

CHAPTER 5.

[S. F. No. 316.]

AN ACT TO AMEND THE CHARTER OF THE CITY OF WINONA.

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

SECTION 1. That the act entitled an act to amend the charter of the city of Winona, approved March first (1st), A. D. one thousand eight hundred and sixty-seven (1867), and the several acts amendatory thereof, be amended so as to read as follows:

CHAPTER I.

SECTION 1. All of that part of the county of Winona in the state of Minnesota contained within the limits and boundaries in the next section 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." The said corporation shall have the powers generally possessed by municipal corporations at common law, and in addition thereto, shall possess the powers hereinafter specifically granted. It shall be capable of contracting and being contracted with, of suing and being sued, and of pleading and being impleaded in all courts of law or equity; and it shall have a corporate seal, which it may change or alter at pleasure; and it may purchase, lease, take, and hold such real, personal, and mixed property as may be required for city uses or purposes, within or without the limits of the city, and may sell and convey the same.

SEC. 2. The boundaries of said city shall be as follows: Beginning at a point on the boundary line between the state of Minnesota and the state of Wisconsin where said boundary line is intersected by a continuation north of the east line of section number twenty-five (25) in township one hundred and seven (107) north of range seven (7) west of the fifth (5th) principal meridian, thence running south on the east line of said section twenty-five (25) thus continued, and of section thirty-six (36) in said township and range to the southeast corner of said section thirty-six (36), thence west on the south line of said section thirty-six (36) and of section thirty-five (35) in said township and range to the south quarter post of said section thirty-five (35); thence north on the quarter section line to the center of said section thirty-five (35); thence west on the quarter section lines of said section thirty-five (35) and of sections thirty-four (34) and thirty-three (33) in said township and range to the west quarter post of said section thirty-three (33); thence north on the west line of said section thirty-three (33) and of section twenty-eight (28) in said township and range to the west quarter post of said section twenty-eight (28); thence west on the quarter section line to the center of section twenty-nine (29) in said township and range; thence north on the quarter sec-

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tion lines of said section twenty-nine(29)and of sections twenty(20)and seventeen (17) in said township and range to the center of said section seventeen (17); thence directly east to the boundary line between the state of Minnesota and the state of Wisconsin; thence southeasterly along said boundary line to the point of beginning.

SEC. 3. The said city shall be divided into four (4) wards as follows: All that part thereof which lies west of the center line of Washington street and its extension to the south line of the city shall constitute the first (1st) ward; all that part thereof which lies between the center line of Washington street and its extension to the said south line and the center line of Walnut street and its extension to said south line shall constitute the second (2nd) ward; all that part thereof which lies between the center line of Walnut street and its extension to said south line and the center line of Vine street and its extension to said south line shall constitute the third (3rd) ward; and all that part thereof which lies east of the center line of Vine street and its extension to said south line shall constitute the fourth (4th) ward; *Provided*, That the boundaries of said wards may be changed or new wards may be created by ordinance adopted by an affirmative vote of three-quarters ($\frac{3}{4}$) of all the members of the city council of said city.

CHAPTER II.

ELECTIONS,—APPOINTMENTS.

SECTION 1. Each ward in said city shall be divided into as many election districts, and the same shall be so bounded, as the city council may from time to time deem necessary and by ordinance prescribe; and whenever at any election it shall appear that more than six hundred (600) votes have been cast in any one election district it shall be the duty of said council, at least sixty (60) days prior to the next election, to divide such district into two or more districts; *Provided*, That the election districts as now established shall continue until changed by ordinance adopted by said council. The judges of election for each district shall be appointed, and the polling place therein shall be designated by the city council, at the proper time prior to each election.

SEC. 2. An election of city officers shall be held on the first Monday in April in the year eighteen hundred and eighty-seven (1887), and on that day annually thereafter. Notice of the time and places of holding such election shall be given by the city recorder by publishing such notice in the official newspaper of the city at least once in each week for two (2) successive weeks immediately prior to such election.

SEC. 3. Any person entitled under the general statutes of the state of Minnesota to vote for county and state officers, shall have the right to vote at any city election in said city, in the election district of which he shall have been a resident for ten (10) days immediately preceding such election, for any officer to be chosen thereat, and every such person shall be eligible to any office in said city.

SEC. 4. All elections in said city, whether for state and county officers, or for city officers, shall be held and conducted by the judges of election appointed by the city council, in the same manner, during the same hours and under the same penalties; and vacancies in the board of judges, shall be filled as prescribed by the general statutes of the states applicable to cities of its size in point of population. Said judges shall, in each instance, before entering upon the discharge of their duties, take the oath or affirmation prescribed by such statutes; and they shall have power to appoint clerks and to administer all necessary oaths. The voting shall be by ballot, and a plurality of votes shall be sufficient to elect.

SEC. 5. 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, made in the form prescribed by the general statutes of the state, in a cover, seal the same, endorse thereon the words "Election returns of the Election district in the . . . ward of the city of Winona," (filling the blanks as the case requires), direct the same to the city recorder, and within three days after the election deliver such returns, together with the ballots cast and the lists of voters, to said recorder, who shall forthwith canvass said returns and give a written certificate of his election to each of the persons who on the face of the returns appears to have been elected. In case the election of any person receiving a certificate of election from the recorder as above provided, shall be disputed by any other candidate, the latter may contest the same in the district court of the county of Winona, and the proceedings in such contest shall be the same, as nearly as may be, as the proceedings prescribed by the general statutes of this state in the case of contested elections of county officers; *provided*, that this provision respecting contests shall not apply in the case of persons receiving certificates of election as aldermen.

SEC. 6. Whenever it shall appear to the city recorder on canvassing the returns of any city election as above provided, that two or more candidates shall have received the same number of votes at such election for the same office, such number being a majority or a plurality of all the votes cast at such election for candidates for such office, the recorder shall certify the fact in writing to the city council at its first regular meeting thereafter, giving the name of the office and the names of the persons so receiving an equal number of votes therefor; and the choice shall thereupon be determined by the casting of lots in the presence of the council at such time and in such manner as the council may direct; and the recorder shall immediately make out and deliver to the successful party a certificate in writing showing the result, which certificate shall be *prima facie* evidence that such party is entitled to the office.

SEC. 7. The elective officers of said city shall be a mayor, a treasurer, an assessor, two aldermen for each ward, a municipal judge and a special judge of the municipal court; all other officers of said city, except police officers, shall be appointed by the city council by a vote of a majority of all its members.

SEC. 8. On the first Monday in April, A. D., one thousand eight

hundred and eighty-seven and on that day annually thereafter, there shall be elected in said city by the electors thereof a mayor, an assessor and a treasurer, and on the first (1st) Monday in April, A. D., one thousand eight hundred and eighty-seven and on that day annually thereafter there shall be elected in and for each ward and by the electors residing therein one alderman, who shall be a resident of such ward; and on the first (1st) Monday in April, A. D., one thousand eight hundred and eighty-nine, and quadrennially thereafter there shall be elected in said city by the electors thereof a municipal judge and a special judge of the municipal court.

At a meeting to be held on the third (3d) Monday in April, A. D., one thousand eight hundred and eighty-seven, and on that day annually thereafter, the city council shall appoint a city recorder, a city engineer, a street commissioner, a city attorney, a janitor for the city hall, a pound master and a water commissioner; *Provided*, That the council may, in its discretion, confer any two of the three offices of city engineer, street commissioner and water commissioner upon one and the same person. All city officers elected by the people shall enter upon the duties of their respective offices on the third (3d) Monday in April next following their election, and the above named officers appointed by the council shall enter upon the duties of their respective offices on the first Monday in May next after their appointment; and all the aforesaid officers of said city elected by the people shall hold their offices for the term of one (1) year and until their respective successors shall be elected and qualified, except the municipal judge and the special judge of the municipal court, who shall hold their respective offices for the term of four (4) years, and except aldermen, who shall hold their offices for two (2) years, and all until their respective successors are elected and qualified; and all the aforesaid officers appointed by the council shall hold their respective offices for the term of one (1) year and until their respective successors shall be appointed and qualified; *provided*, That all present officers of said city shall continue in office, exercising the same powers and performing the same duties therein as heretofore, until the terms of their respective successors shall begin as herein provided and until such their respective successors shall be elected or appointed and qualified.

Members of the board of health and such other city officers not above mentioned as are required by this act, or by any other act of the legislature or by any ordinance of said city now existing, or may be required by any future act of the legislature of this state or any future ordinance of said city shall be appointed at such times and for such terms as may be designated by such act or ordinance.

SEC. 9 The city council shall have power by an affirmative vote of two-thirds ($\frac{2}{3}$) of all its members taken by a call of the ayes and noes, to remove from office any officer by it appointed, any of its own members or any officer elected by the people, except the municipal judge and the special judge of the municipal court; but no alderman or other officer elected by the people shall be removed except for due cause, of which the council shall be the judge, nor unless a plain and

detailed statement in writing of the charges made against him shall have been presented to the council, nor unless a copy of such statement, together with a written notice of the time and place at which the council will enter upon an investigation of the charges, shall have been served upon him.

Upon the presentation of charges as aforesaid against any such officer, the council, if it decides to entertain the charges, shall fix a time, not less than five (5) or more than fifteen (15) days distant, and a place; when and where it will begin an investigation of the same, and shall direct service of a copy of the statement of charges and of written notice of the time and place so designated to be made upon the accused, which service shall be made by the chief of police or some police officer at least three (3) days before the time so designated, in the same manner in which a summons from the municipal court is required to be served.

At the time and place so appointed the council shall begin the trial, unless for good cause an adjournment shall be had, and shall have power to compel the attendance of witnesses and the production of papers, and the presiding officer of the council may administer the usual oath to witnesses. The accused shall be given all reasonable opportunity to be heard in his defense, either personally or by counsel, and to introduce all proper testimony and papers. At the conclusion of the trial, the council shall immediately render its decision by vote taken in the manner in this section above prescribed.

If the accused officer shall, after due service of a copy of the statement of charges and of notice of time and place of hearing as above provided, fail to appear at the time and place appointed, either personally or by counsel, the city council may without any formal trial declare the office vacant, and any officer so accused may, by a vote of a majority of all the members of the council, be suspended until the charges shall be disposed of.

SEC. 10. Any city officer who shall permanently remove from the city, or shall engage or continue in any service, business or employment causing his absence from the city for more than four (4) months, or any officer elect who shall refuse or neglect to qualify and enter upon the duties of his office at the time designated by this act of the legislature or by ordinance of said city as the beginning of his term of office, or any alderman who shall permanently remove from the ward which he shall have been elected to represent, shall be deemed to have forfeited his office, and the city council may declare a vacancy therein and immediately proceed to fill such vacancy by appointment as in the next section provided.

SEC. 11. Whenever a vacancy shall occur in the office of mayor or in any other office in said city, except that of municipal judge or special judge of the municipal court, by the death, resignation or removal from office of the incumbent, or by declaration of the city council as provided in the last preceding section, the city council shall immediately fill such vacancy by appointment, but every such appointment shall require an affirmative vote of a majority of all the members of the council. The person so appointed to fill the vacancy shall hold

the office during the remainder of the unexpired term, and until his successor shall be elected or appointed and qualified, possessing all the rights and powers, performing all the duties and subject to all the liabilities appertaining or incident to such office.

SEC. 12. Should there be a failure to hold any regular city election at the time designated by this act therefor, or, such election being held, should no votes be cast thereat for any person or persons for one or more offices requiring to be filled by such election, or should any person, receiving a majority or plurality of the votes cast at such election be ineligible thereto, the city council may in such case, in its discretion, by resolution in writing order that a special election be held for all offices or for one or more offices, as the case may be, which should have been but were not filled by an election held at such designated time.

Every special election ordered by the city council for the purpose in this section above mentioned shall be held on a day to be fixed by the resolution of the council ordering the same, not less than twelve (12) or more than twenty (20) days after the adoption of the resolution, and notice of such special election and of its object shall be given by the recorder by posting such notice in three (3) public places in the city at least ten (10) days prior to the election and by publishing such notice at least once in the official newspaper of the city, not less than five (5) days prior to such election.

SEC. 13. Every special election held in said city for any purpose shall be conducted, and returns thereof shall be made, in the same manner as required by this act in the case of regular city elections, except that no previous registration of voters shall in the case of any special election be necessary.

CHAPTER III.

POWERS AND DUTIES OF OFFICERS.

SECTION 1. Every person elected or appointed to any office in said city, shall before he enters upon the duties thereof, take and subscribe an oath of office in the form prescribed by the general statutes of this state, and file the same with the city recorder, and the treasurer, chief of police, and water commissioner, and such other officers as the city council may require so to do, shall severally, before entering upon the duties of their respective offices, execute to the city and file with the recorder, a bond, with at least two sureties to be approved by the city council, and such bond shall be for such penal sum and contain such conditions as the council may prescribe. The city council may also, in its discretion, require from any officer who may have given a bond as aforesaid a new and additional bond, and a refusal or neglect on the part of any such officer to give such new and additional bond when so required, shall be deemed sufficient cause for his removal from office.

SEC. 2. The mayor shall be the chief executive officer of the city and head of the police department, and he shall have, subject to the ordinances of the city and the laws of the state, general supervision

and control of all other executive departments of the city government and of all executive city officers and of all employes of the city. He shall take care that the laws of the state and the ordinances and regulations of the city are duly observed and strictly enforced within the limits of said city, and that all executive officers and all employes of the city faithfully discharge their respective duties. For persistent disregard of duty or gross misconduct, he may discharge any employe of the city, and may for a period not exceeding ten (10) days suspend any executive city officer except the treasurer, during which suspension the suspended officer shall be entitled to no compensation, but the mayor shall immediately report the suspension with the reasons therefor to the city council by means of a written communication filed with the recorder, and, if necessary, shall call a special meeting of the council to consider the same, and may, pending action in the matter by the council, temporarily devolve the duties of the suspended officer upon some other person. He may, whenever he shall deem it necessary, require of any executive officer an exhibit of his books and papers. He shall from time to time recommend to the city council in writing the adoption of such new measures or such changes in existing ordinances or regulations as he may deem necessary or expedient; and he shall possess such further powers and perform such further duties as may be conferred or prescribed by this or any other act of the legislature of this state, or by any city ordinance or regulation duly passed or adopted in pursuance thereof.

