general laws of this state.

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 newspaper of the city, or posted for ten days in three of the most public places in said city before the same shall be in force, and within twenty days thereafter they shall be recorded by the recorder in books to be 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, shall be proved by the certificate of the recorder of such posting, or by the affidavit of the publisher of such newspaper or the affidavit of his foreman, and the said certificate or affidavit shall be recorded therewith, and the original or record thereof shall at all times be deemed and taken as sufficient evidence of the time, manner and place of such posting or publication.

Ordinances—how
passed—to be
published

Powers conferred
not to bar suits

SEC. 4. The powers conferred upon the city council 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 spirituous, vinous, fermented, mixed or intoxicating liquors are sold, given away or dealt out, without license required therefor, within the limits of said city, are hereby declared, and shall be deemed public or common nuisances.

Funds to be un-
der control of
council

SEC. 5. 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 the particular fund on which they may have been drawn, and all such orders shall be received in payment only of the assessment or tax levied for the benefit of such particular fund. All orders shall be payable to the order of the person in whose favor the appropriation has been made, and shall be transferable by endorsement.

How appropria-
tions to be made

SEC. 6. No moneys shall be appropriated for any purpose whatever, except such as are authorized by this act, and no appropriation shall be made without a majority of the members of the city council voting in favor of the same, and the vote shall be taken by ayes and nays, and entered on the journal of the council.

CHAPTER V.

PUBLIC IMPROVEMENTS.

How cost of im-
provement to be
paid

SECTION 1. The costs and expenses of surveying streets, lanes, alleys, sidewalks, sewers, drains, reservoirs and public grounds, and of estimating work thereon, and of cleaning streets and alleys and of constructing and repairing crosswalks, sewers, drains and reservoirs, and improving and maintaining public grounds, and erecting lamp-posts and lamps, shall be paid out of the city fund.

The cost of opening, filling, grading, gravelling, planking and paving or macadamizing streets and alleys to the centre thereof, and of making, curbing or repairing sidewalks and area walls, or of planting shade or ornamental trees along the same, shall be chargeable to, and payable by the lots fronting on such streets and alleys, or adjacent to such sidewalks and area walls. Such costs and expenses shall be assessed upon said lots in the manner hereinafter provided: *Provided, however,* That sewers may, by order of the city council, be built at the expense of the lots or parcels of land to be benefitted thereby, and apportioned by said city council among such lots or parcels of land.

SEC. 2. Whenever the city council shall deem it necessary to construct or repair any sidewalks within the city, they shall direct the owner or occupants of the lots or parcels of land adjoining such sidewalks to make or repair the same at his or their own proper costs and charges, 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, and the expense thereof to be levied and collected in the manner hereinafter provided for the assessment and collection of special assessments: *Provided, always,* That whenever improvements and repairs, as contemplated in section one of this chapter, shall not exceed in cost twenty-five dollars, the city council shall have power and authority to summarily order the owner or occupant of the lot or premises chargeable therewith, to make such improvements or repairs, within such reasonable time as the council shall direct, and if the same be not made within the time specified, the mayor or city council may cause such improvements or repairs to be made at the expense of the city; and the cost of the same, as audited and paid by the city council, may be recovered by the city from the owner or occupant of the lot or parcel chargeable therewith, by civil action brought in the name of the city against such owner or occupant before either of the justices of the peace in said city, or the amount so paid by the city for such improvements or repairs may, on certificate of the city recorder to the auditor of Winona county, be levied and assessed

Council may order sidewalks to be repaired, etc

on the lot or parcel of land on which the same is chargeable, and collected in the same manner as other taxes on real estate are levied and collected.

