

herein prescribed, it shall not be considered reason for arresting, suspending or absolving said corporation, but such election or organization may be had on any subsequent day by order of the village council; and if any of the duties enjoined by this act or the ordinances or by-laws of the village to be done by any officer at any specified time, and the same are not so done or performed, the village council may appoint another time at which the said acts may be done and performed.

Failure of election not to suspend or abolish village government.

SEC. 20. No law 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.

Repeal of any part of this act to be by special law.

SEC. 21. This act is a public act, and need not be pleaded or proven in any court in this state.

To be regarded a public act.

SEC. 22. This act shall take effect and be in force from and after its passage.

When act to take effect

Approved February 29, 1872.

CHAPTER XV.

An Act to Incorporate the City of Lake City.

February 20,
1872.

CHAPTER I.

- SECTION 1. Corporate powers.
2. Boundaries of the city.
3. Division into wards.

CHAPTER II.

- SECTION 1. Annual elections--when held--Judges of.
2. Elective officers and their terms of office.
3. Removals from office.
4. Vacancies in office--how filled.
5. Elections to be by ballot.
6. Qualifications of electors.
7. Removal from city--duties of officers.
8. Relating to judges of elections.
9. Returns of elections--how made.
10. Special elections--how called.
11. Terms of office--when to commence.
12. Failure to elect--new election to be held.

CHAPTER III.

- SECTION 1.** Oaths of office, and bonds for faithful discharge of duty.
2. Powers and duties of mayor.
 3. Malfeasance of the mayor, how punished.
 4. Temporary presiding officer of council.
 5. Mayor and aldermen to serve without pay.
 6. Duties of treasurer.
 7. Recorder—duties and responsibilities.
 8. City attorney, may be appointed by council.
 9. Duties of marshal.
 10. Assessor, term of office, duties, &c.
 11. Duties of street commissioner.
 12. Jurisdiction of justices of the peace and constables.
 13. Justices to make report to common council.
 14. Delivery of books and papers to successor in office, &c.
 15. Mayor and other police officers vested with powers of sheriffs and constables.
 16. City printer to be designated.
 17. Copies of all ordinances, &c., to be filed by the printer.
 18. Members of the council not to be interested in contracts.
 19. Council have power to exact additional duties from officers, and to appoint other officers.
 20. Surveys, plats, &c., to be property of city and be preserved.

CHAPTER IV.

- SECTION 1.** Style of ordinances.
2. Special powers of the council enumerated.
 3. Ordinances, &c., to be passed by affirmative votes, by ayes and noes.
 4. Powers conferred on council not to restrict actions in court.
 5. Accounts of city officers to be examined by council.

CHAPTER V.

- SECTION 1.** Taxes levied for support of city government.
2. Time of levy and when tax to be entered on duplicate.
 3. When taxes to be paid over by the county treasurer.
 4. City funds under control of council.

CHAPTER VI.

- SECTION 1.** Sidewalks, expenses of constructing, how paid.
2. Assessments to be reported to the county treasurer.
 3. Streets, alleys, drains, &c., expenses how paid.
 4. Street improvements to be ordered only on petition from property owners.
 5. Assessments for street improvements—appeal from assessments.
 6. Street grades—profiles to be taken—sewerage system.

CHAPTER VII.

- SECTION 1.** Highways, bridges, streets &c., under control of council.
2. Streets to lay out, open or vacate—proceedings.
 3. Survey and profile to be filed, when.
 4. When streets may be vacated.
 5. Appeals, how made.
 6. Record of proceedings to be kept by the recorder.

CHAPTER VIII.

- SECTION 1. Action to be in the corporate name of the city.
2. Appeals may be taken.
 3. Judgment may be remitted, when
 4. Competency of citizens as jurors, witnesses &c.
 5. Property exempt from levy and sale.
 6. Contracts, how made.
 7. Failure of election not to suspend corporation.
 8. City may lease or purchase property for city purposes.
 9. Repeal of any part of this act to be by special clause.
 10. Deputy recorder may be appointed.
 11. First election under this charter.
 12. Sets apart the remaining part of the township of Lake City into a new township.
 13. This act declared a public act.
 14. When act to take effect.

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

CHAPTER I.

SECTION 1. All the district of country in the county of Wabashaw and state of Minnesota, contained within the limits and boundaries hereinafter described, shall be a city by the name of Lake City, and the people now 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 Lake City; by that name shall sue and be sued, complain and defend in any court, make and use a common seal and alter it at pleasure, and take, hold and purchase, lease and convey such real and personal or mixed estate as the purpose of the corporation may require within or without the limits aforesaid; and shall be capable of contracting and being contracted with, 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.

Corporate powers.

SEC. 2. The district of country aforesaid constituting the city of Lake City, and the limits and boundaries thereof, shall be as follows, to-wit: Beginning at the northwest corner of the northeast quarter of section number six in township number one hundred and eleven north of range number twelve west, running thence south one and one-half miles to the center of section number seven in said township, thence east along the quarter section line and the continuance thereof to the center of Lake Pepin, thence up the middle of said lake to a point due east of the termination of the

Boundaries.

line between townships numbers one hundred and eleven and one hundred and twelve, thence to and along said line west to the place of beginning.

Division into
wards.

SEC. 3. The said city shall be divided into two wards, called the first and second wards limited and bounded as follows: All that part of said territorial limits lying and being westward of a line beginning in the southern boundary of said territorial limits at a point twenty-seven and one-half [rods] west of the center of section number eight in township number one hundred and eleven north of range twelve west, thence along the middle of the public road north to a point where a line running through the center of Pearl street in the platted town of said Lake City, continued southwestward will intersect the same, thence northwestwardly by said line running through the middle of Pearl street and the continuation thereof to Greenwood Avenue, thence through the alley between blocks E. and F. in said town of Lake City, thence northerly to the northern boundary of said territorial limits, shall constitute the first ward. All that part of said territorial limits lying and being eastward of said described lines shall constitute the second ward.

CHAPTER II.

Elective Officers and Elections.

Annual elec-
tion.

SECTION. 1. There shall be an annual election for elective officers hereinafter provided, held on the first Tuesday of April of each year, at such place in each ward as the common council shall designate; and the polls shall be kept open from nine o'clock in the forenoon until five in the afternoon; and ten days previous notice shall be given by the common council, of the time and place of holding such election, and of the officers to be elected.

Officers.

SEC. 2. The elective officers in said city shall be a mayor, treasurer, and recorder, all of which said officers shall be residents within and qualified voters of said city.

Each ward shall elect annually one alderman, one justice of the peace and one constable, who shall hold their offices for two years, and who shall be residents in and qualified voters of the ward for which they may be elected; except that at the first election hereunder, there shall be elected in addition to the one alderman already prescribed, one other alderman, who shall hold his office for one year, and until his successor is elected and qualified.

The city treasurer and city recorder shall hold their

respective offices for two years and until their successors are elected and qualified, unless otherwise provided herein.

SEC. 3. Every person appointed to any office by the common council, or elected to any office by the people, may be removed from such office by a vote of four-fifths of all the aldermen authorized to be elected. But no officer elected by the people shall be removed except for cause, nor unless first furnished a written statement of the charges against him, nor until such person shall have had a reasonable opportunity to be heard in his defense.

Removals from office.

