

SEC. 15. Chapters six (6), twelve (12), thirteen (13), fourteen (14) and fifteen (15) of said charter are hereby repealed and all other parts of said charter conflicting with this act are hereby repealed.

SEC. 16. This act shall take effect and be in force from and after its passage.

Approved March 23, 1889.

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## CHAPTER 13.

[S. F. No. 408.]

### AN ACT TO AMEND THE CHARTER OF THE CITY OF WABASHA.

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

SECTION 1. That the act entitled an act to incorporate the city of Wabasha, approved March 5, A. D., 1869, and the several acts amendatory thereof, be amended so as to read as follows:

#### CHAPTER I.

Section 1. All that part of the county of Wabasha, 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 Wabasha." The said corporation shall have the powers generally possessed by municipal corporations at common law, and in addition thereto shall possess the powers hereinafter specially 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 Mississippi river at the dividing line between Wisconsin and Minnesota at the mouth of a small creek between Wabasha and Read's Landing, thence up said creek to the west line of township number one hundred and eleven (111) north, range ten 10) west, thence along the said township line to the north east corner of section number thirty-six (36) township number one hundred and eleven (111) north, range eleven (11) west, thence along the north line of section number thirty-six (36) to the northwest corner of said section, thence on the west line of said section to the southwest cor-

ner, thence on the south line of said section to the southeast corner, thence along the west line of section six (6), township number one hundred and ten (110) north, range ten (10) west to the southwest corner of said section, thence along the south line of sections six (6), five (5) and four (4) of township one hundred and ten (110) north, range ten (10) west, to the south east corner of said section number four (4), thence north along the east line of said section four (4), township one hundred and ten (110) north, range ten (10) west, to the northeast corner of said section four (4), thence east along the north line of section three (3), township one hundred and ten (110) north, range ten (10) west to the Wisconsin line, thence along the Wisconsin line to the place of beginning.

SEC. 3. The said city shall be divided into three wards as follows: The first ward shall comprise all that portion of the city east and north of the center of "the slough" that lies west of a line drawn from the bank of the Mississippi river through the center of Bailey street to Market street, thence diagonally across Market street to the center of Madison street, thence due south to the end of said Madison street, thence due west to the center of the slough. The second ward shall comprise all that portion of the city east and north of the center of the slough that lies east of the last mentioned line. The third ward shall comprise all that portion of the city that lies south and west of the slough; *provided* that the boundaries of said wards may be changed or new wards created by ordinance passed and adopted by three-fourths ( $\frac{3}{4}$ ) of all the aldermen of the common council of said city.

## CHAPTER II.

### ELECTIVE OFFICERS AND ELECTIONS.

SECTION 1. The elective officers of the city shall be a mayor, treasurer, recorder, assessor and two justices of the peace, all of whom shall be residents of the city one (1) year next preceding their election, and qualified voters. Each ward shall elect two (2) aldermen and one (1) constable, all of whom shall have been residents and qualified voters of their respective wards thirty (30) days next preceding their election. The justices of the peace and aldermen shall hold their offices for two (2) years and until their successors are elected and qualified. The mayor, treasurer, recorder, assessor and constables shall hold their offices for the term of one (1) year and until their successors are elected and qualified. *Provided*, that there shall be but one (1) alderman elected in each ward each year and that the present officers of said city and of the wards therein shall hold office for the time for which originally elected.

SEC. 2. The election for city officers and for the aldermen and constables of said city shall be held on the first (1st) Tuesday in April of every year in each ward of said city at such places as may be fixed by the common council of said city, which election shall be conducted by the aldermen of each ward or such other persons as may be designated by the common council at least ten (10) days before such election, who shall be inspectors of such election and who shall take the

oath or affirmation prescribed by the general laws of the state to be taken by judges of election, and vacancies among the inspectors at the time of the opening of the polls shall be filled as vacancies among judges of election are filled by the general laws of this state. And the common council shall designate some suitable persons to act as clerks of election in each ward, and in case of failure to so designate, or the absence of the persons so designated, the said inspectors shall have full power to appoint all necessary clerks to conduct such election, and administer all necessary oaths to said clerks. Said election shall be held and conducted in the same manner and under the same penalties as required by the general laws of the state regarding elections, except as hereinafter provided. Ten (10) days notice shall be given by the city recorder of the time and place of holding said election and of the officers to be elected and of all questions to be submitted to the voters of said city by posting notices thereof at the polling place in each ward in said city together with a list of the legal voters of the ward in which it is posted, as shown by the poll list of the last previous election, and by publishing said notice in the official paper of the city. The judges of election of each ward shall meet on the Monday preceding any such election at their respective polling places for the purpose of correcting the poll list and registering voters, and it shall not be necessary for them to meet at any other time for such purpose. The judges and clerks shall each receive two (2) dollars per day for their services at any city election.

Whenever a proposition is voted upon, that money shall be borrowed or bonds shall be issued for and in behalf of said city, then and in that case, only the qualified voters who have paid taxes to the county treasurer of Wabasha county for the year immediately preceding the election, or are assessed to a taxable amount at the time of the election for property in the city of Wabasha, shall be allowed to vote, and the judges of election are authorized to require the production of the proper tax receipt or evidence of assessment for their inspection, or other satisfactory proof thereof, and any person refusing or neglecting to comply therewith shall not be allowed to vote. If said proposition is voted upon at the same time when officers or other propositions are voted upon, then in that case a separate ballot shall be used for the above purpose, and deposited in a separate ballot box provided therefor; and all votes not cast in compliance with the above shall not be counted.

SEC. 3. All elections by the people shall be by ballots, and each ballot shall contain the names of the persons voted for with a proper designation of the office written or printed thereon, and a plurality of votes shall constitute an election. When two (2) or more candidates for an elective office shall receive an equal number of votes for the same office, the election shall be determined by the casting of lots in the presence of the common council at such time and in such manner as they shall direct.