City Surveyor to
prepare plans

SEC. 3. Prior to the passage of any ordinance or resolution for the making of any public improvements, as authorized by section one of this chapter, except as otherwise above provided, the city council shall cause a plan and accurate specification of the work proposed to be done to be made by the city surveyor and filed with the city recorder for the inspection of parties interested. The city council shall then cause to be published in the official newspaper of the city, a notice that on a certain day, at least two weeks from the first publication thereof, the city council will act in relation to its construction, and that in the meantime sealed proposals for the doing of such work will be received by the city recorder. Upon the day mentioned in the notice, the mayor shall, in the presence of the city council, open such sealed proposals. The city council may then accept the most favorable offer or proposal and authorize the doing of the proposed work, and enter into contract for the same, and the expense of such work or improvement shall be assessed in the manner following:

Cost of expenses
to be levied on
real or personal
property

First—Whenever any work, authorized to be done by section one of this chapter, shall be payable out of the city fund, the recorder shall, at the time of presenting the annual estimate of expenses for the ensuing year, embrace in such estimate the amount or amounts necessary to be levied for the payment of work done or to be done as aforesaid, and the city council may thereupon direct the collecting of such amount or amounts from the real and personal property of the city subject to taxation, in the same manner as prescribed for the collection of other city taxes.

How amount
levied to be col-
lected

Second—In case such work or improvement shall be chargeable to the lots or parcels of land adjacent thereto, or benefitted thereby, the city surveyor and street commissioner shall assess the cost of such work or improvement on the lots or real estate adjacent thereto or chargeable therewith, and determine what part of the cost thereof shall be borne by each lot or parcel of land, and make an assessment accordingly, and submit such assessment to the city council, who

shall upon examination make such corrections as they may deem necessary to equalize the same, and such assessment, when so equalized and confirmed by said council, shall be final, and the several amounts so assessed against such lots or parcels shall be collected in manner following:

Sec. 4. Upon the confirmation of such assessment as aforesaid, the city recorder shall forthwith make out a certified copy of the same, containing the description as near as may be of each lot or parcel of land, and the amount so assessed upon each lot or parcel respectively, and deliver the same to the city treasurer for collection, and shall also at the same time publish in the official newspaper of the city for two successive weeks, at least once in each week, a copy of such assessment, together with a notice requiring the owners or occupants of said lots or parcels of land to pay the amounts assessed on said lots or parcels respectively, to the city treasurer, within six weeks from the first publication of such notice.

Record'r to make out copy of assessment and publish in official paper

Sec. 5. At the expiration of the time mentioned in the notice required by the preceding section, the city treasurer shall return to the city recorder a certified list of the assessments which still remain unpaid, and the city recorder shall thereupon add to such delinquent and unpaid assessments a penalty of twenty-five per cent. and certify the amount of such assessments and penalties, together with a description of the lots or parcels of land on which the same are chargeable, to the auditor of Winona county, to be by him entered upon the tax duplicate for the ensuing year, and assessed and levied on the lots or parcels of land on which the same are respectively chargeable, and the same shall thereupon be collected in the same manner as other taxes on real estate are collected.

Duty of city treasurer

Sec. 6. Any notice, required by this act to be served upon the owner or occupant of any lot or parcel of land, may be served upon such owner or occupant either personally or by publication thereof in the official newspaper of the city, for such period as the city council may direct.

How notice to be served

Sec. 7. All work for the city shall be let to the lowest responsible bidder therefor, except such incidental repairs or improvements as in the opinion of

City work to be let to lowest bidder with certain exceptions

the city council cannot judiciously be let by contract. Upon entering into contract for the making of any improvements or repairs, the city council shall require from the contractor a bond, with sufficient sureties, for the faithful performance of the work at the price and upon the terms agreed upon, and subject to the supervision and approval of such person as the city council may designate for the purpose.

CHAPTER VI.

ASSESSMENT, LEVY AND COLLECTION OF TAXES.

What property to
be subject to tax-
ation

SECTION 1. All property, real and personal, within the city, except such as may be exempt by the laws of this state or by ordinance of the city council, 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.