The common council shall have power to fix a time and place for the trial of such officer, of which not less than ten days notice shall be given, and to compel the attendance of witnesses and the production of papers, and to hear and determine the case; and if such officer shall neglect to appear and answer to such charge, the common council may declare the office vacant.

SEC. 4. Whenever a vacancy shall occur in the office of mayor or alderman by death, removal, resignation, or otherwise, the common council shall have power, and it shall be their duty to declare the office vacant by resolution entered upon their minutes. Such vacancy shall be filled by a new election, which shall be ordered by the common council within ten days after said vacancy is declared, and held within twenty days after such declaration, and reasonable notice of such election shall be given. Any vacancy happening in any other office shall be filled by the common council unless otherwise provided for.

Vacancies, how filled.

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.

SEC. 5. All elections by the people shall be by ballots, and each ballot shall contain the names of the persons voted for with proper designation of the office written or printed thereon, and a plurality of votes shall constitute an election. When 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 common council at such time and in such manner as they shall direct.

Elections to be by ballot.

SEC. 6. All persons entitled to vote for state or county officers and who reside in the ward where they offer to vote, shall be entitled to vote for any officer to be elected under this law, and to hold any office hereby created, provided their name shall have been inserted in the list of qualified

Qualifications of electors.

electors of the ward in which they reside, as in the case of the election of state and county officers; and the different wards established by law shall constitute election districts for state and county as well as city elections; and the mode of conducting all state and county elections in said city shall be in the manner herein provided in reference to city elections, except that the returns thereof shall be made by the judges of election to the county auditor of Wabashaw, within the time and manner prescribed by law.

Removal from
city—duties of
officers.

SEC. 7. Any officer removing from the city or ward for which he was elected, or any officer who shall neglect or refuse, for ten days after notice of his election or appointment, to enter upon the duties of his office, shall be deemed to have vacated his office, and the common council shall proceed to fill vacancy as herein prescribed.

Judges of elec-
tions.

SEC. 8. The elections in said city shall be held and conducted by the alderman in each ward and one qualified voter and resident of each ward to be designated by the common council, who shall be the judges of election in their respective wards in all elections of state, county or city officers, and shall take the usual oaths or affirmations as prescribed by the general laws of the state to be taken by judges of elections, and shall have power to appoint clerks of such election, and to administer the necessary oaths. Said election shall be held and conducted in the manner and under the same penalties as provided for state and county election, and vacancies among the judges thereof filled as required by the laws of this state regarding elections; *provided*, that no alderman shall be [a judge of an election at which he is] a candidate for office. In such case the office of judge of election shall be considered vacant, and filled as provided [by] law.

Returns of
elections, how
made.

SEC. 9. When a city election shall be closed and the number of votes for each person voted for shall have been counted and ascertained, the said judges shall make returns thereof, stating therein 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 within three days after any election, and the common council shall meet and canvass said returns and declare the result, as it appears from the same, within three days thereafter.

The city recorder shall forthwith notify the officer or officers elected of their election by written notices served upon such officers, in person, or left at their last usual place of abode, with some person of suitable age and discretion.

SEC. 10. Special elections to fill vacancies, or for any other purpose, shall be held and conducted in the same man-

ner, and the returns thereof made in the same form and manner as in general and annual elections, and within such time as may be prescribed by resolution.

Special elec-
tions, how
called.

SEC. 11. The term of every officer elected under this law shall commence on the second Tuesday of April, of the year of [in] which he was elected, and shall, unless otherwise provided, continue for one year, and until his successor is elected and qualified.

Terms of office.

SEC. 12. Should there be a failure by the people to elect any officer herein required to be elected on the day designated, the common council may order a new election to be held, ten days notice of the time and place of holding the election being first given.

Failure to elect

CHAPTER III.

City 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 taking the same, with the recorder of the city; and the treasurer, street commissioner, assessor, and such other officers as the common council may direct, shall severally before they enter upon the duties of their respective offices, execute to the city of Lake City a bond, with, at least, two sureties, who shall make affidavit that they are each worth the penalty specified in said bonds over and above all debts, exemptions or liabilities, and said bonds shall contain such penal sum, and such condition as the common 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 to give the same.

Oaths of office
—bonds.

SEC. 2. The mayor shall be *ex-officio* president of the common council but shall not vote on any question unless in case of a tie, when he may give the casting vote. He shall take care that the laws of the state and the ordinances of the city are duly observed and enforced, and that all other executive officers of the city discharge their respective duties. He shall from time to time give the common council such information and recommend such measures as he may deem advantageous to the city. The mayor shall be the chief executive officer and head of the police of the city, and shall appoint all police officers and marshals, subject to the approval of the common council; and in case of a riot or other disturbances, he may appoint as many special

Powers and
duties of mayor

or temporary constables as he may deem necessary; and which temporary constables shall act until discharged by the mayor.

Malfiance of mayor.

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, 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.

Temporary presiding officer.

SEC. 4. In case the mayor shall be absent from any meeting of the common 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 the 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 actions performed by him shall have the same force and validity as if performed by the mayor.

Mayor and aldermen to serve without pay.

SEC. 5. The mayor and alderman shall not be entitled to pay nor in any manner be paid for services rendered or duties performed as such mayor and alderman.

Duties of treasurer.

SEC. 6. The treasurer shall receive all moneys belonging to the city, 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 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 account shall be filed with the recorder. Such treasurer shall be entitled to the same fees, as like officers in towns receive for similar services under the laws of this state.

Duties of recorder.

SEC. 7. The recorder shall keep the corporate seal, and all the papers and records of the city, and keep a record of the proceedings of the city council. He shall draw and countersign all orders on the treasurer, 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 commence on the first day of May. He shall make or cause to be made, estimates of the expenses 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 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 reports, 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. 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. The city recorder shall receive a compensation to be paid by the common council; provided that the compensation paid to him in any one year shall not exceed one hundred dollars.

Duties of
recorder.

SEC. 8. The common council shall have power to appoint an attorney for the city, who shall perform all professional services incident to his office, and when required shall furnish opinions upon any subject submitted to him by the common council. The city attorney shall hold his office for two years. And for such services he shall receive a compensation to be fixed by the common council.

City attorney's

SEC. 9. The marshal shall execute such orders as are made and prescribed by the city council, for the collection of tolls, license money 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 a constable at common law, and under the statutes of the state, and receive like fees, and in addition thereto such other compensation as may be fixed by the common council.

Duties of mar-
shal.

SEC. 10. The common council shall at their first meeting after the annual election, or at an adjournment thereof, elect a city assessor, who shall hold his office for two years, and until his successor is elected and qualified. He shall be a resident freeholder and elector of said city, and shall have

Assessor.

and possess all the authorized [authority], rights and powers of assessors under the general laws of this state, and for his services shall be entitled to the same fees as like officers receive for similar services, under the laws of this state.

Duties of street commissioner.

SEC. 11. The common council shall at their first meeting after their annual election, or an adjournment thereof, elect a street commissioner for said city, who shall hold his office for one year, and until his successor is elected and qualified. It shall be the duty of the street commissioner to render his personal services and perform labor in repairing the streets of said city, and to superintend all local improvements throughout the said city, under the direction of the common council and committee on streets in relation thereto, and perform such other duties as may be prescribed by ordinances or ordered by resolution of the common council. Said street commissioner shall receive a compensation, to be fixed by the common council, and shall keep accurate accounts of all expenditures incurred in the discharge of his duties, and render monthly accounts thereof to the common council, or oftener if required.