SEC. 3. In case the mayor shall be guilty of any willful oppression or corrupt misconduct in the discharge of his official duties or in the exercise of his official powers, he shall be liable to indictment in the district court of Winona county and on conviction shall pay a fine of not exceeding five hundred (\$500) dollars and may also, by sentence of the court, be removed from office.

SEC. 4. In case of the absence of the mayor from the city, or in case he is unable from sickness or other cause to perform the duties of his office, the president of the council, or if he is also absent or disabled the vice-president of the council, shall, during such absence or disability of the mayor, exercise the powers and perform the duties of the mayor, and while so acting shall be styled acting mayor, and his acts in that capacity shall have the same force and validity as if performed by the mayor.

In case of a vacancy in the office of mayor from any cause mentioned in section eleven (11) in chapter two (2) of this act, the president, or if he is absent or disabled, the vice-president of the council, shall exercise the powers and perform the duties of the office until the vacancy shall be filled.

SEC. 5. The recorder shall have custody of the corporate seal and of all the papers and records of the city, attend the meetings of the city council and keep a correct record of its proceedings and of all rules, ordinances and resolutions which it may adopt or pass. He shall have authority to administer oaths and to take and certify acknowledgments of deeds and other instruments in all cases in which the same are required or sanctioned by law. It shall be his

duty to perform such services, additional to those above mentioned, as may be incidental to his office or required elsewhere in this act, or by city ordinances or direction of the council, and to keep accounts of the receipts and expenditures of the city and discharge such other duties in connection with the finances of the city as are devolved upon him by chapter six (6) of this act.

SEC. 6. The treasurer shall be the custodian of all the moneys and funds of the city and shall be responsible for the safe keeping thereof, and he shall make the reports and perform the official services required from him by chapter six (6) of this act and be subject to all other requirements and to all restrictions placed upon him by said chapter or by any other part of this act.

SEC. 7. The city engineer shall be a person skilled in the sciences of surveying and civil engineering. He shall possess the same powers in making surveys and plats within the limits of said city and certifying to the same as are by law vested in county surveyors in this state, and the same force and validity shall be ascribed to the official surveys and plats by him made in said city and duly certified as to the official surveys and plats of such county surveyors.

He shall, except when provisions is otherwise made by the city council, superintend all work done by or for the city in which engineering skill is required; shall, except when otherwise provided by the city council, draw plans and specifications for all such work, estimate the expense thereof and when such work is done by contract, shall execute all certificates given to the contractor showing the amount and value of work performed or the proper performance and completion of the contract. All surveys, profiles, plans, diagrams, specifications and estimates made by him for the city shall be the property of the city and shall be filed in the office of the city recorder and there carefully preserved for the inspection of all parties interested; and when the plans and specifications drawn for any work to be done for the city by contract or otherwise shall be required for reference and use in doing the work, the said engineer shall make or cause to be made true copies of such plans and specifications for that purpose. Said engineer shall perform such other duties and exercise such other powers as are elsewhere specified in this act or as may from time to time be required or conferred by city ordinance or by resolution of the city council.

SEC. 8. The street commissioner shall have general charge of the public streets, alleys, roads, bridges, sidewalks, cross walks, parks and all other public grounds within the city, and shall, except as otherwise provided in this act or by the city council, have immediate supervision and direction of all persons employed to work thereon, with power to engage and in his discretion to discharge such persons; *provided*, that no greater number of persons shall be employed, or any higher wages paid or promised them, than may from time to time be authorized by the city council. He shall keep a strict account of the time during which every laborer is employed and every team used under his supervision and report the same, with a statement of the several sums due from the city to laborers and

owners of teams, once every two weeks to the city council. He shall also keep an accurate account in detail of all materials, tools and other articles purchased by him for use in said department, naming the persons from whom the same are purchased and the prices thereof, but he shall at no time in his official purchases exceed the monthly limit which may be authorized by the purchasing committee of the city council, and shall report all such purchases to said committee at the end of each calendar month.

It shall further be the duty of the street commissioner to see that all the ordinances and regulations of the city respecting the cleaning repairing and care of the streets, alleys, sidewalks, bridges, parks and other public grounds are properly observed and enforced, and that the same are kept safe and free from obstructions; and when directed by the city council he shall superintend the filling, grading or paving of streets and alleys and the construction of sidewalks or bridges.

SEC. 9. The city attorney shall be the legal adviser of the city. He shall, when his assistance is necessary, take charge of and conduct all prosecutions for the violation of city ordinances, and shall represent the city professionally in all litigation or legal proceedings to which the city is a party. He shall give his opinion upon any legal question which may be submitted to him officially by the city council or any of its committees or by the mayor. It shall also be his duty, when directed by the mayor or by the city council, to draw contracts between the city and other parties, and such other legal instruments and papers as may be required in connection with the administration of city affairs, and to perform such other professional services as properly appertain to his office. When from absence, sickness or other cause he shall be unable to attend to any of his official duties, he may appoint some one to act in his place for the time being, but at his own expense.

SEC. 10. The water commissioner shall have charge and supervision of the city water works, and shall possess such powers as may be conferred and perform such duties as may be prescribed by the ordinances of the city relating to said water works and the management thereof.

SEC. 11. The janitor shall attend to the heating, cleaning and keeping in order the city hall and such other city buildings as may be consigned to his care by the city council, and render such other services as may from time to time be required from him by order of the city council.

SEC. 12. 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 define the powers and duties of such other officers as it may find necessary to appoint

The city council shall also have authority, and it shall be its duty, to determine the compensation of the mayor and of all the other city officers herein above mentioned, officers of the fire department and police department and other officers and employes appointed or engaged for definite periods of time, whose compensation is not otherwise fixed by law; such compensation shall be fixed at the beginning

of the respective term of office or employment, or, in the case of new offices or positions created by the council, at the times when the appointments or engagements are made, and shall not be increased or diminished during the respective terms of office or periods of employment for which such officers shall have been elected or appointed or such employes engaged. The compensation of every such officer or employe shall be in the form of a salary payable, except in the case of the city assessor, for which provision is made in chapter six (6) of this act, in equal monthly installments and shall be in full for all services by him performed for the city; *provided*, that the compensation of aldermen shall be fixed at the end of each year of office, at a gross sum for the whole year, and *provided further*, that the compensation of aldermen, aside from the president of the council, shall not exceed two hundred dollars (\$200) a year each, or the compensation of the president of the council three hundred dollars (\$300) a year, or the salary of the mayor five hundred dollars (\$500) a year.

SEC. 13. No officer of the city shall be a party to or interested in any contract with the city, express or implied, and any such contract to which any such officer shall be a party or in which he shall be directly or indirectly interested shall be void. Nor shall any officer having power to make purchases for the use of the city in any department, take or receive, or in any manner stipulate for any commission on such purchases from any person whomsoever or in any form, and any officer violating this latter provision shall be liable to a fine of not less than ten dollars nor more than one hundred dollars (\$100).

SEC. 14. Every officer of said city having charge of any city property shall at the close of each fiscal year make and return to the city council a full inventory of all such property, which inventory shall be filed with the city recorder and kept subject to inspection at any time.

SEC. 15. Every officer of said city who shall receive from any person or persons or from any source any money or its equivalent belonging to the city shall pay the same over to the city treasurer and take his receipt therefor on or before the first Monday in the next month thereafter.

SEC. 16. Every officer of said city shall, at the close of his term of office, deliver to his successor, when duly elected or appointed and qualified, all property, books, papers and effects of every description in his possession belonging to the city or pertaining to the office. If he shall willfully fail so to do within ten days after notification and request he shall forfeit and pay to the use of the city one hundred (100) dollars and all damages which the city may suffer by such failure to deliver, and his successor in office may recover the possession of such property, books, papers and effects by an appropriate legal proceeding in such case provided by the laws of this state.

CHAPTER IV.

POWERS AND DUTIES OF THE CITY COUNCIL.

SEC. 1. 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 be the judge of the election and qualification of its members, subject to revision by the district court of Winona county; shall establish its own rules of proceeding in all cases and shall have power to compel the attendance of absent members, and, when necessary, the attendance of witnesses and the production of papers. It shall hold regular meetings at such times and places as it shall by rule determine; and the mayor or any two aldermen may call a special meeting at any time by serving upon the several members personally a written notice thereof, in which the particular object of such special meeting shall be stated; a majority of the members shall be necessary to constitute a quorum at any meeting, but a smaller number may adjourn to any time they may designate, and action taken at such adjourned meeting shall have the same validity as if taken at a regular meeting.

SEC. 2. At a meeting of the city council to be held on the third Monday in April in each year the council shall elect by ballot from its members a president and a vice president to hold for the term of one year from that day.

The president, or in his absence the vice president, shall preside at the meetings of the council and shall possess all the powers usually vested in the presiding officers of similar bodies.

SEC. 3. The city council shall have control of the finances of the city, subject to the restrictions expressed in chapter six (6) of this act, and of all property of the city, and shall have full power and authority to enact and publish, and to provide penalties for the violation of such ordinances, not repugnant to the constitution or the laws of the United States or of this state, as it may deem necessary or expedient for the following purposes, to-wit:

First—To regulate the exhibition of circuses and menageries, the giving of public theatrical performances, concerts and lectures and the public exhibition of panoramas or other works of art and the giving of any other kind of show or entertainment for the purpose of gain, and to require the obtaining of licenses and the payment of license fees therefor:

Second—To regulate all traffic in spirituous, vinous, fermented, malt or other intoxicating liquors in said city; to define and establish the territorial limits within which and the number of saloons or other places at which such traffic may be carried on; to prohibit all persons from vending or otherwise disposing of or dealing in any such liquors in said city without first obtaining a city license so to do; to prescribe the manner in which and the conditions on which such license may be granted and issued; the fee or charge for such license shall be two hundred dollars (\$200) a year; *Provided, however*, that such fee or charge shall not in any case be less than the minimum charge or fee for such license prescribed by any general law of this

state for cities of the size of said city of Winona in point of population; also to regulate all saloons and other places where any such liquors are sold or kept for sale, and the manner of doing business therein; and to prescribe days and hours during which such saloons or other places shall be kept closed and during which no such liquors shall be sold or disposed of therein or elsewhere in said city. And the powers conferred upon said city council in and by this subdivision shall be exclusive.

Third—To provide for the regulation and licensing of inns, restaurants, billiard rooms, billiard tables, bowling alleys, shooting galleries, skating rinks and other like places of amusement.

Fourth—To provide for the licensing of hackmen, draymen, expressmen, omnibus drivers, cabmen, runners and solicitors for hotels, boat lines and railway lines, and others having similar occupations, and to prescribe and regulate the mode and manner of pursuing their vocations.

Fifth—To provide for the licensing of auctioneers, peddlers, junk dealers, pawn brokers, conductors of gift, fire, auction or bankrupt sales, and transient merchants, to regulate their manner of doing business and to tax their goods or the proceeds of their sales.

Sixth—To provide for the licensing of house movers, and to prescribe the time and manner of moving buildings in the public streets of the city.

Seventh—To provide for the abatement and removal of all public nuisances, whether the same be such under this act or the general statutes of this state or at common law.

Eighth—To prohibit and suppress all E. O. or roulette tables, the game of faro and faro banks, gambling tables and gambling devices used as such, and all gambling or swindling with cards, dice or other means or devices, and to authorize the destruction of all instruments, means and devices used or kept for use in gambling or swindling.

Ninth—To prevent and suppress riots, disorderly assemblages, brawling, disturbance of the peace, uproar, fighting, boxing matches, drunkenness in public places, obscene language and disorderly conduct of any kind.

Tenth—To prohibit and suppress disorderly houses, and houses of ill-fame or assignation and to provide for the arrest and punishment of the keepers, inmates and patrons thereof and persons who visit the same for lewd or immoral purposes.

Eleventh—To authorize the arrest and punishment by fine or imprisonment of all persons as vagrants who, not having any visible means of support are without employment and idly rambling about or staying in drinking saloons, houses of ill-fame or other houses of bad repute, or lodging in barns, sheds or railway cars, or placing themselves in or going about the streets to solicit alms.

Twelfth—To compel the owners or persons having control of tallow chandler's shops, soap factories, rendering establishments, stables, privies, sewers drains, cess pools or any unwholesome or nauseous place to cleanse or abate the same, when necessary for the health or comfort of the inhabitants of the city.

Thirteenth—To prevent the bringing, depositing or keeping within the city of any putrid carcass or other unwholesome substance, and to require the removal of such carcass or substance by any person having the same on premises occupied by him or who may have deposited the same in any street, alley, road or public ground, and on default to authorize the removal thereof by some competent officer at the expense of such person.

Fourteenth—To regulate, control or prevent the landing in said city of persons from steamboats or other vessels wherein are contagious or infectious diseases or disorders and to make such regulations as may be necessary or proper to prevent the introduction into said city of such contagious or infectious diseases or disorders.

Fifteenth—To establish and define the powers and duties of boards of health, subject to the general statutes of this state in such case made and provided; to provide hospitals for the indigent, sick or disabled and regulate the management thereof; to regulate the burial of the dead and to prohibit such burial within the city limits; and to provide for the registration of births and deaths in the city and for the keeping and returning of records of mortality and the causes thereof.

Sixteenth—To direct the location, mode of construction and management of slaughter houses in said city, and to prohibit the maintenance or use of any slaughter house in said city not constructed and managed as so directed; and to prohibit the killing or dressing of any animals for food in any place in said city other than such authorized slaughter houses; or to prohibit the location or maintenance of any slaughter houses or the killing or dressing of such animals within the city limits.

Seventeenth—To establish and maintain public markets and market houses for the display and sale of meats, vegetables, fruits and other articles of food; to designate places for the sale of and to prescribe the manner of selling hay, straw, coal and fire-wood; to provide for the inspection and weighing of hay and coal and the measuring of char-coal, fire-wood and other fuel.

Eighteenth—To select and establish, subject to the statutes of this state in such case provided, a standard of weights and measures; to require a testing and sealing by such standard of all weights and measures used in business in said city, and to appoint a city sealer of weights and measures and define his powers and duties; and to provide for the punishment of persons using in business any false weights or measures, or weights or measures not so tested and sealed; and it shall be the absolute duty of the council promptly to exercise the powers in this subdivision granted.