SEC. 4. All persons entitled to vote for state or county officers and who reside in the ward where they offer to vote, shall be entitled to vote for any officer to be elected under this law; *provided*, their names shall have been duly inserted in the list of the qualified electors of the ward in which they reside, as in the case of the election of

state and county officers; except, that no person who at the time of any city election is or who within the twenty (20) days next preceding any such election has been, an inmate of the Wabasha county poor house shall be entitled to vote at such election. The different wards established by law shall constitute election districts for state and county elections as well as for city elections and the mode of conducting all state and county elections in this city shall be the same as is now or hereafter may be prescribed by the general election laws of the state of Minnesota. When the election for city or ward officers shall be closed, the judges or inspectors shall make return thereof to the city recorder within twenty-four (24) hours after such election, in the same manner as provided by law for the return of state and county officers to the county auditor and within one (1) day thereafter the common council shall meet and canvass the returns thereof, and declare the result as appears from such returns, and the city recorder shall forthwith give notice to the persons elected of their respective elections.

SEC. 5. Any officer receiving from the city or ward for which he was elected or appointed, or any person who shall refuse or neglect for ten (10) days after notice of his election or appointment to qualify and enter upon the duties of his office shall be deemed to have vacated the office and any officer having entered upon the duties of his office may resign by giving notice thereof to and with the consent of the common council. Upon the happening of either of the contingencies hereinbefore expressed it shall be the duty of the common council, to declare the office vacant and to decide that the same be filled as hereinafter provided.

SEC. 6. Whenever a vacancy shall occur in the office of mayor by death, removal, resignation or otherwise, the common council shall have power, and it shall be their duty to declare the office vacant by resolution entered upon the minutes. Such vacancy shall be filled by a new election which shall be ordered by the common council within ten (10) days after said vacancy is declared and held within twenty (20) days after such declaration, and reasonable notice of such election shall be given. Any vacancy happening in any other office shall be filled by the common council unless otherwise provided for. The person elected or appointed to fill a vacancy shall hold his office and discharge the duties thereof for the unexpired term, and with the same rights and subject to the same liabilities as the person whose office he was elected or appointed to fill; *provided*, that no special election shall be held to fill any vacancy in any elective office when such vacancy occurs within six (6) months of the expiration of the term of the office in which such vacancy occurs. In such case the vacant office shall be filled by the common council.

SEC. 7. No person shall be eligible to, or shall be elected or appointed to, any office in the city who is in any manner, either directly or indirectly, interested in any contract with the city, regardless as to whether said contract was made with the common council or any officer or board of said city for the benefit of said city, and all contracts made by the common council or any officer or board of said city with any officer thereof, directly or indirectly, shall be wholly void.

SEC. 8. Every person elected or appointed to any office under the

provisions of this act shall, before he enters upon the duties of his office take and subscribe an oath of office and file the same with the city recorder of the city, and the treasurer, recorder and such other officers as the common council may require, shall severally before they enter upon the duties of their respective offices, execute to the city of Wabasha, bonds in such amounts and with such sureties and conditions as the common council shall prescribe, and in the absence of special provisions such officers shall give bonds in the amounts and upon conditions of the bonds of their predecessors in office. The bond of the city treasurer shall be executed by at least four (4) sureties who shall justify in the aggregate of double the penal sum of said bond and shall be approved by the common council by resolution. The bonds of the other city officers shall be approved by the common council or any proper authority thereof, and the said common council may require of any officer to execute new bonds, or additional bonds, when for any cause they may deem the bonds of said officer to be insufficient, and may remove any officer who refuses or neglects to furnish such new or additional bonds when required to do so by said common council.

SEC. 9. The term of every officer elected under this act shall commence on the third (3) Tuesday in April of the year for which he was elected and shall unless otherwise provided, continue for one (1) year and until his successor is elected and qualified.

SEC. 10. Should there be a failure by the people to elect any officer herein required to be elected on the day designated, the common council may order a new election to be held, ten (10) days notice of time and place to be given.

SEC. 11. Special elections to fill vacancies, or for any other purpose shall be held and conducted in the same manner and the returns thereof made in the same form and manner as in annual city elections, and within such time as may be prescribed by resolution.

## CHAPTER III.

### THE DUTIES OF OFFICERS.

SECTION 1. The mayor shall be the chief executive officer of the city and *ex-officio* president of the common council, but shall not vote on any question except in case of a tie; *provided*, that he shall have the right to vote on all appointments made by the common council and in the election of officers whom it shall be the duty of the common council to elect. He shall take care that the laws of the state and the ordinances of the city are duly observed and enforced, and that all other executive officers of the city shall discharge their respective duties. He shall from time to time give to the common council such information and recommend such measures as he may deem of advantage to the city. All ordinances and resolutions shall, before they take effect be signed by the mayor and attested by the recorder and published one (1) week in the official paper of the city.

SEC. 2. In case the mayor shall be absent from any meeting of the common council the aldermen present shall elect a presiding officer from their own number. In case of the absence of the mayor from

the city, or his inability from any cause to discharge the duties of his office, the aldermen of the city or a majority thereof shall elect from their own number an acting mayor, and all acts performed by him while acting in the capacity of mayor shall have the same force and validity as if performed by the mayor. *Provided*, that any such presiding officer or acting mayor shall not be debarred from voting on any and all questions which may come before the common council.

SEC. 3. There shall be a recorder of said city styled the City Recorder, who shall keep his office at the place of meeting of the common council or such other place convenient thereto as the common council may determine. He shall keep the corporate seal and all the papers and records of the city, and keep a record of the proceedings of the common council at whose meetings it shall be his duty to attend. Copies of all papers filed in his office, and transcripts from all records of the common council certified by him under the corporate seal shall be evidence in all courts as if the original were produced. He shall draw and countersign all orders on the city treasurer, in pursuance of any order or resolution of the common council, and keep a full and accurate account thereof in books provided for that purpose. The city recorder shall have power to administer oaths and affirmations, and to take acknowledgments. It shall be the duty of the city recorder to report to the common council the financial condition of the city whenever the common council shall require. He shall make and keep a list of outstanding city bonds, to whom issued, for what purpose, when and where payable and the rate of interest they respectively bear, and recommend such action to the common council as will secure the punctual payment of the principal and interest of such bonds. He shall report to the common council annually, on or about the first (1st) day of September, or preceding to the time of the levy of the city taxes in each year, an estimate of the expenses of the city, and likewise the revenue necessary to be raised for the current year. He shall make or cause to be made estimates of the expenses of any work to be done by the city, and countersign all contracts made in behalf of the city, and certificates of work authorized by any committee of the common council, or by any city officer. And every contract made in behalf of the city or to which the city is a party shall be void unless signed by the recorder. The city recorder shall keep regular books of account in which he shall enter all indebtedness of the city, and which shall at all times show the precise financial condition of the city; the amount of bonds, orders, certificates or other evidences of indebtedness which have been redeemed, and the amount of each outstanding; to countersign all bonds, orders, or other evidences of indebtedness of the city, and to keep accurate accounts thereof, stating to whom and for what purpose issued, and the amount thereof; to keep accounts of all receiving and disbursing officers of the city, showing the amount they have received from the different sources of revenue and the amount which they have disbursed under the direction of the common council. He shall keep a list of all certificates issued for work or other purposes, and before the levy by the common council of any special tax upon the property in the city, or any part thereof, shall report to the com-