Justices of the peace and constables.

SEC. 12. The justices of the peace and constables of said city shall have and possess all the authorized [authorities], rights and powers of justices of the peace and constables, under the general laws of this state; and in addition thereto, the justices of the peace for said city, shall have sole and exclusive jurisdiction of all suits, prosecutions and proceedings for the recovery of any fine, forfeiture or penalty, under any by-law, ordinance or regulation of said city.

All prosecutions for assaults, batteries and affrays, not indictable, and for a breach or a violation of any by-law, ordinance or regulation of said city, shall be commenced in the name of the city of Lake City, and the same proceedings shall be had as are required by law in criminal cases tried before justices of the peace. And all fines imposed or collected in such cases, and in all cases tried before a justice of the peace of said city for any violation of law committed within said city shall accrue to the benefit of said city. The said justices of the peace and constables shall be entitled to the same fees as like officers receive for similar services, under the laws of this state.

Justices to make report to council.

SEC. 13. The justices of the peace shall quarterly report to the common council a list of all proceedings instituted before them, in behalf of the city and the disposition thereof; and shall at the same time, account and pay over to the city treasurer all fines, penalties and costs collected, which may by law accrue to the city, and they shall be entitled to receive from the county of Wabashaw such fees in criminal

cases, prosecuted in the name of the state of Minnesota, as are allowed by law to other justices of the county for similar services. In all cases commenced in the name of said city when the complaint shall be deemed by the justice before whom the same was tried to be wilful and malicious, the costs shall not be paid by said city but by the complaining witness and such witness may be committed to jail until the same is paid or until otherwise released according to law.

SEC. 14. 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, papers, books 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, 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 state, in cases of unlawful detention of property.

Delivery of books and papers to successor in office.

SEC. 15. The mayor, sheriff of Wabashaw county, each and every alderman, justices of the peace, marshal, recorder and constables, shall be officers of the peace, and [may command the peace, and] suppress in a summary manner, all rioting and disorderly behavior within the limits of the city; and for said purpose may command the assistance of all by-standers, and if any person so commanded shall refuse to aid in maintaining the peace, every person shall pay a fine of twenty-five dollars.

Mayor and police vested with powers of sheriffs and constables.

SEC. 16. The common council at their first meeting in each year, or so soon thereafter as may be, shall designate one newspaper printed in said city, in which shall be published all ordinances, and other proceeding, and matters required by this act, or by-laws or ordinances of the common council, to be published in a public newspaper; *provided*, that the common council may order the publication of ordinances, advertisements, proceedings, or such resolutions as may be of general importance, in such newspapers as they may direct.

City printer.

SEC. 17. The city printer or printers, immediately after the publication of any notice, ordinance or resolution, which, by this act is required to be published, shall file with the recorder of the city a copy of such publication, with his or their affidavit or the affidavit of his or their foreman, of the length of time the same has been published, and such affidavit shall be conclusive evidence of the publication of such notice, ordinance or resolution, and no ac-

Copies of ordinances to be filed.

count for the publication of such notice, ordinance or resolution shall be allowed or adjusted without the certificate of the city recorder that such proof of publication has been made and filed.

Members of council not to be interested in contracts.

SEC. 18. No alderman shall be a party to or interested in any job or contract with the city, and any contract in which any alderman may be so interested, shall be null and void; and in case any money shall have been paid on any such contract, the common council may sue for and recover the amount so paid from the parties to such contract and the alderman interested in the same.

Council have power to exact additional duties from officers.

SEC. 19. The common council shall have power at any time to require other and further duties to be performed by any officer whose duties are herein prescribed, not inconsistent with this act, and to appoint such other officers as may be necessary to carry into effect the provisions of this act, and to prescribe their duties unless herein otherwise provided for; but no officer elected or appointed by the common council, or appointed by the mayor, as hereinbefore provided, shall be appointed for a longer term than one year, and until his successor is elected or appointed, and duly qualified, except as provided in this act. The common council shall also have the power, unless herein otherwise provided, to fix the compensation of all officers elected or appointed under this act; such compensation shall be fixed by resolution, at the time the office is created or at the commencement of the year, and shall not be increased or diminished during such year.

Surveys, plats, &c.

SEC. 20. All surveys, profiles, plans or estimates made 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.

CHAPTER IV.

The Common Council—its general Powers and Duties.

Style of ordinances.

SECTION 1. The mayor, aldermen and recorder shall constitute the common council, and the style of all ordinances shall be: "The common council of the city of Lake City do ordain." The common council shall meet at such time and place as they shall direct, and a majority shall constitute a quorum. The common 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. The common council shall hold stated meetings and the mayor may

call special meetings by notice in writing to each of the members to be delivered personally or left at their usual places of abode.

SEC. 2. The common council shall have the management and control of the city finances and all the property of the city, and shall likewise, in addition to the power herein vested in them, have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify, amend and repeal all such ordinances, rules and by-laws for the government and good order of the city, for the suppression of vice and intemperance, and for the prevention of crime, as they shall deem expedient; they shall have power to establish and maintain a city prison and watch houses, for the imprisonment, custody and safe keeping of all persons arrested for or charged with any offence whatever, in any way cognizable before the justice of the peace of said city; to make all rules and regulations for the government and management of such prison and watch houses, to appoint keepers and other officers for the same, and prescribe their duties and fix their compensation; the keepers of said prison and watch houses shall have and possess all the powers and authority of jailors of [at] the common law or by the laws of the state. The common council shall have full power and authority to declare and impose penalties and punishments, and to enforce the same against any person or persons who may violate any of the provisions of any ordinance, rule or by-law passed and ordained by them; and all such ordinances, rules, and by-laws are hereby declared to be and have the force of law; *provided*, that they be not repugnant to the constitution and laws of the United States or of this state; and for these purposes shall have authority by ordinances, resolutions, or by-laws—

Special powers
of council.

First.—To license and regulate the exhibitions of common showmen and shows of all kinds, and the exhibition of caravans, circuses, concerts, or theatrical performances; and also to license and regulate all auctioneers, billiard tables, pigeon hole tables, nine or ten pin alleys, bowling saloons, butcher shops and butcher's stalls, and venders of butcher meats, pawnbrokers, insurance offices and insurance agencies, taverns, lager beer saloons, victualing houses, and all persons vending, dealing in or disposing of spirituous, vinous, malt or fermented liquors. *Provided*, that this act shall not be so construed as to prevent pork-packers from disposing of offal or trimmings of hogs, nor shall any person selling or who may dispose of any animals raised or fattened by him, or who may sell fresh meats by the carcass or quantities not less than by the quarter, be deemed or held to be

Special powers
of council.

a vender of fresh or butchers' meats under the provisions of this act; and also to license and regulate the selling or contracting for the sale of any goods, wares or merchandise by samples, when such goods, wares or merchandise are thereafter to be sent or delivered to the purchaser. *And provided further*, that the license for so dealing in spirituous, vinous, fermented, mixed, or intoxicating liquors, except lager beer shall be at least one hundred dollars a year, and as much higher as the council shall direct, and that the license for so dealing in lager beer shall be at least thirty dollars, and as much higher as the common council shall direct, and that no license shall be granted for a less term than one year; *and provided further*, that no license shall be issued until the money is first paid. *And provided further*, that not less than five dollars, nor more than five hundred dollars shall be required to be paid for any license under this act, and the fee for issuing the same shall not exceed one dollar; and said common council may at any time revoke any license granted under this act for malconduct in the course of trade, and may regulate or restrain the sale of fresh or butchers' meat within the corporate limits of said city, and punish or restrain the forestalling of poultry, game, eggs or fruit within said city.