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

Twentieth—To regulate the size and weight of loaves of bread, and to prohibit the sale of bread not conforming in size and weight to the standard which may be established.

Twenty-first—To regulate the storage, keeping, conveying and sale of gunpowder or other explosive or inflammable substances or fluids.

Twenty-second—To prevent the running at large of horses, mules, cattle, sheep, swine and poultry, and to authorize the impounding and sale of such animals or poultry when found running at large contrary to ordinance; and to fix limits within which no swine shall be kept.

Twenty-third—To require the owners of dogs to obtain license for the keeping of the same and prescribe the fee for such license; to compel the muzzling of dogs, and to provide for the capture and destruction of dogs which are found at large unmuzzled or for the keeping of which no license shall have been procured.

Twenty-fourth—To prevent horse racing or rapid driving or riding of horses in the streets and the leaving of horses unhitched in the streets or other public places; to prescribe the kind and location of hitching posts; and to prohibit the riding or driving of any horse, mule, ox, cow, or other brute animal on the sidewalks of the city.

Twenty-fifth—To designate times and places for swimming or bathing in the waters within the limits of the city, and to prohibit swimming or bathing in said waters at other times or places than those so designated.

Twenty-sixth—To prevent the incumbrance or obstruction of streets, alleys, sidewalks or other public grounds with carriages, carts, wagons, boxes, sleighs, signs, awnings, fire wood, lumber or any other material, substance or thing; and to prohibit persons from gathering in crowds or groups, or standing singly on the streets or sidewalks in such manner as to obstruct passage thereon or to annoy other persons passing along the same; to authorize the police to disperse any such crowd or group or to cause the removal of such person, and to arrest the offender or offenders in case of refusal on the part of such person or persons to obey any reasonable direction given for the purpose of clearing the way or preventing annoyance to passers by.

Twenty-seventh—To regulate the use of locomotive engines and the rate of speed of all railway trains within the city; to direct and control the location of steam railway tracks and to require railway companies to construct at their own expense such bridges, tunnels or other conveniences at public railway crossings, as the city council may deem necessary; also to require such companies to station and keep flagmen and to display danger signals on the approach of trains at such public crossings as the council may designate; also to regulate the running of horse railway cars, the laying down of tracks for the same, and the kind of rail to be used, and the transportation of passengers on such horse railways.

Twenty-eighth—To grant a right of way upon, over, across and through any of the public streets, alleys, levees or public grounds, except parks, in said city to any steam, horse, or other railway company upon such conditions and limitations and restrictions as the council may deem necessary or advisable; *provided*, that no such right shall hereafter be granted, except by a vote of a majority of all the members of the council in favor thereof; also by a like vote, to grant to any telegraph, telephone, electric light or fire alarm company

the right to set posts and to string wires in the streets and alleys of the city; *provided, however*, that the council may at any time by ordinance require any such company to remove its poles and wires, now used or hereafter to be used, from the streets and alleys of the city and place such wires under ground; or, by a like vote to grant to any person or corporation the right to lay gas pipes or steam pipes in such streets and alleys; all such grants to be subject to such limitations, conditions, restrictions, and regulations as the council may deem necessary or expedient to impose; and in all ordinances under this subdivision the right of amendment shall be reserved.

Twenty-ninth.—To compel the owners or occupants of private buildings or grounds to remove snow or rubbish from the sidewalks, streets and alleys adjacent thereto to the centre of such streets or alleys, and in default thereof to cause the removal of such snow or rubbish by some officer of the city at the expense of such owners or occupants.

Thirtieth.—To establish temporary or permanent grades on the streets, roads and alleys in the city, and to alter such grades at pleasure; *provided*, that no grade once established as a permanent grade on any street, road or alley shall be changed except by ordinance passed by an affirmative vote of two-thirds ($\frac{2}{3}$) of all members of the city council.

• *Thirty-first*.—To regulate the construction of wharves and docks into the Mississippi river within the limits of the city, and to prescribe and control the price of wharfage thereon; also to grant, on such conditions and subject to such limitations, restrictions and regulations as the council may impose, to any persons or corporations the right to build and maintain wharves, docks and warehouses on any public levee or landing place in said city, to be used in connection with and to facilitate traffic on the Mississippi river, but no such right shall hereafter be granted except by an affirmative vote of two-thirds ($\frac{2}{3}$) of all the members of the council.

Thirty-second.—To erect, establish and maintain a house of correction or work-house in said city or within the county of Winona, and to make all necessary provisions and regulations for the management thereof.

Thirty-third.—To prescribe the time, place and manner of holding public auctions.

Thirty-fourth.—To provide for taking from time to time a census of the inhabitants of the city.

Thirty-fifth.—To prohibit the discharging of fire arms, fire crackers, rockets or other similar projectiles within limits to be defined by the council and to designate limits within which no exhibition or display of fire works shall be made.

Thirty-sixth.—To prescribe limits and from time to time to alter or enlarge the same, within which wooden buildings or buildings of other materials that shall not be deemed fire proof shall not be erected, placed, enlarged or rebuilt and within or into which such buildings shall not be moved, and to direct that any or all buildings within the limits described shall be made and constructed of fire-proof materials and with such precautions against fire as the city

council shall by ordinance prescribe, and to prohibit the repairing of wooden buildings within such fire limits without its consent and to prescribe the manner of applying for such consent. Any building hereafter erected, placed, moved, enlarged, rebuilt or repaired in violation of the provisions of any ordinance of said city passed pursuant to this subdivision, is hereby declared and shall be deemed a public or common nuisance and the city council in addition to other penalties may provide for the abatement of such nuisance by the removal or destruction of such building.

Thirty-seventh—To regulate the construction of all buildings within the fire limits of said city, and by such regulations to prescribe the depths of cellars, the material and method of construction of foundations, foundation walls and area walls, the manner of construction and the location of drains and sewer pipes, the thickness, material and construction of party walls, partitions and outside walls, the size, material and construction of floor beams, girders, piers, columns, roofs, chimneys, flues and heating apparatus, and all other parts of the structure, and to apportion and adjust such regulations to the size and height of the buildings to be erected; to regulate the construction and location of privies and vaults in such buildings; to prohibit the construction of buildings within said limits not conforming to the prescribed regulations; to appoint an inspector or inspectors of buildings within said limits, and to require all persons intending to erect buildings therein to first submit to such inspector or inspectors the plans and specifications thereof and to obtain from him or them a permit for the erection thereof, and to authorize such inspector or inspectors to enter, examine and inspect any building in process of construction within said limits and to direct the suspension of work on any such building, the construction or material whereof does not conform to the prescribed regulations: *Provided*, however, that neither said council nor any inspector or officer of said city shall have power to control or regulate the construction of any building erected by the United States or the state of Minnesota.

Thirty-eighth—To regulate the location and keeping of lumber yards and the storing or keeping of lumber, timber, wood, hay, straw or other combustible material in said city.

Thirty-ninth—To regulate the construction, location and care of chimneys, fire places, stoves, stove-pipes, ovens, boilers, smoke stacks and the appurtenances thereto, used in or about any building or premises in said city, and to provide for the removal thereof, or for making the same safe when considered dangerous; also to prevent the deposit of ashes in unsafe places and to regulate or prevent the operation of manufactories or other establishments likely to cause or promote fires in said city.

Fortieth—To provide for the purchase of fire engines and other apparatus and appliances for the extinguishment of fires; to provide for and regulate the formation of fire engine, hook and ladder, and hose companies and to provide for the due support, regulation and discipline thereof, and for the disbanding thereof when the council shall deem such disbanding necessary or expedient, and for the care,

keeping and preservation of the engines, apparatus, appliances and other property belonging to the fire department; to prescribe the duties of firemen and their officers, and to regulate the conduct of firemen and their officers, police officers, and all other persons at or near the scene of fire in said city; to authorize the removal or destruction of buildings when necessary to arrest the progress or prevent the spreading of any fire; and, in general, to make such provisions as in the judgment of the council may tend to promote the efficiency of said department and to secure all possible protection of property in said city from fire.

Forty-first—To provide for and regulate the numbering of dwelling houses and other buildings in said city, and to compel the owners of such houses or buildings to have the proper numbers designated thereon.

Forty-second—To regulate and require licenses to be obtained for the pursuit or prosecution of such other occupations or kinds of business, not hereinabove expressly referred to and provided for, as in the opinion of the council may require regulation.

And, in general, to adopt all such measures and to establish all such regulations, in case of which no express provision is hereinbefore made, as the council may from time to time deem necessary for the promotion of the health, comfort and safety of the inhabitants, the preservation of peace and good order, the suppression of vice, and the enhancement of public welfare in said city.

SEC. 4. The city council may repeal or amend any ordinance by it enacted, but every such repeal or amendment must itself be by ordinance, and the council shall have no authority to modify any ordinance or to make any exception to the operation thereof by a mere motion or resolution.

SEC. 5. The city council may prescribe, as penalty for the violation of any ordinance or part thereof, the imposition upon the offender of a fine not exceeding one hundred dollars (\$100) or imprisonment; for a term not exceeding ninety (90) days, or both such fine and imprisonment; and it may also by ordinance provide generally that any person convicted before the municipal court or any other competent court in said city of any offence for which such offender may be subjected to imprisonment under this act, or any act amendatory thereof, or under any ordinance of said city, may be committed for such term as may be authorized by the act or ordinance violated, to the city prison, or to the jail of Winona county, or to such workhouse or house of correction as may have been established by said city for such purpose, to be imprisoned therein, and in case of commitment to such workhouse or house of correction, to be kept at hard labor therein during such term; and that any male offender so convicted of such offense and liable to imprisonment, and so committed for such authorized term may be kept at hard labor during such term in such workhouse or house of correction, if committed thereto, and in the grounds connected therewith or upon the public streets, roads, alleys, bridges, parks, levees, or other public grounds in said city, or either, in the

discretion of the officer properly having charge of such offender for such purpose; and further, that any person so convicted of such offense as aforesaid, and committed upon non-payment of a fine imposed, may be kept at hard labor in such workhouse or house of correction, if committed thereto, or, in the case of a male offender, either in such workhouse or house of correction and the grounds connected therewith, or upon the said public streets, roads, alleys, bridges, parks, levees or other public grounds, in the discretion of the officer properly having charge of such offender for such purpose, until the amount of such fine and the costs of prosecution shall be worked out at the rate of one dollar (\$1) a day; *Provided*, that the term of such commitment shall not in any case exceed ninety (90) days; and the city council may make all needful regulations for the safe keeping and maintenance of the prisoners so confined or employed; *Provided, further*, that the city shall be allowed the use of the jail of Winona county as a place of imprisonment of persons convicted of such offenses as are in this section above referred to, and such persons while imprisoned in said jail shall be under the charge of the sheriff of said county, but any such convicts committed to said jail or to the city prison before the erection and establishment by the city of any workhouse or house of correction, may, if of the male gender, be condemned by the sentence of the court, if the council shall by ordinance so provide, to hard labor on said public streets, roads, bridges, parks, levees or other public grounds or grounds provided for the purpose, during the term of commitment, and in such case male convicts may be taken from said jail or prison at reasonable hours in the day time by such officer as may be designated for that purpose by the chief of police, and compelled to perform such labor.

SEC. 6. In all matters except those provided for in section three (3) of this chapter and in other cases mentioned in this act in which action is required to be by ordinance, the city council may act by resolution in writing, or in cases in which it is not otherwise provided in this act, by mere motion to be entered on the minutes; *provided, however*, That every appropriation to the amount of five hundred dollars (\$500) or more to be paid to any one person, firm or corporation, and the letting of any job or work or the authorizing of any contract or purchase involving an expenditure from the city treasury of five hundred dollars (\$500) or more, and the fixing of any officer's salary or any employe's wages at the aggregate sum of five hundred dollars (\$500) or more a year, and any provision for the sale of real estate of the city or of any of its personal property of the value of five hundred dollars (\$500) or more, and every determination to make any improvement the expense whereof is to be assessed upon abutting property or property found to be benefited, or to take private property for public use, and every determination to issue the bonds of the city or in any way to contract indebtedness exceeding five hundred dollars (\$500), shall be by ordinance or resolution in writing.

SEC. 7. For the passage of an ordinance for any purpose, or of any resolution or motion involving any appropriation, immediate or remote, from the city treasury, or of any resolution mentioned in the

proviso of the last preceding section, an affirmative vote of a majority of all the members of the council shall be required, except in cases in which a vote of two-thirds ($\frac{2}{3}$) or more of all the members is necessary under this act. Every ordinance whatever and every resolution in writing such as is mentioned in the proviso of the last preceding section, which may be passed by the council, shall be signed by the president of the council and attested by the recorder; and on the next day after the passage thereof the same shall be transmitted by the recorder to the mayor for his approval.

If the mayor approve the same he shall append his signature with the date of his approval thereto and return the same to the recorder within five (5) days from the date of its transmission to him; and if he declines to approve the same he shall within said period of five (5) days return the same to the recorder with a statement of his objections thereto to be presented to the council at its next meeting thereafter. Upon the return of an ordinance or resolution to the council without the mayor's approval, the question shall again be put upon the passage of the same, notwithstanding the objections of the mayor, and if upon such vote, which shall be taken by a call of the ayes and noes, two-thirds ($\frac{2}{3}$) of all the members of the council shall vote in favor of such ordinance or resolution the same shall be declared enacted and shall have the same force and effect as if approved by the mayor. If any ordinance or resolution so submitted to the mayor shall not be returned by him to the recorder within five (5) days, Sundays excepted, after presentation thereof to him, the same shall be deemed to be approved by him, and he shall deliver the same to the recorder on demand.

SEC. 8. At its meeting to be held on the third Monday in April in the year eighteen hundred and eighty-seven (1887) and on that day biennially thereafter the council shall select one, (1) and only one, (1) daily or weekly newspaper, printed in the english language and which shall have been published in said city for at least six (6) months immediately previous to said meeting, as the official newspaper of said city for the period of two years then beginning, in which shall be published all ordinances, all resolutions, all official notices, and all reports, proceedings of the city council and other city matter required by this act or other act of the legislature to be published or of which publication may at any time be ordered by the city council.