mon council a schedule of all lots or parcels of land which may be subject to the proposed special tax or assessment, and also the amount of such special tax or assessment which it may be necessary to levy on such lots or parcels of lands, which said schedule shall be certified by the affidavit of the recorder, and shall be prima facie evidence of the facts therein stated in all cases in which the validity of such special tax or assessment shall come into question. The common council shall, if from such report they deem such special tax legal and just, cause the same to be levied in pursuance of the provisions of this act. If before the first (1st) day of January of any year, the amount expended or to be expended, chargeable to any city fund (adding thereto the current expenses estimated for the remainder of the fiscal year and chargeable to such fund), shall be equal to three-fourths ( $\frac{3}{4}$ ) of the tax authorized to be raised, or revenue estimated for such fund, he shall report at once the same to the common council, and he shall not countersign any contract chargeable to such fund until the amount of taxes actually collected be ascertained; and during the remainder of the fiscal year he shall not countersign any contract, the expense of which will exceed the revenue actually collected for the fund to which such expenses are properly chargeable. The recorder shall examine all the reports, books, papers, vouchers and accounts of the city treasurer, and from time to time shall perform such other duties as the common council may direct. And he shall keep a record of all his acts and doings, and keep a book in which he shall enter all contracts with an index thereto; such record shall be open to the inspection of all parties interested. The city recorder shall receive a compensation to be fixed by the common council, which shall not exceed one hundred and fifty (\$150) dollars per annum.

SEC. 4. The common council shall have power to elect an attorney for the city who shall perform all professional services incident to his office, and when required shall furnish opinions in writing upon any subjects submitted to him by the common council or its committees. He shall advise with and counsel all the officers of the city in regard to their duties and attend the stated meetings of the common council and of such committees as may require his attendance. He shall hold his office for the term of one (1) year, and his compensation shall be fixed by the common council. *Provided*, the common council shall have the right and authority to employ an attorney to assist the city attorney in the prosecution or defense of any proceeding or action at law in which the city is interested, or to discharge the duties of city attorney when for any reason he is unable to act.

SEC. 5. The treasurer shall receive all moneys belonging to the city, including license money and fines, and keep an accurate and detailed account thereof in such books and in such manner therein provided, as the common council shall furnish. The treasurer shall report to the common council annually, on or before the first (1st) Tuesday in April, a detailed statement of the receipts and a gross statement of the city orders paid during the year ending with the last day of March, together with the condition of the treasury at such date, which statement shall be filed with the city recorder, and a copy of the same published in the official paper of the city. The treasurer's books shall be subject at any and all times to the demand

of the common council for inspection and to its appointed committees therefor, and as otherwise required and provided for in this act. The treasurer shall draw a compensation not to exceed the sum of fifty (50) dollars per annum.

SEC. 6. The assessor of the city of Wabasha shall qualify and perform the duties pertaining to his office in accordance with the general statutes of the state in regard to assessors, and shall at the time provided by the general laws of the state present at the office of the city recorder or such other place as the common council may provide, his assessment for review. He shall be present during the review of said assessment to advise, if needed, in regard to the same, and upon the completion of said review within the time prescribed by the general laws make final return to the auditor of Wabasha county.

The assessor shall receive such compensation as the common council shall direct; *provided*, that the compensation paid to him shall not exceed in any one (1) year one hundred dollars (\$100.00) for assessing the personal property, and one hundred and fifty dollars (\$150.00) for assessing the personal and real estate property in said city.

SEC. 7. The common council may at any regular meeting elect by ballot a street commissioner who shall hold his office during the pleasure of the common council. It shall be the duty of the street commissioner to conduct, execute or superintend any such work, repairs or improvements on the streets, alleys, bridges, public grounds or public works of said city as may be committed to him by the common council, and he shall be required to execute a bond with sureties satisfactory to the common council, conditioned for the faithful performance of his duties, and that he will account for all moneys collected or received by him in his official capacity or belonging to the city. He shall receive such compensation as the common council may direct but the same shall not exceed the rate of two dollars (\$2) per day for time actually employed.

SEC. 8. The common council at its first meeting after the annual election, or as soon thereafter as may be, may elect a city surveyor, who shall be a practical surveyor and engineer. He shall keep his office in some convenient place in said city, and the common council may prescribe his duties, and fix the fees and compensation for any services performed by him. All surveys, profiles, plans or estimates made by him for the city shall be the property of said city and shall be carefully preserved in the office of the recorder and open to the inspection of persons interested. He shall hold his office for the period of one (1) year.

SEC. 9. The justices of the peace elected in the city shall possess all the authority, power and rights of a justice of the peace of the county of Wabasha under the laws of this state, and shall have in addition thereto exclusive and original jurisdiction to hear and try all complaints for violation of any provision or provisions of the city charter or any ordinance, by-law, rule or regulation made or adopted under or by virtue thereof, and of all cases cognizable before a justice of the peace in which the city is a party, and of all writs, prosecutions and proceedings in the recovery of any fine, forfeiture or penalty under any by-law, ordinance, or any regulation of the city or its charter,



and in all cases of offenses committed against the same. In all prosecutions for assaults, batteries and affrays, and for all other offenses not indictable, and in all civil suits or proceedings before said justices of the peace the same forms and proceedings shall be had and used when not otherwise directed as are established and required to be had in civil and criminal actions by the laws of this state before a justice of the peace, and appeals from the judgments and decisions of said justices of the peace shall be allowed as now provided by law for appeals from judgments rendered by justices of the peace. In all cases of convictions for assaults, batteries and affrays within said city, and in all cases of convictions under any ordinance of the city for breach of the peace, disorderly conduct, keeping houses of ill fame or frequenting the same, and of keeping and maintaining disorderly or ill governed houses, the said justices shall have power, in addition to the fines or penalties imposed, to compel said offenders to give security for their good behavior, and to keep the peace for a period not exceeding six (6) months, and in a sum not exceeding five hundred dollars (\$500.) The said justice of the peace shall have the same power and authority in cases of contempt as a justice of the peace under the laws now in force. All fines and penalties imposed by justices of the peace for all offenses committed within the city limits, or for the violation of any ordinance, by-law or regulation of said city, shall belong to and be a part of the revenue of the city.