Second.—To restrain and prohibit all description of gaming and fraudulent devices and practices, and all playing of cards, dice or other games of chance, for the purpose of gaming in said city, and to restrain any person from vending, [giving] or dealing in spirituous, fermented or vinous liquors unless duly licensed by the city council.

Third.—To prevent any riots, noise, disturbances, disorderly assemblages in said city, and to provide for the arrest and punishment of any person or persons who shall be guilty of the same; to suppress disorderly houses, or groceries, and houses of ill-fame, and to provide for the arrest and punishment of the keepers thereof, and to authorize the destruction of all instruments used for the purpose of gaming.

Fourth.—To compel the owner or occupant of any grocery, cellar, tallow chandler's shop, soap factory, tannery, stable, barn, privy, sewer or other unwholesome, nauseous house or place, to cleanse, remove, purify 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 said city.

Fifth.—To direct the location and management of slaughter houses and markets, breweries, distilleries and pawnbrokers, and to establish rates for and license venders of gunpowder, and regulate the storage, keeping and conveying of gunpowder, or other combustible materials.

Sixth.—To prevent the incumbering of streets, sidewalks, lanes, alleys, public grounds, or wharves, with carriages, carts, wagons, sleighs, boxes, lumber, firewood, posts, awnings or any other materials or substances whatever.

Special powers
of council.

Seventh.—To prevent and punish horse racing, immoderate riding or driving in the streets; to compel every person to hitch or fasten their horses or other animals attached to vehicles or otherwise while standing in the streets, and to regulate places of bathing and swimming in the waters within the limits of said city.

Eighth.—To restrain the running at large of cattle, swine, sheep, poultry and geese, and to authorize the distraining, and sale of the same, and to impose penalties on the owners of such animals for violation of the ordinances. *Provided*, that when a sale of such animals shall be made, the proceeds thereof, after deducting the expenses of distraining, keeping, advertising and selling [such animals], shall be deposited in the office of the treasurer of said city, for the use and benefit of the owners thereof, if called for by such owner within one year from the day of such sale.

Ninth.—To prevent the running at large of dogs, and may impose a tax on the same, and to authorize the destruction of the same in a summary manner, when at large, contrary to the ordinance.

Tenth.—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 upon his premises any such substance; or putrid or unsound beef, pork, fish, hides or skins of [any] kind; and on default to authorize the removal thereof by some competent officer, at the expense of such person or persons.

Eleventh.—To make and establish public ponds, pumps, wells, cisterns, hydrants and reservoirs, and to provide for and conduct water into and through the city, and into and through its streets, avenues, alleys and public grounds, and to provide for and control the erection of waterworks for the supply of water to its inhabitants; to regulate, and at a reasonable rate license hacks, carts, omnibuses, trucks, wagons and other vehicles engaged in hauling or carrying for hire, and the charges of the drivers of such vehicles; to regulate, and at a reasonable rate to license second-hand stores and junk shops, and to erect lamps, and to provide for lighting the city, streets, public grounds, and public buildings, and to create, alter and extend lamp districts.

Twelfth.—To establish and regulate boards of health, provide hospitals, and hospital grounds, the registration of

births and deaths, and the returns of the bills of mortality, and to regulate and prevent the burial of the dead within the city limits.

Special powers
of council.

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

Fourteenth—To prevent all persons riding or driving any ox, mule, cattle or other animal on the sidewalks or other public grounds or property in said city, or in any way doing any damage to such sidewalks, grounds or property.

Fifteenth—To prevent the shooting of firearms, or crackers, and to prevent the exhibition of any fireworks in any situation which may be considered by the council dangerous to the city, or any property therein, or annoying to any citizen thereof.

Sixteenth—To prevent open or notorious drunkenness and obscenity in the streets or public places of said city, and to provide for the arrest and punishment of all persons who shall be guilty of the same.

Seventeenth—To restrain and regulate porters; and also runners, agents and solicitors for boats, vessels, stages, cars, public houses, or other establishments.

Eighteenth—To establish public markets, and other public buildings and make rules and regulations for the government of the same, to appoint suitable officers for overseeing and regulating such markets, and to restrain all persons from interrupting or interfering with the due observance of such rules and regulations.

Nineteenth—To provide for the receipt, storage, transportation, safe keeping, and dealing and traffic in gunpowder, gun-cotton, petroleum, kerosene, or other dangerous, explosive or inflammable oils or substances within said city, or within one mile of the corporate limits thereof, and to provide for the summary condemnation or destruction of any of said articles as may be kept, stored, dealt in, transported through or received in said city, contrary to such ordinances as said city may enact for the safety of life and property therein.

Twentieth—To regulate the place and manner of weighing hay and selling the same, and the measuring and selling of firewood, coal and lime, and to appoint suitable persons to superintend and conduct the same.

Twenty-first—To compel the owner or occupants of buildings or grounds to remove snow, dirt, or rubbish from the sidewalks, streets or alleys, opposite thereto, and to compel such owner or occupant to remove from the lot owned or occupied by him, all such substance[s] as the board of health

shall direct; 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. Special powers
of council.

Twenty-second.—To regulate, control or prevent the landing of persons from boats, or vessels whereon are contagious or infectious diseases or disorders, and to make such disposition of such persons as to preserve the health of said city; and also to regulate, control and prevent the landing and conveyance of paupers or persons in a destitute condition, into said city and not having a legal settlement or residence therein, by any boat or vessel or other means of conveyance, and to require that such persons shall be taken back to the place from whence they may have been brought by the person or persons bringing or leaving them in said city.

Twenty-third.—To regulate time, manner and place of holding public auction or vendues.

Twenty-fourth.—To provide for watchmen, and to prescribe their number and duties, and regulate the same, and to create and establish the police of said city, and to prescribe the number of police officers and their duties and to regulate the same.

Twenty-fifth.—To provide by ordinance for a standard of weights and measures, for the appointment of a city sealer, and to require all weights and measures to be sealed by the city sealer, and to provide punishment for the use of false weights and measures.

Twenty-sixth.—To regulate the inspection of flour, pork, beef, fish, salt, whisky and other liquors and provisions.

Twenty-seventh.—To regulate the measurement and inspection of lumber, shingles, timber and building materials.

Twenty-eighth.—To appoint inspectors, weighers and gaugers; to regulate their duties and prescribe their compensation.

Twenty-ninth.—To direct and regulate the planting and preserving of ornamental trees in the streets and public grounds.

Thirtieth.—To remove and abate any nuisance, obstruction or encroachment upon the streets, alleys, public grounds and highways of the city.

Thirty-first.—To remove and abate any nuisance injurious to the public health or safety, and to remove, or require to be removed any building which by reason of dilapidation, defects in structure or other causes, may have or shall become imminently dangerous to life and property; and to provide for the punishment of all persons who shall cause or maintain such nuisances, and to charge or assess the expense

Special powers
of council.

of removing or abating the same upon the lot or lots upon which such nuisance or dangerous building may be maintained.