Council to deter-
mine amount of
taxes

SEC. 2. It shall be the duty of the city council of the city of Winona to determine, on or about the first day of August in each year, the amount of taxes and assessments, both general and special, to be raised for city purposes for the ensuing fiscal year; and it shall be the duty of the city recorder to transmit to the auditor of Winona county, on or before the first day of September in each year, a certified statement of the amount of taxes, general and special, so determined to be raised for the city purposes, and the same shall by said auditor be levied and entered upon the tax duplicate for the ensuing year, against all property, real and personal, within said city of Winona subject to such taxation, in the same manner that township taxes are now assessed and levied.

Taxes—how lev-
ied

SEC. 3. Such taxes for city purposes shall be assessed, levied and collected by the same officer and in the same manner as county, state or township taxes are now or may hereafter be assessed, levied and collected, and when so collected shall be accounted for and paid over to the city treasurer by the proper collecting officer in the same manner as township taxes are accounted for and paid over to township treasurers according to the general tax law of this state.

SEC. 4. The assessor of the city of Winona shall qualify and shall perform the duties pertaining to his office in accordance with the general statutes of this state in regard to township assessors. He shall be subject to all the liabilities and perform all the duties of a township assessor, and receive such compensation as the council may direct. No assessment of property within the city of Winona shall be made by any other than the city assessor, except as herein specially provided.

Duties of Assessor

SEC. 5. The treasurer of the county of Winona shall execute to the city of Winona a bond, to be approved by the city council, with such sureties and in such reasonable sum as the city council may direct, for all moneys belonging to said city to be collected by him. Said treasurer shall report quarterly to said council a statement of the amounts received by him for said city and transferred to the city treasurer, which transfer he shall make at the end of every month regularly, and take the city treasurer's receipt therefor to be his voucher upon settlement with any committee of said city council for that purpose appointed, and for any failure [or] refusal to comply with any provision of this section such treasurer shall forfeit a penalty of fifty dollars, to be recovered by said city in a civil action in any court of competent jurisdiction.

Treasurer to give bonds

SEC. 6. The general laws of this state in regard to the assessment and collection of taxes, shall apply to the assessment and collection of city taxes in all cases not otherwise provided for in this act.

State laws to apply in certain cases

CHAPTER VII.

OPENING OF STREETS, ALLEYS, &C.

SECTION 1. Whenever, in the opinion of the city council, it shall be necessary to take private property for the purpose of laying out, widening or enlarging public squares, streets, lanes or alleys, they shall appoint three commissioners, who shall be freeholders and qualified electors of the city, to view the premises and assess the damages which may be occasioned by the [taking] of such private property. Said commissioners shall be notified as soon as practicable by the

Commissioners to assess damages

city recorder to attend at his office on a day fixed by him for the purpose of qualifying and entering upon their duties, and in case any such commissioner, upon being so notified, shall neglect or refuse to qualify and serve as aforesaid, the city council shall have power to fill the vacancy thereby occasioned.

Commissioners
to be sworn

SEC. 2. The commissioners shall be sworn by the recorder or any other person authorized to administer oaths, to discharge their duties as commissioners with impartiality and fidelity, and to make due returns of their actions and doings to the city council.

Commissioners
to make survey
and plat

SEC. 3. The said commissioners shall, with all reasonable dispatch, with the assistance of the city surveyor, cause a survey and plat of the proposed improvements or grounds to be made and filed with the city recorder, exhibiting as far as practicable the lands or parcels of property proposed to be taken, or which may be damaged thereby, and shall thereupon give notice by publication in the official newspaper of said city, once in each week, for two successive weeks, to the effect that such plat has been filed, and that the said commissioners will meet at a time and place designated in such notice, and thence proceed to view the premises and assess the damages for property to be taken, or which may be damaged by such improvement. The time so designated must be at least fifteen days after the first publication of such notice.