SEC. 9. Every ordinance and every resolution of the sort mentioned in the proviso in section six (6), of this chapter, passed by the council shall, after approval by the mayor or passage over his veto, be published once in the official newspaper of the city before the same shall be in force, and within twenty (20) days after such publication shall be recorded by the recorder in books provided for that purpose. But before any ordinance or any such resolution shall be so recorded, its publication as aforesaid shall be proved by the affidavit of the publisher of the official paper or of his foreman in charge of the printing thereof, and such affidavit shall be recorded at the foot of such ordinance or resolution; and the original or the record so made of such affidavit shall at all times and in all courts in this state be

taken and considered as *prima facie* evidence of the facts therein stated.

SEC. 10. The city council shall have control of all public roads, streets, alleys, sidewalks, cross-walks, bridges, parks, levees and other public grounds within the limits of or belonging to said city, with power to provide for the repairing, cleaning and improvement thereof and to authorize and appropriate money for necessary labor to be done and necessary material to be used thereon; to cause, subject to the provisions of chapter seven (7) of this act, streets or alleys in said city to be paved or macadamized, filled or graded, and sidewalks to be laid thereon; to prescribe and regulate the width, material and manner of construction of sidewalks and cross-walks in the city; to authorize and regulate the adorning of streets and other highways in the city with shade trees and grass plats or borders by the owners or occupants of abutting premises, to cause, subject to the provisions of chapter eight (8) of this act, private property in the city to be taken for the purpose of laying out, opening, widening, straightening or enlarging public squares or other public grounds, streets, alleys or roads, and to lay out, open, widen, straighten or enlarge the same for public uses; to build, repair or rebuild public bridges in said city; and to maintain and keep in repair all roads and bridges now owned by the city in the state of Wisconsin, and to build and maintain a bridge in connection therewith across the Mississippi river or part thereof.

SEC. 11. The city council shall also have power by ordinance, passed by an affirmative vote of two-thirds of all its members, to vacate and abolish any street, alley, road or public ground or part thereof in said city; *provided*, that no vacation of any street, alley, road, or public ground or part thereof shall be ordered except upon written petition from a majority of the owners of the property fronting or abutting on such street, alley, road or public ground or part thereof which it may be proposed to vacate, in which petition shall be set forth the facts, circumstances, and reasons upon which it is based and which shall be accompanied by a sketch or plat showing the street, alley, road or public ground or part thereof, of which vacation is desired, with the immediate surroundings thereof.

Upon receiving such petition the council shall cause the same with the accompanying plat or sketch to be filed with the recorder and shall fix a time, not less than three (3) weeks distant, and a place for consideration and decision on the petition and direct the recorder to give notice by publication in the official newspaper at least once in each week for two (2) successive weeks of the filing of such petition and of the time and place so designated when the same will be considered and decided, and at such time and place an opportunity will be given to all persons interested to be heard for or against the granting of the petition. Such hearing and decision may be postponed from time to time by order of the council without notice of the postponement other than the record thereof. Every ordinance by which any public street, alley, road or public ground or part thereof in said city is vacated, shall within ten (10) days from its passage and approval, be filed by

the recorder in the office of the register of deeds in and for Winona county and shall there be recorded.

SEC. 12. The city council shall have power to provide, maintain and extend a system of water works for the supply of pure water for the use of the inhabitants of the city and for protection against fires therein, and to make all needful appropriations for the support and operation thereof; to prescribe rules and regulations for the management thereof, for the laying of mains to convey the water throughout the city and the setting of hydrants, for the connection of private service pipes with such mains, for the use of the water from the works by private consumers and the inspection of private premises in which the water is used. The council may further provide for the licensing of plumbers and for the regulation, inspection and supervision of their work and conduct in laying service pipe and in connecting the same with said mains, and shall prescribe and define the duties and powers of the water commissioner and fix the rates to be paid for water from the works by private consumers.

SEC. 13. The city council shall also have power to provide, by contract or otherwise, for lighting the streets, roads, alleys, bridges, levees, parks and other public grounds in the city with gas, oil, electricity or other means of illumination.

SEC. 14. The city council shall have power to maintain, during the period already fixed by law, the ferry and the enterprise of transporting passengers, teams, animals and freight across the Mississippi river, for which authority was heretofore granted to the said city by the legislature of this state in and by chapter three hundred and two (302) of the special laws of the year eighteen hundred and seventy-nine (1879), and such ferry may be operated with boats propelled by steam or by means of a cable and the force of the current of the river, and landings may be made either at the bank on the Wisconsin side of the river or at the southerly end of a bridge to be built by the city from the Wisconsin shore to and across a certain island in said river, known as "Island No. 72," opposite said city; and the council may authorize the purchase or construction of all boats, appliances and materials necessary to the operation of said ferry and select, and determine the compensation of such number of persons as it may deem it necessary to employ in operating the same.

SEC. 15. The city council shall further have authority to provide for the purchase or leasing of such real estate and for the erection of such buildings as may in its judgment be needed for city purposes and uses, and may in its discretion direct the sale and conveyance of any real estate, or the sale and transfer of any buildings or personal property of any kind, owned by the city and which is no longer needed for city purposes. In case real estate which the council may find it necessary to acquire for city purposes cannot be purchased on satisfactory terms, the council shall have power to take such real estate by condemnation, in which case the proceedings shall be as prescribed in chapter eight (8) of this act, except that the damages awarded and the expense of the proceedings shall not be assessed, wholly or in part, to property deemed to be benefited but shall be paid out of the city treasury.

SEC. 16. Any license issued by authority of the city council may be revoked by the vote of a majority of the council at any time when in the opinion of the council sufficient cause exists therefor; and upon the conviction before the municipal court of any person holding such license, for the willful violation of any ordinance regulating the business or calling which he is licensed to pursue, the said court may, and upon a second conviction of such person of a similar offense, it shall, as a part of the penalty, declare such license forfeited. If any person whose license shall have been revoked or declared forfeited as aforesaid, shall continue to prosecute or pursue the business or calling previously sanctioned thereby, he shall be liable to the same punishment as if no such license had ever been granted.

SEC. 17. The city council shall have power and it shall be its duty to appoint, or authorize the president to appoint, at its meeting to be held on the third Monday in April in each year, three of its members as a purchasing committee, who shall have authority and whose duty it shall be to make or cause to be made all necessary purchases of supplies or materials for the city's use in any of its departments at the best attainable terms and at the lowest obtainable rates; *provided*, that such committee shall not make or contract for any one purchase for any one department at any time to an amount exceeding two hundred dollars (\$200) without express authority therefor previously obtained from the city council. Such committee may authorize the executive head of any department to make, without consulting the committee, such small incidental purchases as he may from time to time find necessary in his department not exceeding in the aggregate fifty dollars per calendar month, *provided* that such head of department shall at the end of each such month make a detailed report to such committee of all materials, supplies and articles so purchased, the prices thereof and the persons from whom the several purchases were made. Said committee shall exercise great care and economy in all purchases by it so made or authorized, and no material or supplies shall be purchased for any of the departments unless made or authorized by said committee, or expressly authorized by the city council, and no bill for any materials, supplies or articles furnished to the city in any department shall be allowed by the council, nor shall payment thereof be recommended by the committee on finance, unless the same is approved in writing by said purchasing committee or by a majority of its members; or unless the contracting of such bill shall have been previously specifically authorized by the council.

SEC. 18. The city council shall appoint or authorize its president to appoint, at its meeting to be held on the third (3d) Monday in April in each year, five (5) of its members as a committee on finance, whose duty, among other duties, it shall be to examine and investigate all claims, bills and demands against the city for materials or supplies furnished or services performed and report thereon, with such recommendation as it may think proper, to the council at the first regular meeting of the council in each month; and all such claims, bills or demands shall be submitted to such committee before action shall be had thereon by the council; *provided*, that the provisions

of this section shall not apply to bills for ordinary day labor in the street department, or to claims by officers or employes for regular salaries or wages which shall already have been fixed by the council and made payable in installments at stated times.

SEC. 19. Subject to such restrictions as are imposed elsewhere in this act, the city council shall have authority to make all necessary appropriations from the city treasury for the objects and purposes specified in this act. It shall have, subject to all restrictions above referred to, power to finally audit, allow and direct the payment of all claims, bills and demands against the city. It shall as a body or by committee examine and adjust all accounts of the city treasurer and other city officers who are or who may be required to keep accounts, and may require any such officer to make special reports to the council at any time in addition to the regular reports herein provided for; and it shall be its duty, in case any officer of the city shall be guilty of misappropriating any money or property of value belonging to the city, to direct such proceedings to be taken at law or otherwise as may be necessary to secure restitution of such money or property.

CHAPTER V.

THE POLICE DEPARTMENT.

SECTION 1. There shall be in said city a police department of which the mayor shall have control and supervision, and shall consist of the following officers subordinate to the mayor: A chief of police, a captain of police, and such other officers of police and as many policemen and detectives as may from time to time be authorized by the city council.

SEC. 2. The mayor shall by and with the consent of the city council, appoint the chief of police, and the chief of police shall, subject to approval by the mayor, appoint the captain of police and all other regular officers; but no person shall be eligible to appointment as chief of police or as captain or other officer of police who is not a citizen of the United States or who is unable to read and write the English language or who shall not have been for at least one year a resident of the city of Winona. Such appointment shall be made by the mayor and the chief of police respectively at the beginning of their respective terms of office or within ten (10) days thereafter, and the officers so appointed shall, unless sooner removed, continue in office for the term of one (1) year from the first (1st) Monday in May in the year of their appointment and until their successors are appointed and qualified.

SEC. 3. The chief of police may, likewise, with the approval of the mayor, at the request of persons, firms, corporations, societies or organizations requiring special police protection, appoint special policemen or watchmen who shall serve without expense to the city, and possess police power to preserve the peace, protect property and make arrests for crime at such places and within such limits as may be des-

ignated by the chief, but such special policemen or watchmen shall not exercise any official authority or wear any badge of office outside of the limits so designated.

SEC. 4. The mayor shall with the consent and approval of the city council, from time to time, make such regulations defining the respective powers and duties of the chief of police and of subordinate officers, policemen and detectives and making provision for the control and discipline of the force, as he may deem necessary and expedient. Such regulations may also prescribe the uniform, badges and weapons to be worn or carried by the members of the force, as well as rules for their conduct, when on or off duty, and all other matters deemed necessary to insure the highest efficiency of the force; and the mayor may at any time suspend the chief or any other member of the force from duty and pay for a period not exceeding fifteen (15) days in any one instance for a violation of any of the regulations so made; and in case the chief or any other member of the force shall be guilty of repeated and persistent violation of any of said regulations, or shall be or become habitually intemperate or shall prove or become from any cause incompetent or incapable of properly performing his duties, the mayor may remove and discharge him from his position, and the position so vacated may be filled by appointment in the manner prescribed by the provisions in section two (2) of this chapter relating to original appointments.

SEC. 5. On occasions of large public gatherings or in case of riot, unlawful assemblages or disturbances requiring additional police force, the chief of police may, with the approval of the mayor, appoint such number of special or temporary police officers, at a compensation not exceeding two (2) dollars a day, as he may deem necessary, but such special or temporary appointments shall not continue in force for more than one (1) week without consent of the city council.

SEC. 6. The chief of police and all regular police officers of said city shall possess the powers of constables at common law and under the statutes of this state, and in addition thereto shall have the power to serve and execute any warrant, summons, commitment, writ, subpoena or process issued out of the municipal court in said city, and shall have authority to pursue and to arrest in said city, or in any part of this state beyond the limits of said city, any person charged with or who has committed any violation of any ordinance of said city or any other offense or crime within the limits of said city; *provided*, that no such officer shall have power to arrest without a warrant except in cases in which arrests without warrant are authorized by the general statutes of the state. When such officers perform duty in the service of papers in civil or criminal actions, the same fee shall be charged, taxed and collected for the services as constables are by the laws of the state entitled to for like services, but all such fees, when collected, shall be paid into the city treasury.

SEC. 7. The mayor, or acting mayor, the chief of police, the captain of police, the sheriff of Winona county, and all police officers, shall be conservators of the peace, and may command the peace and suppress in a summary manner all riotous or disorderly behavior or

proceedings within the city limits, and for such purpose may require the assistance of all by-standers and, if need be, of all citizens and local military companies; and in suppressing riotous or disorderly behavior or proceedings the supreme authority to command and direct shall reside in the senior or superior officer present in the order in this section above mentioned.

SEC. 8. If a by-stander or citizen or any officer or private in any local military company shall refuse to aid in preserving the peace or in suppressing riotous or disorderly behavior or proceedings, when thereto required as provided in the last preceding section, he shall be liable to a fine of not less than ten (10) dollars or more than one hundred (100) dollars.

SEC. 9. If any person shall, without lawful authority, assume to act as a police officer of said city, or falsely pretend to be authorized so to act, or wear the badge of a police officer within said city, he shall be liable to a fine of not less than ten (10) dollars or more than fifty (50) dollars, or to imprisonment for a term not exceeding thirty (30) days.

SEC. 10. If any person shall willfully refuse or neglect to assist the chief of police or any police officer of said city in making a lawful arrest, when requested by such chief or officer so to do, or shall willfully resist, impede or obstruct such chief or officer in making or attempting to make a lawful arrest or in the performance of any other official duty, such person, so offending, shall be liable to a fine of not less than ten (10) dollars or more than fifty (50) dollars or to imprisonment for a term not exceeding thirty (30) days.

CHAPTER VI.

FINANCIAL DEPARTMENT.

SECTION 1. The fiscal year of the city of Winona shall begin on the first (1st) day of April.

SEC. 2. All property of every description within the limits of said city, except such as shall be exempt by the general statutes of this state or by the provisions of this act, shall be subject to taxation for the support of the government of said city and for the payment of its expenses, debts and liabilities; and for the purpose of such taxation, as well as of state and county taxation, all such property shall be assessed by the city assessor and his deputy or deputies in the manner hereinafter provided.