Thirty-second.—To do all acts and make all regulations which may be necessary or expedient for the preservation of health or the suppression of disease, and make regulations, and to prevent the introduction of contagious diseases into the city; and to make quarantine laws, and enforce the same within the city limits.

Thirty-third.—To restrain and punish vagrants, mendicants, street beggars and prostitutes.

Thirty-fourth.—Fines, penalties and punishments imposed by the common council for the breach of any ordinance, by-law or regulation of said city, may extend to a fine not exceeding one hundred dollars and imprisonment in the city prison and county jail not exceeding thirty days, or both, and to be fed on bread and water at the discretion of the city justice; and offenders against the same may be required to give security for their good behavior, and to keep the peace not exceeding six months, and in a sum not exceeding five hundred dollars.

Thirty-fifth.—The common council of said city may provide by ordinance that any one convicted of an offence before the city justice subjecting such offender to imprisonment under the charter and ordinances of said city, may be kept at hard labor in any workhouse established by said [city] for that purpose, or in case of a male offender, may be kept at hard labor during his term of imprisonment in such workhouse or upon the public streets and improvements of said city, or both; and may also provide by ordinance that any one convicted of an offence before the city justice as aforesaid, and committed upon non-payment of a fine imposed, may be kept at hard labor either in such workhouse or upon the public streets and improvements, or both, until such person shall work out the amount of such fine at such rate of compensation as said common council may prescribe, for a time not exceeding the term of such commitment; and the common council shall have full power to establish by ordinance all needful regulations for the security of such prisoners thus employed, and to prevent escape and ensure proper discipline, and shall have power to establish a suitable workhouse in said city for the purpose aforesaid, and under such regulations as the said common council may provide, *provided*, that the common council aforesaid shall be and is hereby authorized to use the jail of Wabasha county as the workhouse of the city of Lake City, provided for in this act, the prisoners of the city to be as at present in the

custody of the sheriff of Wabashaw county, except when employed upon the public streets and improvements of said city. Special powers
of council.

Thirty-sixth.—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, where 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-seventh.—To prevent the dangerous construction, placing and condition of chimneys, fire-places, hearths, stoves, stove pipes, ovens, boilers, and appurtenances used in and about any building, and to cause the same to be removed or placed in 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 dangerous in causing or promoting fires within the city limits.

Thirty-eighth.—The common council shall have power to purchase fire engines and other fire 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 disband such companies, and take charge of their apparatus. Each company shall have not to exceed seventy-five members, and shall be formed by voluntary enlistment, and each member of such company shall be exempt from poll tax, from serving on juries and from military duty, during the continuance of such membership. And such members after five years' service in such companies, shall be thereafter free from poll taxes, service on juries and military duty, except in cases of insurrection or invasion.

SEC. 3. All laws, ordinances, regulations and by-laws shall be passed by an affirmative vote of a majority of the city council, and be signed by the mayor, and shall be published in the official paper of the city, for ten days 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 such [of the said] laws, regulations or by-laws shall be recorded, the publication thereof, as aforesaid respectively, shall be proved by the affidavit of the foreman or publisher of such newspaper, and the said affidavit or certificate shall be recorded therewith, Ordinances,
how passed

and at all times shall be deemed and taken as sufficient evidence of the time, manner and place of such publication and posting. No appropriation shall be made without a majority 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.

Powers of council not to restrict actions in court.

SEC. 4. The powers confirmed [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 or more than five barrels of thirty-six gallons each (or such greater or less quantity as said common council may direct by ordinance,) of petroleum, kerosene, naphtha or inflammable or explosive oils or substances 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, giving [given] away, or dealt in without a license required therefor, and all places in which, under license, spirituous, vinous, fermented, mixed or intoxicating liquors are or shall be sold or dealt in, to be drank upon the premises, and all places where card playing, or games of chance of any sort are permitted or allowed in or upon the premises or any premises adjacent, under the control, direction or management of such license[d] dealer, not, however, embracing card playing for amusement only, in private apartments, in hotels, kept for the accommodation of the traveling public, within the limits of said city, are hereby declared and shall be deemed public or common nuisances.

Accounts of officers to be examined by council.

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 said officers were elected or appointed has 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 the discharge of their duties in pursuance of this section, the council shall declare the office of such person 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.

CHAPTER V.

Finances and Taxation.

SECTION 1. The common council shall have power to levy upon all property, real and personal, within the city, except such as may be exempt by the laws of this state, taxes for the support of the city government and payment of its debts and liabilities, and the same shall be assessed in the manner provided for by the general laws of this state. The said common council may levy an annual tax upon all property in said city, taxable under the laws of this state, to and for the specific purposes following, *provided*, that nothing herein contained shall prevent the assessment, levy and collection of special taxes as provided by chapter *six* of this act upon any and all real estate within said city, notwithstanding the same may have been heretofore exempt from taxation under the laws of this State. First. To provide a general fund for the purchase of ground and erecting and repairing buildings for city purposes and to pay the general current and incidental expenses of the city, including salaries of officers, police, street force, fire department, lighting the city, printing and stationery, and for a contingent fund not exceeding one thousand dollars, and to provide for the preservation of the health of the city; but the amount of money to be raised for the above purposes shall only be so much as will be necessary in addition to amount received from licenses, fines, wharfage, markets and other incidental sources, for an economical administration of the affairs of the city, and shall not exceed five mills on the dollar of the assessed value of the taxable property of the city; and the money so raised shall not be expended for any other purpose than above stated.

Second.—To provide a street improvement fund for the opening and improving of streets, the construction of sidewalks, sewers and other improvements of a public character, there may be levied annually a tax not exceeding five mills on the assessed value of the property of the city.

SEC. 2. The said levy shall be made by said common council on or before the first day of October of each year, and the same shall be entered upon the tax duplicates for the county of Wabasha, and collected annually in like manner as state and county taxes are collected. *Provided*, that the board of equalization for said county of Wabasha, shall not have the power or authority to abate, alter or amend the said city assessment of real and personal property as returned by the city assessor, nor shall the board of county

Time of levy
of tax entered
on duplicate.

commissioners of Wabasha county have power or authority to extend the time for the payment of city taxes, or to remit any costs or penalties for nonpayment of same, without first reporting the same for the action and approval of said common council, who may approve, disapprove, or modify the action of said board of equalization, or of said board of county commissioners. *Provided*, that such disapproval or modification shall be made within twenty days after the same is proposed and submitted to said common council.

When tax paid over by county treasurer.

SEC. 3. The county treasurer of the county of Wabasha, shall pay over to the city treasurer for said city, all taxes by him collected belonging to said city, on the first Monday of each month next after such collections are made. And thereafter, whenever the said county treasurer shall pay over to the said city treasurer, any taxes belonging to said city, and collected under the levy provided for by said section *one*, he shall credit each of the said respective funds with its proportionate amount of each payment, according to the tax levy for such separate fund, and the same shall remain so credited, and shall not be paid out by said treasurer except in payment of such fund, for which said funds shall have been levied and collected. And no ordinance, resolution or order of said common council, or any committee thereof, or officer of said city, shall warrant or authorize said treasurer to divert any of said separate funds from the legitimate purposes for which the same were collected and credited as aforesaid, or to borrow or transfer any balance or portion of one of said funds to the credit of the other.