SEC. 10. The justices of the peace shall as often as the common council may require, report to the common council all the proceedings instituted before them in which the city is interested, and shall at the same time account for and pay over to the city treasurer, all fines and penalties collected or received by them belonging to the city; and said justices shall be entitled to receive such fees as are allowed by statute to justices of the peace for similar services.

SEC. 11. Said justices of the peace shall be in attendance at their offices for the transaction of business at such reasonable hours as the common council may prescribe, and complaints may be made to and writs and process issued by them at all times, in court or otherwise.

SEC. 12. In all suits brought in behalf of the city for the recovery of any forfeiture, fines or penalty, in all cases arising on complaints for the violation of any ordinance, by-law or regulation of said city, and on complaint for assault, battery or affray, or other misdemeanor, or criminal offense not indictable, committed within said city, the said justices shall be authorized to tax with the other legal costs, one (1) dollar for each trial for the benefit of said city, and their residence in said city shall not deprive them of jurisdiction of action brought in favor of or against said city, when such actions are otherwise within the jurisdiction of a justice of the peace; *provided*, that said fee of one (1) dollar shall not be collected from either the city or county of Wabasha.

SEC. 13. The constables of said city shall have the powers of constables under the general laws of this state, and any process issued by any justice of the peace of said city may be served by the sheriff of Wabasha county, the city marshal, the police officers or constable of said city, and all general laws of this state applicable to the return and service of any such process shall govern in the service thereof.

The sheriff of Wabasha county, the city marshal and the constables and police officers of said city shall have the power to arrest any person violating any law, by-law, ordinance, rule or regulation of said city in the presence of any of said officers and to take such person or persons before a justice of the peace of the city, and may retain him a sufficient time for that purpose, not exceeding twenty-four (24) hours in some proper place for such person in said city. When any person arrested as aforesaid, shall be brought before said justice he shall immediately proceed in a summary manner to try such person, on complaint preferred by the officer making the arrest.

SEC. 14. The mayor or acting mayor, the sheriff of Wabasha county, or his deputy or deputies, the coroner, each alderman, the justices of the peace, the city marshal, the police officers and watchmen shall be officers of the peace, and may command the peace, suppress in a summary manner, all rioting and disorderly behavior within the limits of the city, and for such purposes may command the assistance of the bystanders, and if need be of all the citizens or military companies. And if any person, bystander, military officer or private shall refuse to aid in maintaining the peace when so required, each person so refusing shall pay and forfeit a fine of fifty (50) dollars.

SEC. 15. The newly elected common council at its first meeting after the annual city election of each year or as soon thereafter as may be shall designate an official newspaper, which shall be published in this city, and in the newspaper so designated shall be published all ordinances, by-laws, resolutions and other matter required by this act or by the by-laws or ordinances of the common council to be published in a public newspaper. The city printer or printers immediately after the publication of any notice, ordinance or resolution which is required to be published, shall file with the city recorder a copy of such publication, with his affidavit or the affidavit of his or their foreman of the length of time the same has been published and such affidavit shall be *prima facie* evidence of the publication of such notice, ordinance, or resolution. *Provided*, that if no person will publish in any newspaper published in said city, such ordinances or other matter as the common council may require to be published, at a rate not exceeding that now prescribed by statute for legal advertisements or notices, the common council may make such other provisions for publishing its ordinances, by-laws and matter requiring publication as it may think fit, any thing herein contained to the contrary notwithstanding.

SEC. 16. If any person having been an officer of said city shall not within ten (10) days after notification and request, deliver to his successor in office, all property, books, papers and effects of every description in his possession belonging to said city, or pertaining to the office he may have held, he shall forfeit and pay to the use of the city one thousand (1,000) dollars, besides all damages caused by his neglect or his refusal so to deliver, and said successor may receive possession of such books, papers and effects, in the manner prescribed by the laws of this state.

SEC. 17. The common council shall have power at any time to require other and further duties to be performed by any officer whose

duties are herein prescribed, not inconsistent with this act, and to appoint such other officers as may be necessary to carry into effect the provisions of this act, and to prescribe their duties, unless otherwise provided for; but no officer elected or appointed by the common council, or appointed by the mayor as hereinbefore provided, shall be appointed for a longer term than one (1) year and until his successor is elected or appointed and duly qualified, except that aldermen and justices of the peace appointed to fill vacancies, shall be appointed for and serve out the term of the person creating the vacancy and in whose place they were appointed.

The common council shall have the power, unless as herein otherwise provided, to fix the compensation of all officers elected or appointed under this act, and such compensation shall be fixed by resolution; and in regard to all offices created by this charter, the compensation shall be fixed within three (3) months from the first organization and meeting of the common council; and the compensation so fixed shall not be changed, increased or diminished, during the term for which such officer was elected or appointed. No officer elected or appointed to office under the provisions of this charter, shall be a party to or interested in any contract in which the city is interested, made while such officer is holding office.

SEC. 18. The mayor and aldermen shall receive no compensation for their services as such officers, except the fixed compensation as members of the board of review and judges of election; *provided*, that the common council may allow its members reasonable compensation for committee work actually performed.

## CHAPTER IV.

### RELATING TO THE CITY POLICE.

SECTION 1. The police force of the city shall consist of the mayor, who shall be the chief executive officer of the city, and who shall at all times have control and supervision of the police of the city; a city marshal and a night watchman, both of whom shall be elected by the common council, and such other policemen and watchmen as the mayor shall, with the advice and consent of the common council, appoint. The common council shall have the power to remove, suspend or discharge any police officer summarily, whenever in its opinion the welfare of the city may demand it, either for the appointment of other officers in their places, or for the reduction of the police force.