SEC. 3. The city assessor shall have the power, by and with the consent of the city council, to appoint such number of deputy assessors, not exceeding three, as the city council may from year to year deem necessary and by resolution designate; such appointment of deputy assessors shall be submitted in writing to the council on the third (3d) Monday in April in each year, or as soon thereafter as possible, and, if approved, shall continue in force for one (1) year from said last mentioned day. The compensation of the assessor and

of the deputy assessors shall be fixed by the council and made payable in such installments and at such times as the council may prescribe.

SEC. 4. The assessor and the deputy assessors shall qualify and shall perform their duties in the manner prescribed by the general statutes of this state relating to assessors and assessments; *provided*, that the time allowed for making the assessment of property in said city shall begin on the first (1st) day in May and extend to the second (2d) Monday in July in each year. The powers of the assessor and the deputy assessors shall be equal, except that it shall be the prerogative of the assessor to apportion the labor of assessment between himself and his deputies as he may think proper, and to decide, in the first instance, in case of disagreement between him and them or either of them as to the proper valuation of any parcel or class of property. No assessment of property within said city for the purpose of taxation shall be made by any person other than the city assessor or his deputies, except in cases otherwise provided for in this act.

SEC. 5. The mayor, the president of the council and the recorder of said city shall constitute a board of equalization in and for said city, of which the mayor shall be chairman and the recorder secretary, and shall meet as such board on the second (2d) Monday in July in each year, at nine (9) o'clock in the forenoon, at the office of the city recorder, and, with such intermediate adjournments as they may deem necessary, shall remain in session three (3) days.

Notice of the time and place of said meeting of said board shall be given by the recorder by publication of such notice in the official newspaper of said city at least once in each week for two (2) successive weeks immediately prior to said meeting, and also by posting copies of such notice in three (3) public places in said city at least ten (10) days immediately prior to said meeting, but a failure of the recorder to give such notice or of said board to hold such meeting shall not vitiate the assessment made by the assessor and his deputies, except so far as it may be shown in individual cases that material injury has resulted from such failure, and then only to the extent of property diminishing valuations claimed to be excessive, and of correcting assessments of personalty claimed to be erroneous as to the person to whom the same is assessed, which might, but for such failure, have been considered and corrected at such meeting.

Said board of equalization shall possess like powers, perform like duties and be governed by the same rules as township boards of equalization under the general statutes of this state, and its acts and decisions shall have the same force and effect as the acts and decisions of such township boards.

SEC. 6. The assessor shall attend at the meeting and the sessions of said board, exhibit to the board the assessment rolls made by him and his deputies and give the board, so far as he is able, all required information relative to the assessments. He shall also carefully note all corrections and changes made by the board in assessments and correct the assessment rolls accordingly.

The city attorney shall attend the sessions of the board as its legal adviser, and shall also there represent and defend the interest of the city, and whenever it shall appear to him that any parcel or kind of property in the city is assessed at less than its proper valuation, he shall, in behalf of the city, apply to the board to have such valuation rectified. Any person deeming himself aggrieved by any assessment may appear before the board personally or by counsel and present his grievance, and the board shall review such assessment, and if it finds the complaint well founded, shall correct such assessment as justice may require.

SEC. 7. The revision of the assessment by said board shall be completed within the period of three (3) days, mentioned in section five (5) of this chapter, and the assessor shall, within forty-eight (48) hours thereafter, make return to the county auditor of Winona county of his assessment rolls or books, as revised by said board, together with the original lists and statements of persons assessed, as required by the general statutes of this state in such case made and provided.

SEC. 8. The moneys and securities in the city treasury, not belonging to any school fund, shall be divided into the following named funds, to-wit:

The general fund, into which shall be paid and in which shall be kept, in addition to such moneys as may be raised therefor by taxation, all receipts by the city from license fees, water rents, ferry earnings, fines and costs, sales of city property aside from school property, and all moneys received from any other source, except such as may be expressly destined for special funds; and from which fund shall be paid all the ordinary and current expenses, debts and liabilities of the city, and all other expenses and liabilities of the city not otherwise expressly provided for.

The city bond fund, in which shall be kept all moneys raised by taxation for the payment of the bonds of the city and interest thereon, and from which such bonds and interest shall be paid:

The library fund, in which shall be kept all moneys raised by taxation or otherwise acquired for the support or benefit of the free public library of the city, and which shall be subject to the order of the proper officers of said library for the payment of the expenses thereof.

The special fire department fund, in which shall be kept all moneys received by the city from the state by virtue of the provisions of chapter 187 of the general laws of Minnesota for 1885, and amendments thereof, and which shall be subject to appropriation or disbursement for those purposes only which are specified in said chapter or in amendments thereto.

And such other special funds as may hereafter be established by any statute of the state or by city ordinance.

SEC. 9. The said several funds mentioned in the last preceding section shall be kept separate and distinct, and the city treasurer shall keep separate and distinct accounts of receipts therein and disbursements therefrom. Each of said funds shall be devoted only to the particular purpose or purposes for which it is created, and the

city treasurer is expressly prohibited from making any disbursement from either of said funds, or from permitting the same to be to any extent depleted, for any other than such particular purpose or purposes, any attempted appropriation by the city council or any order to the contrary notwithstanding.

And the city treasurer shall pay no order or part of any order drawn on either of said funds, unless the fund so drawn upon contains money or securities sufficient to cover the amount of such order, or such part thereof, and in case he shall make, on any order drawn on either of said funds, any payment in excess of the balance existing to the credit of such fund at the time of such payment, the city shall not be liable or accountable to him for the excess; but it shall be his duty as soon as any one of said funds is exhausted, to immediately inform the city council of such fact. The city treasurer shall not make or permit to be paid any transfer of any money from either of said funds to another, except in the cases mentioned and provided for in the two provisos in section sixteen (16) of this chapter.

Sec. 10. At the first meeting of the city council in the month of September in each year the city treasurer shall make a report in writing to the council, showing the balance in the city treasury on the first day of said last named month to the credit of each of the funds mentioned in section (8) eight of this chapter, or the deficiency, if any, in each of said funds, and showing, also, the total amount of money received during the year ending with the thirty-first (31st) day of August last preceding from all sources aside from taxation.

And the city recorder shall at said meeting present to the council in writing an estimate in detail of the several sums which will be required to meet the expenses of the city during the next ensuing fiscal year for the following named departments and purposes, to-wit:

First—Expenses payable from general fund.

Salaries of city officers, except police, ferry and fire department officers,
 Police department,
 Fire department,
 Water works department.
 Street department.
 Ferry and Wisconsin roads and bridges,
 Public lighting,
 Municipal court,
 Printing and stationery,
 Board of health,
 Fuel supplies for city buildings,
 Miscellaneous and contingent expenses.

Second—

For payment of principal and interest of city bonds.

Third—

For support of free [public] library, (being the percentage now or hereafter allowed by city ordinance), and for such other specific objects or purposes as may hereafter be provided for by

act of the legislature or by action of the city council; and said estimate of expenses shall be accompanied by an estimate of the probable receipts during the next ensuing fiscal year from each and all sources other than taxation; and by a statement of the amount, as nearly as the same can be ascertained, of taxable property in the city as shown by the last preceding assessment.

SEC. 11. The council shall, on receipt of said report from the city treasurer and said estimate and statement from the city recorder, refer the same to its standing committee on finance, who shall carefully consider the same and, before the tenth (10th) day of October next following, report the same back to the council, recommending such additions to or deductions from the estimated receipts or estimated expenses as in the judgment of the committee are required.

SEC. 12. Upon receiving the report of its committee on finance provided for in the last preceding section, and before the tenth (10th) day of October in each year, the city council shall act upon said report and decide upon and establish the estimate of expenses for the departments and purposes above mentioned, and shall, after making due allowance for estimated receipts from other sources, and for any possible surplus which may be on hand at the end of the then current fiscal year as well as for any deficiency which it may find likely then to exist in either of the funds mentioned in section eight (8) of this chapter, determine separately how much money it will be necessary to raise by taxation to meet the current expenses of the city payable out of the general fund during the next ensuing fiscal year and to supply the estimated deficiency, if any, in said fund, and how much it will be necessary to so raise for the payment of the principal and interest falling due on city bonds during such next ensuing fiscal year and to supply the estimated deficiency, if any, in the city bond fund, and how much it may be necessary to raise for any other special funds which may hereafter be created. To the amount found necessary to be raised for each of said funds shall be added ten (10) per centum thereof as security against possible deficiencies in collections of taxes or in receipts from other sources, and the council shall thereupon by resolution in writing, direct a levy of taxes to be made upon all the taxable property in the city for each of said funds by name to the amount determined in the manner aforesaid as necessary to be raised by taxation therefor, and shall also in and by such resolution direct a special levy for the library fund upon said taxable property of such percentages of the last preceding assessed valuation thereof as may now or hereafter be allowed for that purpose by city ordinance; *Provided*, That the levy so as aforesaid to be ordered for said general fund shall not in any year exceed in amount one (1) per centum of the total valuation of the taxable property in said city according to the last preceding official assessment thereof.

SEC. 13. On or before the tenth (10th) day of October in each year, the city recorder shall transmit to the county auditor of Winona county a copy, duly certified under his hand and the corporate seal of said city, of the resolution of the city council directing levies of

taxes as required in the last preceding section; and the said county auditor shall at the proper time in each year make levies of taxes upon all the taxable property in said city for the several funds as required in and by the resolution of the city council adopted and certified to the county auditor in the manner aforesaid, and enter such levies upon the tax lists for said city in the manner prescribed by the general statutes of this state in such case made and provided, which levies and entries shall be made under the respective heads: "For the general fund, City of Winona;" "For city bond fund, City of Winona;" "For the library fund, City of Winona," and under appropriate heads for such other special funds of said city as may hereafter be established by statute or ordinance and for which levies of taxes may be ordered by the city council; and such taxes so levied and entered shall be collected by the same officer, at the same times and in the same manner, and payment thereof shall be enforced by like proceedings, as provided by the general statutes of this state relating to the collection of taxes, and in the account thereof kept by the collecting officer, the said several funds shall be kept separate and distinct.

SEC. 14. At the regular times fixed by law for making settlements in each year the county treasurer of the county of Winona shall pay over to the treasurer of said city all moneys then in his hands belonging to said city, including all penalties and interest collected on taxes levied for the use of said city, and shall accompany each such payment with a statement in writing showing the several amounts belonging to the several funds above mentioned respectively.

Whenever, previous to any [one] of the regular settlements provided for by law, there shall be in any one of the said funds in the treasury of said city a lack of money necessary for any disbursement which can properly be made from such fund, and there shall be money or securities in the county treasury to the credit of such fund, the said county treasurer shall, on application of the said city treasurer, pay over to said city treasurer such money or securities, or both, on hand in said county treasury, and such advances so made shall be adjusted and allowed at the next succeeding regular settlement with said city treasurer; *provided*, that such application for advances shall not be made more than once in any calendar month for any one (1) fund.

SEC. 15. Whenever the said city treasurer shall receive from the said county treasurer or from any other officer or person or from any source any money or its equivalent belonging to said city, he shall apportion and credit the same to the proper fund or funds, and shall without delay transmit to the city recorder a duplicate of his receipt therefor.

SEC. 16. The city council shall make no appropriation from, nor shall the mayor or the recorder sign any order upon any one of said funds in the city treasury for any purpose for which such fund can not legally and appropriately be used, nor shall the city council authorize or attempt to authorize, or the mayor or the recorder sign any order for any transfer of money or its equivalent from any one of said funds to another; *provided*, however, that, when necessary to

preserve the credit of the city, the city council may, by written resolution duly adopted, direct a transfer of the requisite amount from the general fund to the city bond fund, and may, in like manner, direct a return of such amount to the general fund as soon as the same can be spared from the city bond fund without unduly depleting the same; and *provided further*, that whenever it shall have been finally decided judicially that any outstanding city bond is invalid, or that the city is not liable thereon, the city council may, by resolution in writing, direct a transfer to the general fund of such part of the city bond fund as may have been previously raised and reserved for the payment of such bond; but in every order drawn to effect a transfer so authorized by resolution of the city council by virtue of either of the last preceding two provisos, such resolution and the date of its adoption shall be mentioned and referred to, and the recorder shall transmit to the city treasurer with such order a duly certified copy of such resolution.

SEC. 17. When for any reason the city council disputes the validity of any outstanding city bond or the liability of the city thereon, it may by resolution in writing direct that payment of the principal and interest of such bond be suspended until the validity of such bond or the liability of the city thereon, shall be finally declared by judicial decision; and the city recorder shall, immediately after the adoption of any such resolution, transmit a duly certified copy thereof to the city treasurer, who shall thereupon withhold payment of such bond and interest thereon until the council shall by resolution otherwise order. But the above provisions in this section shall not be construed as authorizing the council to omit the making of any levy of taxes, prior to such judicial decision, for the payment of such bond or the interest thereon when due, or to divert to other purposes, prior to such decision, any moneys already raised for the purpose of making such payment.

SEC. 18. No money shall be paid out of the funds in the city treasury belonging to the city, except for principal or interest of city bonds, unless such payment shall be specifically authorized by an affirmative vote of a majority of all the members of the city council taken by a call of the ayes and noes, and then only upon an order drawn by the recorder, signed by the mayor and countersigned by the recorder, specifying the purpose for which and the fund upon which it is drawn, and made payable to the order of the person, firm or corporation in whose favor it is issued; *Provided*, that orders in the form above prescribed may be issued at the proper times, without specific action by the council in each instance, for the payment of salaries, wages or expenses previously fixed and determined by the council for certain definite terms or periods and made payable at certain definite times and in certain definite installments; and *provided further*, that the provisions of this section shall not apply to the library fund or to any city school fund, which funds shall be subject to the control only of the trustees of the free public library and the board of education respectively for duly authorized purposes.

SEC. 19. The city council, the purchasing committee and all other officers of the city shall in all appropriations, and in all purchases made or liabilities incurred, payable or involving disbursements from the general fund, take care not to exceed in any fiscal year the several estimates made as in this chapter above provided of probable expenditures from said fund, and no greater aggregate of appropriations shall be made for any department or purpose than the amount of the estimate therefor; *provided*, that in case any extraordinary expenditure for any such department or purpose shall be rendered unavoidable by fire or other unforeseen calamity, whereby the estimate for such department or purpose may be exceeded, the city council may curtail expenses in other departments or for other purposes sufficiently to cover the excess so caused, or may secure a temporary loan to meet the exigency and make provision in the next levy of taxes for the payment of such loan.