City funds under control of council.

SEC. 4. All funds in the city treasury shall be under the control of the common council, and shall be paid out upon the order of the mayor and recorder, duly authorized by a vote of the common council. Moneys out of the street improvement fund shall only be drawn out, upon orders upon such fund by virtue of a resolution of the common council. All orders shall be payable to the order of the person in whose favor they may be drawn, and they may be transferred by endorsement.

CHAPTER VI.

Sidewalks, expenses of construction.

SEC. 1. Whenever the common council of said city shall determine to construct or repair any sidewalk within the said city, they shall require the street commissioner to notify the owner or occupant of any lot adjoining such sidewalk, by publication in the official paper of said city for two weeks,

to make or repair the same at his own proper costs and charge. If such work is not done in the manner and within the time proscribed, the city council shall order the same to be done at the expense of the lots adjoining such sidewalks, and the expenses thereof shall be assessed upon such lots so chargeable, by the street commissioner, and the amount thereof with his report of such assessment returned to the city council; provided, that the expense of making, repairing and constructing street crossings shall be paid out of the street improvement fund of said city.

SEC. 2. It shall be the duty of said city council upon receiving any such report, to adopt, revise, correct or remand the same with instructions. Whenever such report is adopted, the city council shall, on or before the time by law required for reporting to the county auditor of Wabashaw county, the amount of tax levied on said city for that year; to certify to said auditor the amount of such assessment, with the amount assessed on each lot: and thereupon it shall be the duty of said auditor to insert the amount of said assessment in the next annual tax roll, and the same shall be collected in the same manner as other taxes upon real property.

Assessments
to be reported
to county treasurer.

SEC. 3. The costs and expense of surveying streets, alleys, sidewalks, sewers, drains, gutters, and estimating work thereon, and of repairing and cleaning streets, alleys, drains and gutters, and of constructing and repairing reservoirs, drains, gutters and main sewers, shall be paid out of the street improvement fund of said city. The cost of graveling, grading, planking, macadamizing or paving streets and alleys to the center thereof, shall be chargeable to and payable by the lots fronting on such street or alley, within the line of improvement as far as the work extends; and the whole expense thereof shall be assessed upon such lots in proportion to their fronts thereon. Provided, that in all cases where improvements or work of any kind is chargeable by virtue of this section upon any lots as aforesaid, all such improvements across streets, alleys and public grounds, shall be made and paid for out of the street improvement fund of said city, in proportion to the width of the street, alley or public grounds.

Streets, alleys,
&c., expenses
how paid.

SEC. 4. No grading, graveling, planking, macadamizing or paving of streets and alleys, to be done at the expense of the lots fronting such improvement, the expense of which is to be charged to such lots, shall be ordered by the common council except upon the petition in writing of a majority of the owners of the property residing on the line of the proposed improvement, and chargeable therewith, by a major-

Street improve-
ments, how
ordered.

ity of all the members of said council, and whenever the council shall thereon determine upon a public improvement under this section, they shall pass a resolution to that effect, and shall require the street commissioner with the assistance of the city surveyor, or some other competent surveyor, to be selected for that purpose by the council, to examine the premises and report an estimate of the whole expense thereof, and the lots chargeable with the expense, and the owner's name if known, and the proportion of the expenses to be assessed to each lot, and in the case of grading a street or alley, a proper grade; and the council may adopt, revise, correct or remand the same with instructions.

Upon such report being adopted, an accurate survey and profile of such grade shall be prepared by the city surveyor or such other surveyor, and filed in the office of the city recorder for record. The city council may thereupon order said work to be placed under contract, upon such terms and under such regulations as they may deem advisable.

Assessments
for street im-
provements.

SEC. 5. When any work provided for in the preceding section shall be completed and the contract performed to the satisfaction of the common council, the city recorder of said city shall give notice by publication in the official paper of said city, for two weeks, that the expense thereof will be assessed upon the lots fronting such streets or alleys within the line of such improvement, in proportion to their fronts thereon. Any owner of, or person interested in any such lot or lots to be charged as aforesaid, feeling himself aggrieved by such assessment, may, before the expiration of the publication of such notice, file a petition with the city recorder, showing that his lot or lots so owned by him or in which he may be interested [have an interest], by reason of deep cutting or great filling, will not be benefited to the extent of the expense apportioned to such lot, and that such assessment, in his case, will be unequal and unjust, which said petition shall be sworn to by the petitioner or some one having knowledge of the facts. The city recorder shall thereupon require the city marshal to summon three disinterested freeholders of said city, not residing upon the street or alley whereupon such improvement is located, as commissioners, to attend at some convenient time and place, of which notice shall be given by publication in the official paper of said city, at least three days before the time appointed for such commissioners to meet.

At the time of meeting such commissioners shall be examined under oath touching their qualifications to act, and in case of disqualification or absence, the city recorder shall require the city marshal forthwith to summon others to fill

the vacancy. Said commissioners shall be sworn faithfully and impartially to discharge the trust reposed in them, and shall view and examine the premises in question, and shall have power to hear the parties and administer oaths and examine witnesses. It shall be their duty as early as possible, and within ten days from the time they entered upon their duties, to file in the office of the city recorder their decision in writing, accompanied by any testimony or proof, or the substance thereof taken before them, and shall in each case determine whether such assessment would be unequal and unjust, and whether and how much the same will exceed the benefit, and thereupon what abatement or exemption, if any, should be allowed.

Assessments
for street im-
provements.

The city recorder shall thereupon complete the assessment for such improvements, making the necessary abatements or exemptions in accordance with the report of the commissioners, and the amount deducted for such abatement shall be made up and charged to the street improvement fund of the city.

In case no petition as aforesaid is filed within the time aforesaid, it shall be the duty of the city recorder within ten days after the time designated by said council for assessing the expenses of such improvement, to complete such assessment, and in all cases such assessment when complete shall be returned to the common council, and the common council shall thereupon fix a time for the confirmation of the same, of which ten days notice shall be given in [the] official paper of the city. Upon the confirmation thereof, the amount of such assessment shall be reported to the county auditor of Wabasha county, and assessed and collected in the same manner provided by section one of this act.

SEC. 6. The common council may cause to be established under the direction of the city surveyor, the grade of all streets, sidewalks and alleys, in said city, and shall cause accurate profiles thereof to be made, one of which shall be filed in the office of the register of deeds of Wabasha county; and should the grade so established be at any time thereafter altered, all damages, costs and charges arising therefrom shall be paid by the city to the owner of any lot or parcel of land, or tenement, which may be affected or injured in consequence of the alteration of such grade; *provided*, that in case of a change of an established grade shall be ordered by the common council, notice of such order shall be published in the official paper of the city, and any property holder feeling himself aggrieved by such order, may, within twenty days after the publication of such order, appeal therefrom to the district court of Wabasha county,

Street grades,
Highways, &c.,
under control
of council.