Commissioners
to hear evidence

SEC. 4. At the time and place designated in such notice the commissioners shall proceed to view the premises and may hear any evidence or proof offered by parties interested, and adjourn from day to day for such purpose. When their view and hearing aforesaid shall be concluded, they shall determine and assess the amount to be paid to the owners or owner of each parcel of property proposed to be taken, or which may be damaged by such improvement, and in so doing shall take into consideration the value of the property proposed to be taken, or such other damage as may be incident thereto, and also the advantages which will accrue to such owner or owners in making such improvement.

Owners to be
compensated for
removal of build-
ings

SEC. 5. If there should be any building standing, in whole or in part upon the land to be taken, the said commissioners shall in such case determine and

assess the amount of damages which should be paid to the owner or owners thereof, in case such building, or so much thereof as might be necessary, should be taken, and also determine and assess the amount of damages to be paid to such owner or owners in case he or they should elect to remove such building; and the damages in relation to buildings shall be assessed separately from the damages in relation to the lands upon which they were erected.

SEC. 6. If the lands and buildings belong to different persons, or if the lands be subject to lease, mortgage, judgment or lien, or if there be any estate in it less than an estate in fee, the injury or damage done to such persons or interests respectively may be awarded to them by the commissioners, less the benefit resulting to them from the improvement.

Compensation
for injury to be
awarded less
benefit

SEC. 7. Said commissioners having ascertained and assessed the damages aforesaid, shall make and file with the city recorder a written report to the city council of their action in the premises, embracing a schedule or assessment of the damages in each case, with a description of the land and the names of the owners if known to them, and also a statement of the costs of the proceedings.

Commissioners
to report to re-
corder

SEC. 8. Upon such report being filed in the office of the city recorder said recorder shall cause to be published in the official paper of said city a notice to the effect that such assessment has been returned and filed, and that the same will be confirmed by the city council at a meeting thereof, to be named in said notice, and which shall be at least ten days after the publication thereof, unless objections are made in writing by persons interested in any land required to be taken. Any persons interested in buildings standing in whole or in part upon land required to be taken, shall, on or before the time specified in said notice, notify the city council in writing of their election to remove such buildings (if they so elect) according to the award of the commissioners. The city council, upon the day fixed for the consideration of such report, or at any subsequent meeting to which the same may stand over or be referred, shall have power in their discretion to confirm, revise or annul the assessment, giving due consideration to any objections interposed by parties interested.

Duty of recorder

How damages to
be paid

SEC. 9. The damages assessed shall be paid or tendered, or deposited and set apart in the treasury of said city, to and for the parties entitled thereto, within one year from the confirmation of such assessment and report, and the land required to be taken shall not be appropriated until the damages awarded to the owner thereof shall be paid or tendered to the owner or his agent, or deposited and set apart for his use as aforesaid; and in case the said city shall be unable to determine to whom the damages in any particular case so awarded should be paid, or in case of disputed claims in relation thereto, the damages in such case may be deposited, by order of the city council, in the district court of Winona county, in the same manner as moneys are paid into court until parties thereto shall substantiate their claims to the same.

Council may re-
move buildings
in default of
owners

SEC. 10. In case the owner or owners of any buildings as aforesaid shall have elected in manner aforesaid to remove his or their buildings, he or they shall so remove the same within thirty days from the confirmation of such report or within such further time as the city council may allow for such purposes, and shall thereupon be entitled to payment from the city of the amount of damage awarded in such case, in case of removal. When such person or persons shall not have elected to remove such buildings, or shall have neglected (after such election) to remove the same within the time prescribed, such buildings, or so much thereof as may be necessary, upon payment or depositing the damages awarded for such taking in manner aforesaid, may then be taken and appropriated, sold or disposed of in such manner as the city council shall direct, and the same, or the proceeds thereof, shall belong to the city.