SEC. 2. The mayor may, at the request of any person, firm, society or organization, appoint policemen or watchmen, who shall serve without expense to the city, and have police powers to preserve the peace and protect the property within such limits and at such places as may be designated in such appointment, but such limited policemen shall not exercise any police authority, nor wear any official badge outside of the limits named in such appointment.

SEC. 3. The mayor shall, in case of riot, or large public gatherings, or disturbance, or when in his judgment the occasion requires, appoint such number of special policemen, or temporary police officers as he may deem necessary, but such temporary appointments

shall not continue more than one (1) week without the consent of the council.

SEC. 4. All police officers and watchmen of the city shall possess the powers of constables at common law and under the laws of this state, and in addition thereto shall have power, and it shall be their duty to serve and execute all warrants, processes, commitments and any writs whatever, issued by the justices of the peace of said city, and they shall have power, with the consent of or by the direction of the mayor, to pursue and arrest any person fleeing from justice in any part of the state. When they pursue criminals outside of the city, and such criminals are charged with offenses against the state law, they shall be entitled to receive for their own use all fees for such pursuit and all rewards offered for the apprehension of such criminals.

SEC. 5. The common council may from time to time make such regulations for the control of the police force, and the powers and duties of the several officers thereof as it may deem necessary. Such regulations may designate uniforms, badges, arms, discipline and drill exercise of the police force, as well as the conduct of the officers and men when on and off duty, and all other matters deemed necessary to promote the efficiency of the force.

SEC. 6. If any person shall, without authority, assume to act as policeman, or pretend to have such power, or wear a badge of a policeman within the city, he shall be deemed to be guilty of a misdemeanor, and upon conviction shall be fined in any sum not exceeding one hundred dollars (\$100.00) or imprisonment not exceeding thirty (30) days, or both at the discretion of the court.

## CHAPTER V.

### THE COMMON COUNCIL—ITS GENERAL POWERS AND DUTIES.

SECTION 1. The mayor and aldermen shall constitute the common council, and the style of all ordinances shall be, "The common council of the city of Wabasha do ordain." A majority of the aldermen shall constitute a quorum, but a less number may meet at the time of any stated meeting and adjourn, and all business transacted at such adjourned meeting shall have the same validity as if done at the stated meeting.

SEC. 2. The common council shall hold stated meetings on the first (1st) and third (3d) Tuesdays of each month at such hour as they may designate by resolution, and the mayor may call special meetings of the common council by notice to each of the members, delivered personally or left at their usual places of abode, which said notice shall contain a statement of the business for which such meeting is called, and no other business shall be transacted at such special meeting except such as is designated in said notice.

SEC. 3. The common council shall be the judge of the election and qualification of its members, and in such cases shall have power to send for persons and papers. It shall determine the rules and regulations of its own proceedings, and have power to compel the attend-

ance of absent members, and may provide for the punishment of such absent members in addition to the forfeiture provided for in this act.

SEC. 4. The common council shall have power to remove from office any officer of said city, whether appointed, or elected by the people, but no officer elected by the people shall be removed except for cause, nor unless first furnished with a copy of the charges, nor until such person shall have had reasonable opportunity to be heard in his defense, either by himself or by counsel. Continued absence from the meetings of the council in case of aldermen for six (6) regular meetings, and neglect of duty in case of other officers, unless for good reason, or being in any way interested in any contract with the city, shall be deemed good cause for removal. The common council shall fix a time and place for the trial of any officer against whom charges may be preferred, of which not less than ten (10) days notice shall be given to the accused, and shall have power to send for persons and papers, and shall have power to compel the attendance of witnesses and hear and determine the case; and if such officer shall refuse or neglect to appear and defend, the common council shall declare the office vacant.

SEC. 5. The common council shall have the management and control of the finances (subject to the provisions of this act), and all property of the city, and shall likewise, in addition to the power herein vested in them, have full power to make, enact, ordain, establish, publish, enforce, alter, modify, amend, and repeal all such ordinances, rules and by-laws for the government of the city and to promote the good order of the same, for the suppression of vice and intemperance, and for the prevention of crime, as they shall deem expedient; they shall have power to establish and maintain a city prison and workhouse for the imprisonment, custody and safe keeping of all persons arrested for or charged with any offense against any ordinance of the city or laws of the state cognizable before the justices of the city; to make rules and regulations for the government and management of such city prison and workhouse, and to appoint keepers and other officers of the same, and to prescribe their duties and fix their compensation. The keepers of said prison and workhouse shall possess all the powers and authority of jailors at common law or by the laws of this state. The common council shall have full power and authority to declare and impose penalties and punishments and to enforce the same against any person or persons who may violate any of the provisions of any ordinance, rule or by-law passed and ordained by them; and all such ordinances, rules or by-laws are hereby declared to be and have the force of law; *provided*, that they be not inconsistent with the constitution and laws of the United States and of this state, and for these purposes shall have authority, by ordinances, resolutions, or by-law,—

*First*—To license and regulate the exhibition of common showmen and shows of all kinds, the exhibition of caravans, circuses, concerts, theatrical performances, and also to regulate and license all auctioneers, billiard tables, pigeon hole tables, nine or ten pin alleys, bowling saloons, butcher shops and butcher stalls, and venders of butcher meats, pawn brokers, insurance offices and insurance agencies, taverns, lager beer saloons, theaters, skating rinks, victualing

houses, rifle and target ranges and all places of public amusements, and all persons vending or dealing in spirituous, vinous, fermented, or malt liquors, and all dealers in second hand goods, junk dealers, and all keepers of intelligence offices and employment offices, all draymen, hackmen, peddlers, persons selling goods at retail by sample and transient retail stores of any and all kinds; *provided* that all licenses except for exhibitions, caravans, circuses, menageries, concerts and theatrical performances shall extend to and expire on the first (1st) Monday of July next following the issuing of the same. *And provided further*, that the power to regulate above given shall extend to and be construed to include among other powers, the power to define who shall be considered pawn brokers, auctioneers, dealers in second hand goods, junk dealers and peddlers.