Street grades,
Highways, &c.,
under control
of council.

in the manner provided for appeals in section two of chapter six of this act. On the trial of such appeal such court shall have full power to determine the necessity or expediency of such proposed change of [grade], and all other questions involved in such appeal and such order of the common council shall not take effect until twenty days from its publication as aforesaid, nor pending such appeal; also the common council shall at as an early a time as practicable, direct the city surveyor to report a plan for a system of sewerage for said city. And said common council may take such course for a thorough examination of the said profile and plan as they may deem best; and may adopt such amendments or modifications of said profile as they may be advised will be necessary or proper, and may thereupon refer the said profile and plan to said surveyor to amend the same according to such amendments and modifications; or they may reject the said plan and profile, and appoint another surveyor to prepare the same if such new appointment shall be deemed best for the interest of said city. When the said plan and profile shall have been perfected to the satisfaction of said common council, they may by resolution adopt and establish the same, a certified copy of which resolution shall be recorded by the city recorder upon the plan and profile so adopted. The said plan and profile shall be filed in the office of the city recorder, and a certified copy thereof shall be filed in the office of the register of deeds for Wabasha county, for record, by the said surveyor, and said copy when recorded in said register's office, shall be filed in the office of the city surveyor for said city of Lake City.

The said original copy or record thereof shall be competent evidence of the adoption of said profile. The said plan and profile so established, shall not thereafter be vacated, altered or modified, (except for the purpose of extending the same as the necessities [of said city] may require,) except upon a resolution passed by a majority vote of all the members of said common council; and the same shall not be made without notice, and with like liability for damages occasioned by such change or alteration and with same right of appeal as in the case of alteration of street grades; *provided*, that a change of street grade under said charter shall include said change in such plan for sewerage, as may be necessary to make the same conform to such street grades.

CHAPTER VII.

Opening and vacating Streets, Alleys, etc.

SECTION 1.—The common council shall have the care, supervision and control of all public highways, bridges, streets, alleys, public squares and grounds within the limits of said city, and shall cause all streets which may have been opened and graded, to be kept open and in repair and free from nuisances.

Highways &c.
under control
of council.

SEC. 2.—The common council of said city, by a vote of a majority of all the members elect, shall have power to lay out, open, alter and vacate public squares, streets, grounds, highways and alleys, and to widen and straighten the same. *Provided*, that whenever it shall be required to take private property for the purposes above stated, they shall proceed in the same manner hereinafter provided:

Streets to lay
out—proceed-
ings.

First.—The common council, upon ordering an improvement above mentioned to be made, shall appoint as many commissioners as [there] may be wards of said city, selecting one from each ward who shall be a disinterested freeholder and qualified voter of said city, to view the premises, and assess the damages which may be occasioned by the taking of private property or otherwise, in making said improvement. Said commissioners shall be notified as soon as practicable by the city clerk of said city, to attend at his office, at a time 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 attend as aforesaid, he shall forfeit and pay a fine to said city, not exceeding fifty dollars, and shall be liable to be prosecuted therefor, before the city justice of said city, as in the case of fines imposed for a violation of an ordinance of said city, and the commissioners in attendance shall be authorized to appoint another commissioner or commissioners in place of any absentee or absentees aforesaid, selected from the ward in each case not represented, and possessing the qualifications aforesaid. In all other cases of vacancy the common council shall fill such vacancy.

Second.—The commissioners shall be sworn by the city clerk to discharge their duties as commissioners in the matter, with impartiality and fidelity and to make due return of their actions and doings to the common council.

Third.—The said commissioners shall, with all reasonable speed, with the assistance of the city surveyor of said city, cause a survey and plat of the proposed improvement to be made and filed with the city recorder, exhibiting as far as

practicable, the lands or parcels of property required to be taken, or which may be damaged thereby, and shall thereupon give notice by publication in the official newspaper of said city, for at least ten days, to the effect that such plat has been filed, and that the said commissioners will meet at a place and time designated by them, and thence proceed to view the premises, and assess the damages for property to be taken, or which may be damaged by such improvement.

Streets to lay
out—proceed-
ings.

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

Fifth.—If there should be any building standing in whole or part upon the land to be taken, the said commissioners shall in each 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 shall 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 aforesaid shall be assessed separately from the damages in relation to the land upon which they are erected.

Sixth.—If the lands and buildings belong to different persons, or if the lands be subject to lease, mortgage or judgment, 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.

Seventh.—The said commissioners having ascertained and assessed the damages aforesaid shall make and file with the city recorder, a written report to the common 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 name of the owners if known to them, and also a statement of the costs of the proceeding.

Eighth.—Upon such report being filed in the office of the

city recorder, said city recorder shall give at least ten days notice, by publication in the official newspaper of said city to the effect that such assessment has been returned, and that the same will be confirmed by the common council, at a meeting thereof, to be named in such notice 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 any land required to be taken by such improvement, shall, on or before the time specified in said notice notify the common council in writing of their election to remove such building according to the award of the commissioners. The common council upon the day fixed for the consideration of such report, or at such 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.

Streets to lay
out—proceed-
ings.

Ninth.—The damages assessed shall be paid out of the general funds of said city, and shall be paid or tendered, or deposited and set apart in the treasury of said city, to and for the use of the parties entitled thereto, within six months from the confirmation of such assessments and report, and the land or property required to be taken for the purposes aforesaid, shall not be appropriated until the damages awarded therefor 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 should 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 common council, in the district court of Wabasha county, in the same manner as moneys are paid into court until the parties entitled thereto shall substantiate their claim to the same.

Tenth.—In case any owner or owners of buildings as aforesaid, shall have elected in any manner aforesaid to remove his or their buildings, he or they shall so remove them within thirty days from the confirmation of said report, or within such further time as the common council may allow for the purpose, and shall thereupon be entitled to payment from said city, of the amount of damages 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 having elected to remove) to remove the same, within the prescribed time, such buildings, or so much thereof as may be necessary, upon payment or depositing the damages awarded for such taking, in manner aforesaid,

may be then taken and appropriated, sold, or disposed of, as the common council shall direct, and the same, or the proceeds thereof, shall belong to said city.

Streets to lay
out—proceed-
ings.

Eleventh.—When any known owner of lands or tenements, affected by any proceeding under this act, shall be [an] infant, or labor under legal disability, the judge of the district court of Wabasha county, or in his absence, the judge of any court of record, may, upon application of said commissioners, or of said city, or such party, or his next friend, appoint a suitable guardian for such party, and all notices required by this act shall be served upon such guardian.

Twelfth.—Any person feeling himself 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 of the county of Wabasha within twenty days from the time of the confirmation of said report or assessment, appeal from such assessment to the district court aforesaid, when such appeal shall be tried by the court and jury, as in ordinary cases; 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 recorder, 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. The judgment of such court shall be final. Such appeal shall be entered and brought on for trial, and be governed by the same rules in all other respects as appeals from justices of peace in civil suits.

Survey and
profile to be
filed.

SEC. 3. Whenever any public ground, street or alley, shall be laid out, widened or enlarged under the provisions of this chapter, the common council shall cause an accurate survey and profile thereof to be made and filed in the office of the city surveyor, and also filed in the office of the registrar of deeds of the county of Wabasha.