It shall be the duty of the recorder to keep an accurate and separate account of the estimate made, as in this chapter above provided, for each department or purpose and of the appropriations made from time to time for each department or purpose, in such form that he may be enabled thereby to inform the council at any time how much of the sum estimated for any department or purpose remains unexpended. And the recorder shall also keep, with the aid of duplicate receipts and statements of payments made on city bonds to be furnished to him by the city treasurer, general accounts of the receipts in and expenditures from the general fund, the city bond fund, the special fire department fund and all other funds in the city treasury, except the city school funds, the library fund and other funds not subject to the control of the city council, which accounts shall be in such form that comparison may readily be made between them and the accounts kept by the city treasurer, and that the accounts kept by the recorder and the city treasurer respectfully may be easily checked by each other.

SEC. 20. Whenever the city treasurer shall pay any principal or interest on any city bond he shall immediately transmit to the recorder a statement of such payment and the amount thereof with a brief description of the particular bond on which the payment is made.

He shall submit to the city council at its first regular meeting in April in each year a full report in detail of all receipts in and disbursements from the general fund, the city bond fund, the special fire department fund and all other funds in the city treasury, except the city school funds, the library fund and other funds not subject to the control of the city council, during the fiscal year ending on the thirty-first (31st) day of March last preceding; and shall exhibit to said council's committee on finance immediately after said meeting on demand all moneys and securities in the city treasury, or the evidences thereof, to the credit of the funds mentioned in his said report, together with his books of account, and surrender to said committee for examination and cancellation all vouchers by him taken during said last preceding fiscal year for disbursements made from

said funds mentioned in said report. At the times which may be designated by statute or ordinance he shall also make such reports as may be required by such statute or ordinance to the board of education, the board of trustees of the free public library and to such other boards or officers as may at any time have control of special funds in his hands; and he shall further make such special reports to the city council as it may from time to time require, and his vouchers and books of account shall at all times be subject to inspection by the mayor or by said council's committee on finance.

SEC. 21. No appropriation shall be made from any moneys in the city treasury to pay the expense of any parade, except the annual parade of the fire department, or of any reception, show, celebration, public dinner or similar occasion, or for any purpose whatever not expressly or by necessary implication provided for in this act.

SEC. 22. Whenever any bonds for the payment of money shall be hereafter issued by said city, the same shall be made for principal sums of not less than one hundred dollars (\$100) or more than one thousand dollars (\$1,000) each, and shall, as to times of payment, be so distributed through a series of years that the amount of principal thereof and the amount of principal of bonds previously issued by the city falling due in any one fiscal year shall not, taken together, exceed fifteen thousand dollars (\$15,000); and the necessary means for the prompt and full payment of such principal so falling due and of all interest becoming payable in any fiscal year shall be provided for and raised by levy of taxes therefor at the time, and in the manner hereinabove prescribed.

SEC. 23. If the mayor, recorder or city treasurer shall at any time be guilty of any willful act, failure or neglect the design or necessary effect whereof shall be to violate or evade any provision of this chapter relating to the maintenance of separate funds in the city treasury and separate accounts thereof, or to divert any moneys from either of said funds to purposes for which such moneys can not legally and appropriately be used under the provisions of this act, he shall be deemed guilty of a misdemeanor and shall be liable to a fine of one hundred dollars (\$100); and no vote or resolution or ordinance of the city council, not expressly or by necessary implication authorized by this act, shall be held a justification of such act, failure or neglect.

SEC. 24. The city council may in its discretion authorize the deposit of all or any part of the moneys in the hands of the city treasurer in one or more banks in said city, in which case it shall, at least thirty (30) days before the first (1st) day of April in each year, cause notice to be given by publication in the official newspaper at least once in each week for two (2) successive weeks that the council will at some regular meeting, to be specified in the notice, before said first (1st) day in April receive from any and all banks in said city applications for such deposits, stating the rate of interest the applicants will pay on such deposits during the next ensuing fiscal year computed on daily balances, and that good and sufficient bonds, running to said city, will be furnished in an amount double the amount of such deposits likely to be received, as the same may be estimated by the council.

SEC. 25. The applications which may be filed in response to such notice shall be presented to the council at the meeting specified in the notice, and shall be then and there considered, and all may be rejected, or the council may direct that such deposits may be made in one (1) or more banks in the city offering the same and the highest rate of interest, on such bank or banks furnishing bonds for the several amounts which shall at such meeting be fixed by the council, with at least three (3) sureties, to be approved by the council, and conditioned for the safe keeping and payment of all moneys which may be so deposited in such bank with interest thereon at the stipulated rate.

The bank or banks so designated as depositaries shall then cause such bonds to be executed and acknowledged, and the usual justification of the sureties to be thereto attached, and present the same to the council for approval at its first (1st) meeting in April next following.

Upon the approval of such bonds and the filing thereof with the city recorder, the council shall direct that all the moneys of the city be deposited in the banks designated as depositaries in several amounts as nearly equal as possible, and that such deposits be continued in such bank during the then current fiscal year, and until other banks shall be selected as depositaries, unless such moneys shall be sooner withdrawn by order of the council; *Provided*, that the total sum on deposit in any bank at any time shall not exceed one-half ($\frac{1}{2}$) of the amount of the bond furnished by such bank.

SEC. 26. All moneys so deposited shall be subject to the official checks of the city treasurer for the payment of principal or interest on city bonds or orders duly drawn upon him, but the city treasurer shall, as nearly as possible, draw equally upon the several banks holding deposits; and interest at the stipulated rate shall be computed on the deposits at the end of each calendar month on the basis of daily balances during such month and placed in the proper proportions to the credit of the several funds deposited.

SEC. 27. The city treasurer shall, on the first (1st) day of each month, file with the recorder a statement showing the amounts deposited in the several banks during the last preceding month, and the amount remaining on deposit in each bank on that day to the credit of each of the funds so deposited; and in his regular report at the end of each fiscal year shall state the amount of interest realized on deposits during such year.

While moneys of the city are deposited in any bank under authority from the city council as above provided, the city treasurer shall not be liable, nor shall the sureties on his official bond be liable, for any loss thereof which may occur through the suspension, failure or other default of such bank.

SEC. 28. Whenever, from changes in the pecuniary ability of sureties or other cause, the city council shall deem the bonds of any bank or banks, filed as aforesaid, to have become insufficient security for the moneys therein deposited or likely to be therein deposited by the city treasurer, it shall require such bank or banks to furnish new

bonds with new sureties to be approved by the council for such amount as the council may designate; and if any bank so required shall fail promptly to execute and present such new bond, the city council shall direct the city treasurer to at once withdraw all deposits from such bank, and such bank shall cease to be a depository of city funds; and the council may substitute for such bank for the remainder of the fiscal year any other bank in said city offering to pay the rate of interest before stipulated by other banks in such year and furnishing bonds as herein above prescribed.

SEC. 29. All bonds given by banks as above provided shall be recorded by the city recorder in books used only for that purpose, which record, together with the original instruments, the recorder shall carefully keep and preserve.

All such bonds shall continue in force as long as any moneys belonging to the city or of which the city treasurer is in any way the custodian, remain deposited in the respective banks giving the same; and it shall be the duty of the council from time to time to examine such bonds and investigate the pecuniary standing of the sureties therein named, and if any such bonds are found insufficient to require new bonds to be furnished as above provided.

CHAPTER VII.

SEC. 1. The expense of surveying streets, lanes, alleys, sidewalks, sewers, drains, reservoirs, and public grounds in said city; of estimating the amount and cost of work proposed to be done on or about the same, and of making plans and specifications for such work; and the expense of cleansing streets and alleys, of constructing and repairing crosswalks on streets and alleys, and reservoirs; of establishing, improving and maintaining public parks and other public grounds, aside from streets and alleys, and of the lighting of streets, alleys and public grounds; and the expense of incidental and ordinary repairs on streets, alleys, public grounds and sidewalks shall be paid out of the general fund in the city treasury. The city recorder shall, in each year, embrace within the estimate of expenses required to be presented by him to the city council the amount or amounts necessary to be levied for the payment of the expenses aforesaid which may be incurred during the ensuing fiscal year, and for the payment of any such expenses incurred during the preceding year, and remaining unpaid; and the city council may thereupon direct and cause the levy and collection of such amount or amounts by taxation, in the manner prescribed for the levy and collection of other city taxes.

SEC. 2. The expense of filling, grading, planking, and paving or macadamizing streets and alleys to the center thereof, and of constructing sidewalks and area walls, and planting shade or ornamental trees along streets and alleys, shall be chargeable to the lots or parcels of land abutting upon such streets and alleys on the side on which such improvements are made, or upon such sidewalks and area walls; and the city council shall have power to provide for and establish a system of sewers in said city and to build sewers and lay sewer pipes in the

streets, roads and alleys thereof, and the expense of material for and of constructing or laying all sewers and sewer pipes in such streets, roads or alleys, or such part of such expense as the city council may designate, not less than the estimated expense of an ordinary sewer or sewer pipe, shall be chargeable to and assessed upon the lots or parcels of land abutting upon such streets, roads or alleys, without regard to the location of such sewers or sewer pipes as to the center line of such streets, roads or alleys; and the said expenses in this section mentioned shall be assessed upon said lots or parcels and collected in the manner hereinafter provided, for which said assessment and collection authority is hereby conferred upon said city.

SEC. 3. Prior to the passage of any ordinance or resolution for the doing of any work, the expense of which is to be assessed upon abutting lots or parcels of land, as provided in section two (2) of this chapter, the city council shall cause accurate plans and specifications of such proposed work, with an estimate of the probable expense thereof, to be made by the city engineer and presented to the council for its approval, and the same shall immediately, upon the approval thereof by the council, be filed with the city recorder for the inspection of all parties interested. The city council shall then designate a time, not less than twenty (20) days distant, and a place at which it will meet and act in relation to the doing of the proposed work, and direct that notice be given by the recorder of such meeting and the time and place thereof, and that in the meantime sealed proposals for the doing of such work will be received by the city recorder. In such notice shall be plainly stated the location of the proposed work, and reference shall be made therein to the said plans, specifications and estimate so filed with the recorder, and the said notice shall be given by publication thereof at least once in each week for two successive weeks prior to the time designated as aforesaid by the council. At the time and place designated in such notice an opportunity shall be given to any and all interested parties to be heard for or against such proposed work, and the recorder shall, in presence of the city council, open and read all sealed proposals which may have been received for the doing of such work, and the city council may then accept the most favorable proposal, and by resolution or ordinance authorize the doing of the proposed work by the person or persons whose proposal shall have been accepted, and direct that written contract be made with him or them therefor; or may reject any or all proposals offered, and refuse to authorize the doing of such work, or of any particular part thereof; or may, in its discretion, from lack of a quorum, or other sufficient reason, postpone the consideration and decision of the whole matter, or any branch thereof to a future definite time, of which postponement all parties interested shall be required and deemed to take notice. When the proposed work is the construction or laying of sewers or sewer pipes, the city council shall, in or by its ordinance or resolution authorizing the doing thereof, determine and specify what part or percentage of the expense thereof is to be assessed to abutting lots or parcels of land.

SEC. 4. Upon the completion and acceptance of any work charge-

able under the provisions of section two (2) of this chapter to the lots or parcels of land abutting thereon, the city engineer and the street commissioner shall assess the cost of such work, including the expense of any extra work, not covered by the contract made as aforesaid, which it may have been found necessary to do, and including, also, the cost of material used and not covered by such contract, or, in the case of the construction or laying of sewers or sewer pipes, such part of such cost thereof as may have been designated by the city council for such assessment, to the several lots or parcels of land abutting on the streets or alleys in which such work shall have been done in the proportion of the number of feet frontage of each lot or parcel abutting on such work or improvement to the whole number of feet of such frontage, and determine what part of the cost, or in the case of the construction or laying of sewers, of such proportion or percentage thereof designated by the council as aforesaid, shall be borne by each such lot or parcel, and shall make an assessment thereof in writing in which shall be given an accurate description of each lot or parcel so assessed, the name of the owner thereof, if known, and the exact amount assessed thereto, and shall at its next regular meeting after the completion of such assessment submit the same to the city council.

SEC. 5. On receipt of said assessment the council shall direct that the same be placed on file with the recorder, and shall appoint a time not less than twenty (20) days distant, and a place when and where it will meet to consider and act upon such assessment, and the recorder shall thereupon cause notice of such meeting and the time, place and purpose thereof, to be given by publication of such notice in the official newspaper at least once in each week for two (2) successive weeks prior to the time so appointed for said meeting; and in said notice shall be given a brief description of the lots or parcels mentioned in the assessment so filed, and the amount assessed to each and the names, so far as known, of the owners of such lots or parcels.

SEC. 6. At the time and place so appointed as provided in the last preceding section, the council shall proceed to consider said assessment and hear all objections which parties interested may desire to make thereto, and shall after due consideration make such corrections or charges in said assessment as they may deem necessary to perfect and equalize the same on the basis prescribed in section four (4) of this chapter, and shall confirm and establish the assessment as so corrected and equalized; and the said assessment as so confirmed and established shall be final, conclusive and binding upon all parties interested, and the several amounts charged in such assessment as so confirmed and established against the several lots and parcels of land therein mentioned shall be collected as in the next two (2) sections provided.

SEC. 7. The recorder shall forthwith make a duly certified copy of said assessment so confirmed and established by the council, and deliver the same to the city treasurer for collection, and shall also at the same time cause to be published in the official newspaper of the

city a copy of said confirmed and established assessment at least once in each week for two (2) successive weeks, together with a notice requiring the respective owners of the several lots or parcels of land mentioned in such assessment to pay the amounts therein assessed against such lots or parcels respectively, to the city treasurer within six (6) weeks from the date of the first publication of such notice.

SEC. 8. At the expiration of the time limited in the notice required by the preceding section, the city treasurer shall return to the recorder a list duly certified by him, said treasurer, of the assessments so made which still remain unpaid, giving in such list the description of the several lots or parcels on which the assessments have not been paid, with the name of the respective owners thereof, if known, and the several amounts assessed thereto.