*Second*—To restrain and prohibit all descriptions of gambling and fraudulent devices and practices, and all playing of cards, dice or other games of chance for the purpose of gambling, within the city, and to restrain from vending or dealing in spirituous, vinous, fermented or malt liquors, unless duly licensed by the common council, and no license issued shall be transferable except as now or as may be hereafter provided by the general state law. *Provided*, that nothing contained herein shall be so construed as to prevent the people of the city of Wabasha from deciding for themselves whether or not license shall be granted to any person or persons in said city to sell lager beer, spirituous, vinous, malt or fermented liquors, and the city recorder is hereby required on the petition of ten (10) or more legal voters of said city, at any time not less than ten (10) days before any annual city election, to give notice that the question of license will be submitted at said election, and notice thereof shall be given by said city recorder at the same time and in the same manner that notices of annual city elections are given, and said question of license shall be determined by ballot containing the words "in favor of license" or "against license" (as the case may be) which vote shall be canvassed and returned as is by law prescribed for canvassing election returns; and if such returns show that a majority of the votes cast at said election shall be against license, then in such case the common council of said city shall grant no license to sell lager beer, spirituous, vinous, malt or intoxicating liquors in said city of Wabasha, except to persons legitimately and bonafidely engaged in the business or occupation of druggists, and then only for medical and mechanical purposes. *And provided further*, that nothing contained herein shall be construed so as to prevent the common council of said city, and they are hereby authorized and directed in all cases where the people of said city shall determine by vote as provided in the foregoing second (2d) subdivision of section five (5) of chapter five (5) to grant no license for the sale of spirituous, vinous, malt, fermented, or other intoxicating liquors (excepting for medical or mechanical purposes), to prohibit any and all persons from bartering, selling, giving away, or in any manner disposing of, or keeping for sale or other disposal any spirituous, vinous, malt, fermented or intoxicating liquors within the limits of said city. *And provided further*, that no license shall be granted to any person to deal in or vend within the city limits any spirituous, vinous, fermented or malt

liquors for a less sum than five hundred (500) dollars as a license fee for one (1) year or part of a year or a greater sum than one thousand (1,000) dollars for the same period of time.

*Third*—To prevent any noise, riot, disturbance and disorderly assemblage in said city, and to provide for the arrest and punishment of any person or persons who may be guilty of the same; to suppress disorderly houses and houses of ill-fame, and gambling houses, and to provide for the arrest and punishment of the keepers thereof, and to authorize the destruction of all instruments and apparatus used for the purpose of gambling or gaming.

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

*Fifth*—To direct the location and management of stock-yards, slaughter-houses, markets, breweries, distilleries, oil-houses, soap factories, glue factories, and bone-boiling establishments, and to establish rates for and license venders of gunpowder and other explosives, and to regulate the storage, keeping and conveyance of gunpowder, dynamite, oil or other explosives, or combustible material, and to regulate the use thereof in the city.

*Sixth*—To prevent the encumbering of streets, sidewalks, alleys, lanes and public grounds, with carriages, carts, wagons, sleighs, boxes, lumber, firewood, posts, awnings, signs, or any other articles or material whatever.

*Seventh*—To direct and control the laying out and construction of railroad tracks, bridges, turnouts and switches, in the streets and alleys, and the location of depot grounds within the city; to require that railroad tracks, bridges, turnouts and switches shall be so constructed and laid out as to interfere as little as possible with the ordinary travel and use of the streets and alleys, and that sufficient space shall be left on either side of said track for the safe and convenient passage of teams and persons; to require railroad companies to keep in repair the streets through which their tracks may run, and to construct and keep in repair sidewalks, also suitable crossings at the intersections of streets and alleys, and sewers, ditches and culverts when the council shall deem necessary; to regulate the movement and speed of railroad locomotives and cars; to require the maintenance of flagmen, or the construction and maintenance of gates at the crossings of railway tracks over such streets, alleys and avenues of the city as the common council shall deem to require such precaution; to prevent and punish immoderate driving or riding in the streets; to compel persons to fasten their horses or other animals attached to vehicles or otherwise while standing on the streets, and to regulate places of bathing and swimming in the waters within the city limits.

*Eighth*—To restrain the running at large of horses, mules, cattle, swine, sheep, poultry and geese, and to authorize the distraining and sale of the same, and to impose penalties on the owners of such animals for violation of the ordinance.

*Ninth*—To prevent the running at large of dogs and to require a

license for keeping the same, and to provide for and authorize the destruction in a summary manner of all dogs when at large contrary to the ordinance. To provide for the killing of dangerous or vicious dogs within the city and to punish by fine or imprisonment the owner or keeper of any such dog who refuses to deliver the same up to be killed.

*Tenth*—To prevent any person from bringing, depositing or leaving within the city any putrid carcass, or other unwholesome substance, and to require the removal of the same by any person who shall have on his premises any such substance, or putrid or unsound beef, pork, fish, hides or skins of any kind, and in default, to authorize the removal thereof by some competent officer at the expense of such person or persons, and to make the expense of such removal a lien upon the premises from which such substances are removed and also to provide for the punishment by fine or imprisonment of all persons violating this subdivision of Section 5.

*Eleventh*—To make and establish public pounds, pumps, wells, cisterns, hydrants, reservoirs, and to erect lamps, to provide for the lighting of the city, to contract for the erection of gas works for lighting the streets, public grounds and public buildings, or for the erection and maintenance of any and all systems of electric lights for like purposes; to create, extend and alter lamp districts or to contract with other parties to furnish gas or electric lighting for such purposes.

*Twelfth*—To establish and regulate boards of health, provide hospitals and hospital grounds, and for the registration of births and deaths and the return of lists of mortality, and to regulate and prevent the burial of the dead within the city limits.

*Thirteenth*—To prevent any person from riding or driving any ox, horse, mule, cattle or other animals on the sidewalks of the city, or in any way doing damage to such sidewalks.

*Fourteenth*—To regulate the size and weight of bread and to provide for the seizure and forfeiture of bread offered for sale contrary thereto.

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

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

*Seventeenth*—To restrain and regulate porters, hackmen, expressmen, and also runners, agents, solicitors for stages, cars, public houses or other establishments.

*Eighteenth*—To establish public markets and other public buildings; to make rules and regulations for the government and management thereof; to appoint suitable officers for the management thereof and to provide for the enforcement of all rules and regulations in regard to the same.

*Nineteenth*—To license and regulate butchers' stalls, shops and stands for the sale of game and fish, poultry, butter, butchers' meats and provisions; and also to regulate and license all peddlers and persons selling goods at retail by sample within the city.