When streets
may be vacated

SEC. 4. No public grounds, streets, alleys or highways within said city shall be vacated or discontinued by the common council, except upon the petition of a majority of the owners of property on the line of such public grounds, streets, alleys or highways resident within the said city; such petition shall set forth the facts and reasons for such vacation, accompanied by a plat of such public grounds, streets, alleys or highways proposed to be vacated, and shall be verified by the oath of at least two of the petitioners. The common council [shall] thereupon, if they deem it

expedient that the matter should be proceeded with, order the petition to be filed of record with the city recorder who shall give notice by publication in the official newspaper of said city, for four weeks, at least once a week to the effect that such petition has been filed as aforesaid, and stating in brief its object, and that said petition will be heard and considered by the common council, or a committee appointed by them, on a certain day or place therein specified not less than ten days from the expiration of such publication. The common council, or such committee as may be appointed by them for the purpose at the time and place appointed shall investigate and consider the said matter, and shall hear the testimony and evidence on the part of the parties interested. The common council thereupon after hearing the same, or upon the report of such committee, in favor of granting such petition may, by a resolution passed by a two-thirds vote of all the members elect, declare such public grounds, streets, alleys or highways, vacated which said resolution after the same shall go into effect, shall be published as in the case of ordinances and thereupon a transcript of such resolution duly certified by the city recorder, shall be filed for record and duly recorded in the office of the register of deeds in the county of Wabasha.

When streets
may be vacated

SEC. 5. Any person aggrieved thereby, may within twenty days after the publication thereof, appeal to the district court of Wabasha county, under the same regulations, as in the case of opening streets and alleys, and the judgment of the court shall be final.

Appeals, how
made.

SEC. 6. It shall be the duty of the city recorder to keep in his office a record of all proceedings taken under this chapter, and after the confirmation of any report mentioned in sections two and four of this chapter, said recorder shall carefully record and transcribe in such record all the proceedings taken in relation to the matter in said report including all petitions, orders, and appointments of commissioners, returns and reports of commissioners, notices and proofs of publication thereof, and orders or resolutions of the council, and the said record or a [certified] transcript thereof or the original papers, petitions, proofs of publication, orders or resolutions, on file in his office, shall be prima facie evidence of the facts therein contained, in any court in this state.

Record of pro-
ceedings to be
kept.

CHAPTER VIII.

Action to be in corporate name of city.

SECTION 1. All actions brought to recover any penalty or forfeiture under this act, or the ordinances, by-laws, police or health regulations made in pursuance thereof, shall be brought in the corporate name of the city. All prosecutions for any violations of this act, or any of the by-laws, ordinances, or regulations of said city, shall be commenced by warrant upon complaint being made as required by law in criminal cases before justices of the peace; *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 the city of Lake City, but in such cases a complaint shall be made which the justice shall reduce to writing, and the party be required to plead thereto, as to a warrant in other cases; and the person or persons so arrested, may be proceeded against in the same manner as if the arrest had been made by warrant. All process issued by the justice of the peace of said city, shall be directed to the marshal or any constable of said city. In all cases of the imposition of any fine or penalty by the justice of the peace of said city, for the violation of any ordinance or by-law of said city, or appellate court, the offender shall be forthwith committed to the city prison of said city, or if there be no such prison, to the common jail of Wabasha county, and be there imprisoned for a term not exceeding six months, in the discretion of the justice or such appellate court, unless the said fine or penalty be sooner paid, and from the time of the arrest of any person for any offence whatever until the time of his trial, he may be imprisoned in said city prison, or in case there be none, in the common jail of Wabasha county.

Appeals may be taken.

SEC. 2. Appeals shall be allowed from decisions in all cases arising under the provisions of this act, or any ordinances, rules, by-laws or regulations passed in pursuance thereof, the same as in other cases arising under the general laws of this state; *provided*, that in all cases of prosecution for a breach or violation of any ordinance, by-law or regulation of said city or its charter, or for any assault, battery, breach of the peace, or affray, not indictable, committed within the city limits, no appeal shall be allowed where the judgment or fine imposed shall not exceed twenty dollars exclusive of costs.

Judgment may be remitted.

SEC. 3. No judgment recovered in favor of the city shall be remitted or discharged, except by vote of four-fifths of the city council.

SEC. 4. No person shall be an incompetent judge, jus-

tice, witness or 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.

Competency of citizens as jurors, &c.

SEC. 5. The following property, now or at any time hereafter, belonging to said city, or any of the wards thereof, shall be exempt from levy and sale under and by virtue of any execution: All engine houses, hook and ladder houses, together with the ground and lots on which they are situated, and all fire engines, carriages, hooks, ladders, buckets, hose, or any other fire apparatus, used by any company erected or authorized by the common council of said city; all market houses and the furniture thereof; city hall and furniture of common council rooms; pounds and the lots on which they are situated; and all school houses and the furniture thereof; *provided*, that nothing herein contained shall exempt any of the aforesaid real and personal property from levy or sale by [virtue of] any execution issued on judgments, rendered in favor of any person or persons, who may have furnished or sold any of such fire apparatus, to or on the credit of the city, nor shall any real or personal property of any of the inhabitants of said city, or of any individual or corporation, be levied on or sold by virtue of any execution issued to satisfy or collect any debt, judgment, obligation or contract of said city.

Property exempt from levy and sale.

SEC. 6. All work for the city shall be let by contract to the lowest bidder therefor, and the council may require of the bidder a bond, with sureties for the faithful performance of the contract; and notice shall be given of the time and place of letting such contract, except in case the work to be done shall not exceed twenty-five dollars, or unless the said work shall be done under the direction and supervision of some officer of said city, or some person appointed by the city council for the aforesaid purpose.

Contracts, how made.

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, and abolishing said corporation; but such election may be held upon any subsequent day; and if any of the duties enjoined by this act, as the ordinances, by-laws, rules or regulations of the city, to be done by any officer at any time specified, be not done or performed at that time, the common council may appoint another time at which the said acts may be done and performed.

Failure of election not to suspend corporation.

SEC. 8. The city may lease, purchase, and hold real or personal estate, sufficient for the convenience of the inhabitants and the due administration of the government of the

Power to purchase property for city purposes.

city, and may sell and convey the same at pleasure, and the same shall be free from taxation.

Repeal of any part of act to be by special clause.

SEC. 9. 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.

Deputy recorder.

SEC. 10. The recorder of the said city of Lake City, is hereby authorized and empowered to appoint a deputy at any time, and shall be responsible for all acts performed by him, while in the discharge of his duties as such deputy.

First election.

SEC. 11. The first election of officers for said city under this act shall be held on the first Tuesday of April, A. D. one thousand eight hundred and seventy-two, and the following persons, to-wit: Asa B. Doughty, Merrell Dwelle, Carlos Clement, are hereby authorized and empowered to designate and appoint three discreet and judicious persons in each ward to act as judges of election, and also to locate and provide a place in each ward for holding an election as aforesaid.

Remaining part of township to be a new township.

SEC. 12. All that part of the town of Lake City not embraced in the limits of said city of Lake City under this act, shall constitute and be a town by the name of _____ and shall have and possess all the authorities, rights and powers of towns under the laws of this state, and the first election of officers for said town shall be held at the time prescribed by law for the election of town officers, and the following persons, to-wit:

Are hereby authorized and empowered to act as judges of such election, and also to locate and provide a place for the holding of said election.

This act a public act.

SEC. 13. This act is hereby declared to be a public act and may be read in evidence in all courts of law in this state without proof.

When act takes effect.

SEC. 14. This act shall take effect and be in force from and after its passage.

Approved February 26, 1872.