How appeals to
be conducted

SEC. 11. Any person feeling aggrieved by such assessment, may, by notice in writing served on the mayor of said city, a copy whereof with proof of service, shall be filed in the office of the clerk of the district court in said Winona county, within twenty days after the confirmation of such report or assessment, appeal from such assessment to the district court aforesaid. Such appeal shall be entered and brought on for trial by the court or jury as in ordinary cases, and be governed by the same rules in other respects

as appeals from justices of the peace in civil actions, but no pleadings shall be required, and the party appealing shall specify in the notice of appeal the grounds of objection to such assessment, and shall not be entitled to have any other objections than those specified considered, and a transcript of such report, certified by the city clerk, or the original thereof, shall be *prima facie* evidence of the facts therein stated, and that such assessment was regular and just and made in conformity to law, and that all proper notices were duly given and proper proceedings had.

CHAPTER VIII.

MISCELLANEOUS PROVISIONS.

SECTION 1. All actions brought to recover any penalty or forfeiture under this act or the ordinances, by-laws or police or health regulations 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.

How actions may
be brought

SEC. 2. In all prosecutions for any violation of this act, or of any by-law or ordinance of said city, the first process shall be by warrant: *Provided*, That no warrant shall be necessary in any case of the arrest of any person or persons while in the act of violating any law of the state of Minnesota or ordinance of said city of Winona, but the person or persons so arrested may be proceeded against, tried, convicted and punished, or discharged, in the same manner as if the arrest had been by warrant. All warrants, process or writs by justices of the peace of said city, for violation of any ordinance or by-laws of the said city, shall run in the name of the state of Minnesota, and shall be directed to the sheriff of Winona county, city marshall or any police officer of said city, and may be substantially in the following form:

Prosecutions to
be by warrant

STATE OF MINNESOTA.

City and County of Winona. } ss

The State of Minnesota to the sheriff of said county,

SEC. 7. Any person, who at the time of the passage of this act, holds any office under any of the provisions amended or repealed thereby, shall continue to hold the same for the term for which he was elected or appointed; and the justices of the peace who were elected at the last annual city election shall continue to hold their offices respectively, until the annual city election on the first Monday in April, A. D. 1868, or until their successors are qualified.

Office holders not to be removed during term of office

SEC. 8. All ordinances, by-laws and regulations heretofore enacted and made by the city council, not inconsistent with this act, shall be and remain in force under this act until altered, modified or repealed by said city council.

By-laws not inconsistent, to remain in force

SEC. 9. The amendment or repeal of any act or acts or parts of acts, amended or repealed by this act, shall not affect any act done, or any right accruing or accrued under the provisions so amended or repealed, nor shall it affect any penalty or forfeiture incurred before it takes effect, nor shall it affect any action or prosecution, pending at the time of such amendment or repeal, for any offence committed, or for the recovery of any penalty or forfeiture incurred under any of the provisions hereby amended or repealed; except that the proceedings in any such action or prosecution, shall, when necessary, conform to the provisions of this act.

Penalties, etc., not to be remitted by this act

SEC. 10. The following property, now or at any time hereafter belonging to said city, shall be exempt from levy and sale under or by virtue of any execution, to wit: all engine houses, or houses where any fire apparatus is kept, and the grounds on which the same are situated, all fire engines, carriages, hooks, ladders, buckets, hose, or any other fire apparatus used by any fire company organized by and acting under authority of the city council, school houses and furniture therein, and the office rooms of the city council and of officers of the city, and the furniture therein.

Property exempt from taxation

SEC. 11. If any election of 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 on any subsequent day, and if any of the duties enjoined by

Council may order new election in certain cases

this act or the ordinances, by-laws, rules or regulations of the said city council, to be done by any officer at any specified time, be not done or performed at that time, the said council may appoint another time, at which the said acts may be done and performed.

State law not to conflict with this act

SEC. 12. No general laws of this state, contravening the provisions of this act, shall be considered as repealing, amending or modifying the same, unless such purpose be expressly set forth in such law.

Repeals inconsistent acts

SEC. 13. All acts or parts of acts inconsistent with this act are hereby repealed.

To be a public act

SEC. 14. This act is hereby declared to be a public act, and may be read in evidence in all courts of law without proof.

SEC. 15. This act shall take effect and be in force from and after its passage.

Approved March 1, 1867.