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

*Twenty-first*—To compel the owners or occupants of buildings or grounds to remove snow, dirt and rubbish from the sidewalk, street or alley opposite thereto, and to compel such owners or occupants to remove from the lot owned or occupied by him or them all such substances as the board of health may direct, and on his default, to authorize the removal or destruction thereof by some officer at the expense of the owners or occupants; also to compel the owners of low grounds, where water is liable to collect and become stagnant, to fill or drain such low places, and in their default, to authorize such filling or draining at the expense of such owners, and to provide that such expense shall become a lien upon the lot or property so drained or filled.

*Twenty-second*—To regulate and prevent the landing of all persons from railroad cars, steamboats or other conveyances infected with contagious or infectious diseases or disorders and to make such disposition of such persons as may be necessary to preserve the health of the city.

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

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

*Twenty-fifth*—To regulate the inspection of wood, hay, grain, flour, milk, pork, beef, mutton, veal and all kinds of meats, poultry, game, fish, salt, whiskey, and other liquors and provisions, and to authorize the seizure and destruction of any grossly impure or adulterated articles sold that are dangerous to the public health, and to provide for the punishment of the use of false weights and measures.

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

*Twenty-seventh*—To purchase or acquire by gift or devise, lands within the city limits, or to take and hold by lease such lands for the purpose of parks or public grounds and to provide for the improvement of the same; and also to regulate and direct the planting and preservation of ornamental or shade trees in the streets, alleys, parks or public grounds and highways of said city, and to appoint a suitable person to inspect and to take charge of the same and fix his compensation and prescribe his duties.

*Twenty-eighth*—To remove and abate any nuisance injurious to the public health or morals, and the common council shall have power to define what shall be considered nuisances, and to provide for the punishment of all persons who may erect or maintain such nuisances.

*Twenty-ninth*—To remove or abate any nuisance, obstruction or encroachment upon any of the streets, alleys or public grounds and highways of the city. To remove or require to be removed any building which, by reason of delapidation, defects in structure, or other causes, may have or shall become immediately dangerous to life or property,

and to provide for the punishment of all persons who shall cause or maintain such nuisances; the amount of the expense incurred in making such removal shall be a lien in favor of the city upon the lot or parcel of land on which such building was situated and may be enforced in a civil action in any court of competent jurisdiction against the owner thereof.

*Thirtieth*—To do all acts and make all regulations which may be necessary and expedient to preserve the health of the inhabitants of the city, and for the suppression of disease, and to prevent the introduction of contagious diseases into the city, and to make quarantine laws and enforce the same within the city.

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

*Thirty-second*—To license and regulate draymen, hackmen, expressmen and other persons engaged in the carrying of passengers, baggage or freight, and to regulate their charge therefor, and to authorize the mayor and marshal of said city to regulate and direct the location of vehicles standing upon the streets and public grounds in said city.

*Thirty-third*—To regulate the construction of all buildings of more than two (2) stories in height, and prescribe fire limits in said city, and to prohibit the erection of wooden buildings or of placing wooden sidewalks within said limits.

*Thirty-fourth*—To provide for and regulate the erection of hitching posts or rings for the fastening of horses or other animals, or to prohibit the same in any portion of the city.

*Thirty-fifth*—To regulate the opening of hatchways and cellarways upon the streets or sidewalks of the city and to compel proper guards about the same.

*Thirty-sixth*—To regulate the numbering of houses and lots and to compel owners of houses and other buildings to have such numbers designated thereon.

*Thirty-seventh*—To require the owner or lessee of any building or structure now or hereafter erected in said city to place thereon such fire escapes and such appliances for the protection against or extinguishment of fires as it may direct and to do each and every other act which it may think necessary or advisable to lessen the danger to human life in case of fire or accident.

*Thirty-eighth*—To regulate and control the quality and measurement of gas, to prescribe and enforce rules and regulations for the manufacture and sale of gas, to prescribe for the inspection of gas and water metres, and to appoint an inspector and prescribe his duties.

*Thirty-ninth*—To regulate and prohibit the location and size and construction of steam boilers, such as it may designate as being dangerous to life and property in the city, and to prohibit the location of such boilers at any place where the common council may deem dangerous to life or property.

*Fortieth*—To regulate and control or prohibit the placing of poles therefor, or the suspending of electric light or other wires along or across any of the streets of said city, and to require any already placed or suspended, either in limited districts or throughout the entire city, to be removed and placed beneath the streets and sidewalks of the

city, and to compel the proper insulation of all electric light wires and other wires in use within the city.

*Forty-first*—To regulate the penning, herding and treatment of all animals within the city.

*Forty-second*—To restrain, regulate and control the cutting of ice in the Mississippi river and other waters within the limits of the city.

*Forty-third*—The common council is authorized to permit the construction and operation of street railways within the said city, and may prescribe the street or streets on which the same may be constructed, and may impose such restrictions and limitations on the same as to the council may seem proper; but no such privilege shall be granted to any individual or individuals for a longer period of time than twenty (20) years, and the said council may also provide for the introduction and use of electric lights within said city under such regulations as the council may prescribe.

*Forty-fourth*—The common council may also provide for the laying out and constructing of a system of general sewerage within the said city, and if authorized thereto by a majority of the electors who shall vote upon the question of the issuing of such sewerage bonds at any general or special election may issue and negotiate the bonds of said city in any amount not exceeding twenty thousand (\$20,000) dollars to pay for the same. Such bonds to run for such length of time and to bear such rate of interest not exceeding six (6) per cent. as to the council may seem proper.

*Forty-fifth*—The common council of said city may provide by ordinance, that any male person convicted of an offense under the ordinances of said city, subjecting such offender to imprisonment under the ordinances of said city may be kept at hard labor during his term of imprisonment, upon the public streets or improvements of said city, and may also provide by ordinance that any male person convicted of an offense under the ordinances of said city and committed upon non-payment of fine imposed may be kept at hard labor upon the public streets or improvements of said city until such person shall work out the amount of such fine at such rate of compensation as said council may prescribe for a time not exceeding said commitment; and the said council shall have full power to establish by ordinances all needful regulations for the security of such persons so employed and to prevent escapes and secure proper discipline.