The city recorder shall thereupon add to each such delinquent and unpaid assessment a penalty of ten (10) per cent, and forthwith transmit a duly certified list of such unpaid assessments with a description of the several lots or parcels of lands on which the same are made and the names of the respective owners thereof, if known, to the auditor of Winona county, who shall enter the several amounts of the said unpaid assessments on the tax list for said city for the next ensuing year and levy the same upon the several lots or parcels of land to which the same are respectively chargeable; and the same shall thereupon be collected as other taxes on real estate are collected.

SEC. 9. No assessment in this chapter provided for shall be set aside or held invalid, by reason of any informality or irregularity in the proceedings prior to the entry thereof on the tax list by the auditor of said county as hereinabove required, unless it shall appear that by reason of such informality or irregularity substantial injury has been done to the party or parties claiming to be aggrieved.

SEC. 10. The publisher of the official newspaper or his foreman having charge of the printing thereof shall, immediately after the completed publication of any and every notice which is by this chapter required to be published, make and file with the city recorder an affidavit showing such publication and the times when the same is made.

SEC. 11. All work for the city, whether under the provisions of this chapter or otherwise, shall be let to the lowest responsible bidder therefor, except such incidental repairs or improvements as in the opinion of the city council cannot judiciously be let by contract; any such contract may be for the doing of the work alone, the city furnishing the necessary material, or it may be for both work and material; and in case notice is not already provided for by law the city council shall direct that notice be given by publication in the official newspaper or newspapers, for such length of time as the council may prescribe, that proposals or bids will be received by the city recorder for the doing of such work so to be let, and will be submitted to the city council at a time and place to be specified in the notice.

SEC. 12. The person or persons to whom may be awarded the doing of any work referred to in section two (2) and three (3) of this chap-

ter, or [of] any other work done by contract for said city, may be required by the city council, as a condition of the awarding of such work, to execute a bond to the city of Winona, with two (2) or more sufficient sureties to be approved by the mayor, in such sum as the council may direct, conditioned for the faithful performance of such work, in accordance with the plans, specifications and contract therefor, and subject to the supervision and approval of such person or persons as the council may designate for that purpose, and for indemnity of said city against any damage or loss which may arise or in any way, directly or indirectly, be suffered by said city by reason of any occurrence while the work is going on, and before acceptance thereof by the city, caused by any negligence or misconduct on the part of the contractor or contractors, their servants or employes in doing the same.

CHAPTER VIII.

SECTION 1. Whenever the city council shall deem it necessary to acquire land within said city for the purpose of establishing public wharves or levees or of erecting and maintaining a market house, engine house, prison, workhouse, city hall or other public building thereon, or for any other public purpose except the laying out and opening, straightening, widening or enlarging of public streets, roads, alleys, squares or parks, which are mentioned and provided for in the next section, it shall have power to cause private property to be taken and appropriated therefor, and the damage for such taking shall be ascertained and determined in the manner in this chapter prescribed, and shall be paid out of the general fund in the city treasury.

SEC. 2. Whenever the city council shall deem it necessary to use private property for the purpose of laying out and opening, or widening, straightening or enlarging any public street, road, alley, park or square in said city, it shall have power to cause such private property to be taken and appropriated for such purpose, and the compensation or damage to the owner or owners of such private property shall be ascertained and determined, and the amount of such compensation or damage shall, so far as may be practicable and just, be assessed and charged upon other private property which is benefited by the improvement, in the manner and by means of the proceedings in this chapter prescribed.

SEC. 3. When private property is to be taken for any purpose above mentioned the city council shall, as a preliminary step, determine in a general way by resolution the amount, description and location of such property and define the purpose for which the same is to be appropriated, and shall direct the city engineer to make an accurate survey and plat of such property and of the public streets, alleys, roads, and grounds in its immediate vicinity, and in any case referred to in section two (2) of this chapter, of the improvement proposed, and to file such plat with the recorder within a certain time to be fixed by such resolution.

SEC. 4. At its first regular meeting after the filing of the plat provided for in the last preceding section, the council shall consider and approve the same or refer the same back to the city engineer for such alterations therein as the council may think necessary or expedient; and in the latter case the said engineer shall prepare and shall file with the recorder before the next regular meeting of the council, or within such time as may have been fixed by the council, a new or revised plat incorporating the required alterations, and such new or revised plat shall be submitted to the council for approval at its next regular meeting after the same is filed.

SEC. 5. On finally approving a plat prepared and presented as aforesaid, the council, if it decides to proceed further in the matter, shall appoint a time, not less than twenty (20) days distant, and a place when and where it will meet and definitely determine the question of taking private property for the purpose contemplated, and the recorder shall thereupon give notice of such meeting and of the time, place and object thereof, by publishing such notice in the official newspaper of the city at least once in each week for two (2) successive weeks prior to such meeting, in which notice shall be given a brief description of the private property proposed to be taken and a brief statement of the improvement or purpose for which it is to be appropriated, and in said notice it shall be stated that at the meeting so appointed, all persons interested may appear before the council and make such objections as they may desire to make to the carrying out of the contemplated project, and reference shall also be made in the notice to the plat which may have been approved by the council, and which shall be kept on file in the office of the recorder subject to public inspection.

SEC. 6. At the meeting provided for in the last preceding section, or at any time thereafter to which the council may adjourn for further consideration and decision in the matter, of which adjournment, if ordered, the record thereof shall be held sufficient public notice, the council, if it decides to cause the taking and appropriation of the private property previously designated for the proposed improvement or purpose, shall incorporate such decision in an ordinance or a resolution in writing, and shall also in and by such ordinance or resolution appoint three (3) commissioners, who shall be freeholders and qualified electors in the city, and whose duty it shall be to view the private property so to be taken and appropriated, and, in any case mentioned in said section two (2), other real estate which they may consider as within the reach of benefit from the proposed improvement, and to estimate and award to the person or persons entitled thereto the damage which may be occasioned by the taking of such private property and if the case is one requiring it, to designate the several lots and parcels of real estate which will be benefited by the proposed improvement, and, so far as may be practicable and just, to charge and assess the damage so awarded, to and upon such lots and parcels of real estate so to be benefited, in proportion to the benefits which will be conferred upon such lots and parcels respectively.

SEC. 7. The recorder shall, as soon as may be practicable, notify

in writing the persons so appointed of their appointment as such commissioners and request them to qualify and enter upon the performance of their duties within ten (10) days from the receipt of such notice. In case any person so appointed as commissioner shall, after being so notified and requested, refuse or neglect to qualify and enter upon his duties within ten (10) days after the date of such notice, the city council shall have power to declare his position vacant and to fill the vacancy by a new appointment, and the person so appointed to fill such vacancy shall be immediately notified in writing by the recorder of his appointment, and shall qualify and enter upon his duties within five (5) days after receiving such notice.

SEC. 8. The commissioners shall qualify by taking, subscribing and filing with the recorder an oath to discharge their duties as such commissioners with impartiality and fidelity, and to make due report of their proceedings and their assessments to the city council.

SEC. 9. The city engineer shall furnish the commissioners with a true copy of the plat by him prepared and by the council approved as aforesaid; and the commissioners shall thereupon proceed to view the private property proposed to be taken and, in case referred to in said section two (2), the vicinity thereof so far as to include within such view all lots and parcels of real estate which will in their judgment be benefited by the intended improvement, and may continue such view from day to day until the same is completed.

SEC. 10. Having completed their said view and having, if the case is one to which said section two (2) is applicable, determined in a general way what lots and parcels of land will be benefited more or less by the projected improvement, they shall give notice by publication in the official newspaper of the city at least once in each week for two (2) successive weeks of a time, which shall be not less than fifteen (15) days from the first (1st) publication of the notice, and a place when and where they will meet to assess the damage which will be occasioned by the taking of the private property proposed to be taken and also, if required in the particular case, to assess, so far as may be, the damage so to be determined upon such lots or parcels of other real estate as may in their judgment be benefited by such improvement, and besides referring in their said notice intelligibly to the general matter in which they are acting and describing the property so to be taken, shall state therein with reasonable certainty the area within which may be located the lots and parcels of real estate to which such damage will be assessed and apportioned upon the basis of benefits thereto resulting from the improvement.

SEC. 11. At their meeting so appointed and announced as in the last preceding section prescribed, the commissioners shall hear all persons who may desire to be heard upon the question of damages and benefits which are to be determined by the commissioners and may continue such hearing from day to day as long as may be necessary, not exceeding three (3) days, and they may administer the usual oath to all persons who may appear before them as witnesses.

When such hearing is ended, the commissioners shall proceed to estimate, determine and assess the damages which will be occasioned

by the taking of the private property proposed to be taken and to award the same to the persons interested in such property or holding mortgage, or other liens thereon in proportion to the extent of their respective interest therein or liens thereon, so far as such persons and their respective interests or liens may be known to the commissioners; and shall, if the case requires it, also assess, as far as may be practicable and just, the amount of the damages so awarded, to the several lots or parcels of real estate which will be benefited by the proposed improvement in proportion to the actual benefits which in the judgment of the commissioners will result to such lots and parcels respectively. In estimating the damages to be awarded for the taking of property as aforesaid the commissioners shall take into consideration the reasonable value of the property so to be taken and the injury which may be incident to such taking, but shall also consider the advantages if any, which will accrue to the owner or owners of such property so taken or to persons interested therein or having liens thereon from the proposed improvement.

SEC. 12. If there should be any building or buildings standing, in whole or in part, upon any part of the land to be taken, the commissioners shall in such case determine and assess the amount of damages which should be paid in case such building or so much thereof as might be necessary should be appropriated, and also the amount of damages to be paid in case the owner or owners should elect to remove such building or buildings. If such land and buildings belong to different persons, the damages to such persons respectively may be awarded to them by the commissioners, less the benefit resulting to them from the improvement.

SEC. 13. Said commissioners having ascertained and assessed the damages as aforesaid and, if the particular case requires it, having also assessed in the manner aforesaid the amount of such damages, so far as may be practicable and just, to the several lots and parcels of real estate benefited by the proposed improvement, shall as early as possible, make and file with the city recorder a written and formal report to the city council of their action in the premises, embracing a schedule of their assessments of damages in all cases where damages are awarded on account of the taking of land or buildings, and a separate schedule of their assessments of such damages or part thereof to real estate benefited by the proposed improvement, with a statement in each case of the several lots or parcels of land involved, and the names, so far as known, of the respective owners thereof or of interest therein or liens thereon, and shall accompany such report with a minute of their fees and the other expenses of their proceedings.

SEC. 14. Upon such report being filed in the office of the city recorder he shall cause to be published once in the official newspaper of the city a notice that such report and assessments have been so filed, giving in connection with the notice an intelligible description of the lands and buildings on account of the taking of which damages have been awarded and of the lots and parcels of real estate upon which such damages or part thereof have been assessed, and that the

same will be presented to the city council for confirmation at a meeting the time and place whereof shall be specified in the notice, which time shall be not less than ten (10) days after the publication of the notice, and requiring all persons interested to file with said recorder in writing and in detail before such meeting, all objections which they may desire to make to such assessments, which in the meantime shall be open to their inspection.

Any persons interested in buildings standing in whole or in part upon land required to be taken, shall at the time of or before said meeting, of which notice is so given, notify the council in writing of their election, if made, to remove such buildings from such land.

The city council at the meeting fixed for the consideration of the said report of the commissioners, or at any subsequent meeting to which the consideration thereof may be postponed, of which postponement, if made, the record thereof shall be deemed sufficient notice, shall have power to confirm, revise or annul the assessments as made by the commissioners, giving due consideration to the objections, if any, filed by interested parties as aforesaid; and unless such assessments are entirely annulled, shall confirm and establish the same as appearing in the report or as revised. If the council shall annul the assessments it may, in its discretion, by resolution appoint three new commissioners who shall be freeholders and lawful voters in said city and shall qualify and perform their duties in the same manner as if they had been appointed in the first instance.

SEC. 15. When the assessment and award of damages to be paid for the taking of private property in any case herein provided for shall have been finally confirmed and established by the city council as aforesaid, such damages so ascertained shall be paid or tendered, or deposited and set apart in the treasury of said city to or for the parties entitled thereto within one (1) year from such confirmation of such assessment and award, and the land required to be taken shall not be appropriated until such damages shall be paid or tendered to the parties entitled thereto, or deposited and set apart for their use as aforesaid, and in case the 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 in similar cases, and there remain until parties shall substantiate their claims to the same; notice of which deposit shall be given to all such claimants, and if at the time of making such tender or deposit more than twenty (20) days shall have elapsed since the confirmation of the original or revised assessment as aforesaid without appeal having been taken therefrom as hereinafter provided, the council may cause the property for the taking of which such damages may have been awarded, to be appropriated and used for the improvement or purpose already determined upon *Provided*; however, that in any case in which such damages or part thereof shall have been assessed and charged to other property deemed benefited by the intended improvement, the council may cause the payment, tender or deposit

above provided for to be delayed until such assessments shall have been levied and collected or shall have become an established tax lien upon the property upon which such assessments may have been made, not exceeding eighteen (18) months, and in such case shall have the right to cause such payment, tender or deposit to be made and to cause the property for the taking of which the damages may have been awarded, to be appropriated and used for the intended improvement or purpose at any time within said period of eighteen (18) months; and provided further, that when any appeal shall have been taken from any award or assessment as hereinafter provided, such limited period of one (1) year or eighteen (18) months, as the case may be, shall not begin to run until such appeal shall have been finally decided in the district court.

SEC. 16. In case the owner or owners of any buildings as aforesaid shall have elected in manner aforesaid, to remove such buildings, he or they shall remove the same within thirty (30) days from the date of the council's action in confirming and establishing the assessments as aforesaid, or within such future time as the city council may allow for such purpose and shall thereupon be entitled within the period herein before limited of one (1) year or eighteen (18) months, as the case may be, 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, may upon payment or deposit of the damages awarded for the taking thereof in manner aforesaid and within the period limited as aforesaid, be taken or 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.

SEC. 17. Any person feeling aggrieved by any award or assessment made as aforesaid, 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 (20) days after the confirmation and establishment by the city council, as aforesaid, of such award or assessment, appeal from such award or 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, but no pleadings shall be required, and the party appealing shall specify in the notice of appeal the grounds of objection to such award or assessment, and shall not be entitled to have any other objections than those specified, considered; and a transcript of the record of the proceedings of the council in the matter of such award or assessment, and of such award or assessment itself, and of any objections filed with the recorder by the appellant, as provided in section fourteen (14) of this chapter, certified by the city recorder, shall be procured by the appellant and filed with his notice of appeal in the office of the clerk of said district court, and such transcript shall be *prima facie* evidence of the facts therein stated; and no proceedings had or taken, and no award or assessment made in any case

arising under this chapter shall be vitiated or held invalid by reason of any informality or irregularity in such proceedings or in or about the making of such award or assessment, unless it shall appear that by reason of such informality or irregularity substantial injury or prejudice has resulted to the party claiming to be aggrieved, and no objections on account of alleged irregularities or informalities in proceedings occurring before the confirmation and establishment of such award or assessment by the council shall be considered on appeal unless such objections shall have been presented to the council or filed with the recorder as prescribed in section fourteen (14) of this chapter.

SEC. 18. The final decision of every appeal taken to the said district court as herein above provided shall be certified to the council by the clerk of the said court within ten (10) days after such final decision is made, by filing a certificate thereof with the recorder of said city; and no appeal shall lie from such final decision, or from any intermediate order or decision of said district court in the case.

SEC. 19. At the time prescribed in chapter six (6) of this act for the certifying to the auditor of Winona county of the ordinary levies of taxes ordered by the city council, the city recorder shall also transmit to said auditor a transcript of all assessments, made since the last preceding levy of taxes ordered by the council and from which no appeal is pending, of the expense of improvements upon property benefited, as in this chapter provided, and the said auditor shall thereupon at the proper time enter such assessments against the proper lots and parcels of land in the tax list for said city, and the same shall be collected, accounted for and paid over in the same manner and at the same times to the city treasurer as other taxes collected for said city and when received shall be placed to the credit of the general fund.

SEC. 20. Upon the decision of any appeal taken as aforesaid or at any other stage of any proceedings under this chapter the city council may, when in its opinion public interest requires such action, order that such proceedings be abandoned; and in such case may withhold payment of any damages which may have been awarded and revoke any assessments which may have been determined upon; and if any such assessments shall already have been certified to the county auditor of said county; may direct the said auditor to cancel the same, or if any such assessments shall have been collected, may order that the amounts thereof be refunded from the general fund in the city treasury to the persons respectively entitled thereto.

SEC. 21. The publisher of the official newspaper, or his foreman in charge of the printing thereof, shall, immediately after the publication of any notice or other matter herein required to be published, make and file with the city recorder an affidavit showing such publication and the dates thereof; and every such affidavit, and every copy thereof duly certified by the recorder, shall be held sufficient proof of the facts in such affidavit stated.

CHAPTER IX.

SEC. 1. All civil actions to recover any penalty or forfeiture under this act or under any ordinance or regulation passed in pursuance thereof or for any other authorized purpose, and all prosecutions for the violation of any penal provision in this act or of any ordinance or regulation adopted in pursuance of this act, shall be brought in the corporate name of the city.

SEC. 2. The municipal court of said city of Winona shall, except as otherwise provided in this act, have exclusive jurisdiction to hear, try and determine all civil actions brought to recover any pecuniary penalty provided for in this act not exceeding three hundred (300) dollars, and all prosecutions for the violation of provisions of this act or the ordinances and regulations of said city to which punishment by fine or imprisonment or both is attached, with power to impose and enforce the prescribed penalties for such violation; and the proceedings in such cases in said municipal court shall be as prescribed by the act of the legislature creating said court and by the several acts amendatory thereof. The office of justice of the peace in said city is hereby expressly abolished.

SEC. 3. In any complaint for the violation of any ordinance of said city relating to the offense of vagrancy, it shall be sufficient to charge the defendant with being a vagrant, and evidence of all facts constituting the said offense in the particular case may be given under such general charge.

In any complaint charging the sale or disposal of any spirituous, vinous, fermented, malt or, intoxicating liquor contrary to any ordinance of said city, it shall be sufficient to allege a sale or disposal of intoxicating liquor, and evidence may be given under such allegation showing or tending to show the sale or disposal by the defendant of liquor of any one or more of the kinds above mentioned; and when the proof shows a sale or disposal of beer, such liquor shall, in the absence of evidence to the contrary, be presumed to have been the kind of beer ordinarily sold over the bar and to have been intoxicating.

SEC. 4. No person shall be an incompetent judge, witness, juror, referee or commissioner in any action or proceeding to which said city is a party by reason of his being an inhabitant thereof.

SEC. 5. No judgment in favor of the city in either a civil or a criminal action shall be remitted or discharged, except by a vote of three-fourths ($\frac{3}{4}$) of all the members of the city council.

SEC. 6. The district court in and for the county of Winona shall have jurisdiction and authority upon application from said city, to enjoin and prohibit any threatened or attempted violation of any ordinance of the said city that shall be passed in pursuance of or authorized by subdivision thirty-six (36) or thirty-seven (37) of section three (3) in chapter four (4) of this act, or any threatened or attempted violation of an ordinance of said city prohibiting obstruction or incumbrance of public streets, roads, alleys, parks or other public grounds in said city, or to enjoin and prohibit the maintenance or

continuance of any such obstruction or incumbrance, or the creation, maintenance or continuance of any public nuisance of any sort in said city; and the fact that any ordinance in this section above referred to prescribes a penalty for the violation thereof, or the fact that any person guilty of such violation or of any act, attempt or offense in this section referred to, may be liable to fine, imprisonment or other penalty therefor, shall not bar any action in said district court to enjoin such violation, act, attempt or offense, or abridge to any extent whatever the jurisdiction or authority in this section conferred upon said district court.

SEC. 7. No action shall be maintained against said city of Winona on account of or to recover damages for any injury or loss alleged to have been received or suffered by reason of any defect in any bridge, street, road, sidewalk, park, public ground, public building, ferry boat, or public works of any kind; or by reason of any alleged negligence or misconduct of any officer, agent, servant or employe of said city, at any time or place, unless the person claiming to have sustained such injury or loss, or his lawful representatives, shall, within thirty (30) days, or if the alleged injury shall have resulted in the death or insanity of the person injured, then within sixty (60) days after the happening of such injury or loss, present his or their claim to compensation, damages or other relief on account thereof to the city council in writing, stating the time when, the place where, and the circumstances under which such injury or loss occurred, and the amount of compensation or the nature of the relief demanded from the city, and give said council ten (10) days time after such claim is so presented, within which to decide upon the course it will pursue with relation to such claim; nor shall any such action be maintained unless the same shall be commenced within one (1) year after the happening of such alleged injury or loss.

SEC. 8. All deeds, leases or other conveyances, or other written transfers of property made, and all written contracts entered into by the city, and all bonds and other evidences of debt issued by the city, shall, on behalf of the city, be signed by the mayor and attested by the recorder.

SEC. 9. Service of process and writs in any action or other judicial proceeding against the city, may be made upon the mayor, and upon such service being made, the mayor shall immediately inform the city council thereof, and shall take such other steps in relation to the action or proceeding in which such process or writs are issued, as may be required by ordinance in such case provided, or by resolution of the city council.

SEC. 10. All real estate and appurtenances thereto, all buildings, all engines, trucks, carts, appliances and apparatus, all machinery, boats, pumping works, and all other property of any kind or description, owned or held by said city for city or public uses or purposes, shall be exempt from taxation and from seizure or sale under or by virtue of any execution or other writ, or by virtue of any action or proceeding.

SEC. 11. When any final judgment shall be recovered in any com-

petent court against the city, the same shall be paid out of any moneys in the general fund in the city treasury not appropriated or required for other purposes. If there are no moneys in said fund which can be devoted to the payment of such judgment without injury to other interests of the city, the amount of such judgment with interest thereon shall be included in the next levy of taxes ordered by the council, and when collected shall be paid to the holder of such judgment.

SEC. 12. All officers of said city, while in office, and all employes of said city, while in service, and all officers and active members of the fire department in said city, shall be exempt from duty as jurors in any court or tribunal in this state.

SEC. 13. No failure to hold any election in said city at the time or in the manner in this act prescribed or any failure on the part of the city council or of any city officer or officers to perform any duty prescribed by this act at the time when or the manner in which it should be performed, shall not operate to dissolve or suspend said city as a municipal corporation, or to diminish or affect the city's municipal or corporate rights, powers or privileges, but such election may be held or such duty be performed at a subsequent time with full force and effect.

SEC. 14. The powers conferred by this act upon the city council or upon any officer or officers of said city for the abatement or removal of nuisances or for the arrest and punishment of persons creating or maintaining the same, shall not operate as a bar to private actions or proceedings in the courts to abate the same.

Buildings wherein is deposited any greater amount of gunpowder or other explosive material or agent than may be authorized by city ordinance, gambling houses or places, houses or ill-fame or of assignation, disorderly houses, saloons or other place where traffic in intoxicating liquors is carried on without city license required therefor, and all unauthorized incumbrances or obstructions on public streets, roads, alleys or bridges in said city, are hereby declared public or common nuisances.

SEC. 15. Said city shall have the right to take and to prosecute an appeal to the district court of Winona [county] or to the supreme court of this state in any action or proceeding to which it may be a party, if the judgment, order or decree from which it may desire to appeal is one from which an appeal will lie under the general statutes of this state. And whenever such appeal is taken by the city the requisite bond on appeal shall be executed in the name of the city by the mayor, and attested by the recorder who shall affix the corporate seal of the city thereto; but no sureties or justification shall be required on such bond.

The provisions of this section respecting bonds on appeal shall also apply to all other bonds which it may become necessary for the city to furnish in actions or other judicial proceedings.

SEC. 16. Said city shall not be liable in any case for the board, washing or fees on commitment of any person who may be committed to the jail of Winona county on charge or conviction of any offense under the general statutes of the state.

SEC. 17. Whenever any plat of any parcel of land within the limits of said city, showing divisions and subdivisions of such parcel into lots, blocks and streets shall be submitted to the city council for approval pursuant to the provisions of chapter twenty-nine (29) of the general statutes of this state, with intention to dedicate such streets to public use, such plat shall be accompanied with a delineation of a sufficient part of other platted portions of the city to indicate how the streets marked on such plat correspond and connect with streets already in use in said city; and the council may require such alterations to be made in the streets as shown on the plat so presented as in its opinion are necessary to preserve uniformity and regularity in the public streets of the city, and may withhold approval of the plat presented until such alterations shall be made; and should any (sale or dispose of any) lot or block outlined in such plat be sold or offered for sale as such lot or block before such alterations are made or before approval of the plat by the council, the person selling or offering the same for sale shall be liable to the penalty prescribed in section nine (9) of said chapter twenty-nine (29).

SEC. 18. When any public street road or alley, or part thereof or any public park or grounds shall be laid out and opened in said city pursuant to the provisions of chapter eight (8) of this act, or shall be dedicated to public use by deed, the city engineer shall make and file an accurate plat thereof in the office of the register of deeds of Winona county, and the same shall be there recorded.

SEC. 19. If any person or company shall place and leave any unauthorized obstruction, or make any unauthorized excavation in any street, road or alley in said city, or leave such obstruction or excavation unguarded when authorized, such person or company shall be liable to any person who may personally be injured or whose property may be injured or destroyed without his fault by means of such obstruction or excavation; and in case any damage shall be recovered in any action against said city for injuries caused by such obstruction or excavation, the city shall have the right to recover the amount of such damages in turn from the person or company placing such obstruction or making such excavation; *provided*, that upon the commencement of any such action against the city notice thereof shall be immediately given in writing to such person or company so liable, with a statement that the city will look to such person or company to pay the amount of any judgment against the city which may be recovered in such action, and an opportunity given to such person or company to defend such action; and such person or company may upon his or its own application, or upon the application of the city, be made a party defendants to such action, in which case, if judgment be recovered against the defendant, execution thereon shall be first issued against such person or company only, and the city shall not be required to pay such judgment until such execution shall be returned unsatisfied.

SEC. 20. All now existing ordinances and regulations duly enacted or adopted by the city council, and all now existing rules and regulations adopted by the board of health of said city, not inconsistent

with the provisions of this act, are hereby ratified and confirmed, and the same shall be and remain in full force and effect until repealed or amended by said city council or by said board of health acting within their respective provinces; and nothing in this act shall be considered as abrogating or lessening the obligation of any contract, express or implied, heretofore made or entered into by said city, or of any engagement, express or implied, of said city to pay for services to be rendered or materials to be furnished; or as invalidating any levy of taxes or any appropriation of money heretofore ordered by the city council.

SEC. 21. The city council may from time to time provide for the compilation and publication in book or pamphlet form of the ordinances and regulations of the city, rules of the council, police rules, regulations adopted by the board of health and such resolutions of the council as the council may designate, and may provide for the distribution by sale or otherwise of copies of such compilation and publication; and such books or pamphlets so issued, purporting on the title page to have been published by authority of the city council of said city and to contain the ordinances of the city or other matter in this section above mentioned, shall be *prima facie* evidence of their contents in all courts of this state; and in the absence of evidence to the contrary, all ordinances, rules regulations and resolutions found therein shall be presumed to have been duly and legally passed, promulgated or adopted.

Copies, duly certified by the recorder of said city, of ordinances or rules, regulations or resolutions in writing, or other papers in his official custody, or of any records kept by him in his official capacity, shall also be received as *prima facie* evidence of their contents in all courts of this state.

The district court of the county of Winona, and the municipal court of the city of Winona, shall take judicial notice of all ordinances, rules, regulations and resolutions in this section above mentioned.

SEC. 22. No general law of this state shall be deemed to repeal, amend or modify any of the provisions of this act, unless an intention so to do be expressly set forth in such general law.

SEC. 23. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed; *Provided*, however, that no rights already accrued, or any penalty or forfeiture heretofore incurred under the provisions of any act or part of act so repealed shall be affected by such repeal; nor shall such repeal affect any action or other legal proceeding pending at the date of the approval of this act, except so far as the mode of procedure therein may be changed by this act.

SEC. 24. This act is hereby declared to be a public act, and may be read in evidence in all courts in this state without proof.

SEC. 25. This act shall take effect and be in force from and after its passage.

Approved February 21st, 1887.