SEC. 6. All ordinances, regulations, resolutions and by-laws shall be passed by an affirmative vote of a majority of all the aldermen of the common council by ayes and noes, which shall be entered on the records of the council and published in the official paper of the city, signed by the mayor, attested by the recorder, and recorded by the city recorder before they shall take effect. No ordinance shall be passed at the same meeting at which it shall have been presented, except by unanimous consent of the members present; which fact shall be noted in the records, but this shall not preclude the passage of any ordinance reported by any committee of the council to whom the subject of such ordinance shall have been referred at any previous meeting.

SEC. 7. A copy of the record of any ordinance heretofore passed and recorded, or which shall be hereafter passed, certified by the city

recorder and attested by the seal of the city, and any copy thereof published in the official paper of the city, or compilations of the ordinances made and published under the direction of the common council shall be prima facie evidence of the contents of such ordinance and of the regularity of all proceedings relating to the adoption and approval thereof, and shall be admitted as evidence in any court of this state without further proof. In all actions and prosecutions and proceedings of every kind before any justice of the peace of said city, such court shall take judicial notice of all ordinances of the city, and it shall not be necessary to plead or prove such ordinances in said justice courts.

SEC. 8. No appropriation shall be made without a vote of a majority of all the aldermen of the city in its favor, which shall be taken by ayes and noes, and entered among the proceedings of the council.

SEC. 9. The power conferred upon the common council to provide for the abatement or removal of nuisances shall not bar or hinder suits, prosecutions or proceedings according to law.

SEC. 10. The common council shall examine, audit and adjust the accounts of the treasurer and all other officers of the city at such times as they deem proper, and also at the end of each year, and before their term of office shall expire; and if any officer shall refuse to exhibit his books, accounts and vouchers for examination and settlement, or shall refuse to comply with the orders of said council in the discharge of his duties, in pursuance of this section, the common council shall declare such office vacant, and the common council shall order suits and proceedings at law against any officer and agent of the city who may be found delinquent or defaulting in his accounts or the discharge of his official duties, and shall make a full record of all settlements and adjustments.

SEC. 11. The common council shall have the management and control of the finances, and all property of the city both personal and real, and may provide for the sale of any such property in such manner as it shall consider for the best interest of the city.

SEC. 12. The common council shall have power to acquire by purchase, grant or condemnation such private property as may be necessary for sites for public buildings for the use of the city or any department thereof, and for all streets, alleys, parks and public squares in said city, and to ascertain and determine the value of such private property taken for such uses and the amount of damages occasioned to any such private property by reason of any public works or structures, and for that purpose may appoint committees to appraise such values or damages, or to acquire information thereof in any other manner deemed advisable by said common council.

SEC. 13. Any license issued by the authority of the common council may be revoked at any time by a two-thirds ( $\frac{2}{3}$ ) vote of all the aldermen of the city; and upon conviction before any court of any person holding a license for the violation of the provision of any ordinance relating to the exercise of any right granted by such license, the court may and upon a second conviction shall, revoke such license in addition to the penalties provided by law or ordinance for any such violation.

## CHAPTER VI.

## FINANCES AND TAXATION.

SECTION 1. The common council shall have power to levy upon all property real and personal within the city of Wabasha, except such as may be exempted by the laws of this state from taxation, taxes for the support of the city government and payment of its debts and liabilities, and the same shall be assessed in the manner provided for by the general laws of this state. The common council may levy an annual tax upon all property in said city, taxable under the laws of this state, to and for the specific purposes following, *provided*, that nothing herein contained shall prevent the assessment, levy and collection of special taxes as provided by chapter eleven (11) of this act upon any and all real estate within said city, notwithstanding the same may have been heretofore exempted from taxation under the laws of this state: *First*, to provide for the interest to become due during the fiscal year on all outstanding bonds, and for a sinking fund sufficient to meet and pay such bonds at maturity. *Second*, to provide a general fund for the purchase of ground and the erecting and repairing of buildings for city purposes; and to pay the general current and incidental expenses of the city including salaries of officers, police, street force, fire department, lighting the city, printing, stationery, and the expenses provided in chapter seven (7) of this act to be paid out of the general fund; and to provide for the preservation of the health of the city; but the amount of money raised for said general fund shall only be so much as, with the income from fines and licenses will be necessary for an economical administration of the affairs of the city, and shall not exceed ten (10) mills on the dollar of the assessed value of the taxable property of the city. *Third*, to provide an improvement fund from which may be paid in the first instance all contracts for sidewalks and other improvements, which, under chapter seven (7) of this act, are chargeable to and payable by the lots and parcels of land, fronting on or benefited by such improvements, and all special taxes levied and collected under the provisions of chapter seven (7) of this act for the improvements first paid for from this fund, shall be returned and credited to this improvement fund; but no greater tax than two (2) mills on the dollar of the assessed value of the taxable property of the city shall be levied in any one year; and none of the taxes levied and collected for the payment of interest or principal of bonds or for the improvement fund, shall be diverted to any other use than that for which they were originally levied.

SEC. 2. Taxes may be levied by resolution of the common council, and no tax shall be invalid by reason of any invalidity in the manner of levying the same, nor because the amount levied shall exceed the amount required to be raised for the special purpose for which the same was levied; but in such case the surplus shall go into the fund to which such tax belongs and may be applied to the further use of said fund.

SEC. 3. The common council shall cause to be transmitted to the county auditor of Wabasha county on or before the tenth (10th) day of October of each year, or at such times as required by the general laws of this state, a statement of all taxes by them levied, and such taxes shall be collected and the payment thereof enforced with the state and county taxes, and in the same manner in which they are collected and enforced, and the county treasurer of Wabasha county shall pay over to the city treasurer of said city any and all taxes and moneys collected by him or received by him for said city, as provided by general law.

SEC. 4. No moneys shall be paid out of the city treasury unless such payment be authorized by a vote of the common council, and these shall be drawn out only upon orders signed by the mayor and countersigned by the recorder, which orders shall specify the purpose for which they were drawn and the name of the person in whose favor the same are drawn, and may be made payable to the order of such person or to bearer.

SEC. 5. When any such order shall have been paid or received by the treasurer, it shall not again be issued, but he shall immediately cancel and file the same in his office, to be delivered to the common council with his annual report.

SEC. 6. The fiscal year shall commence on the first (1st) day of April and close with the last day of March each year.

SEC. 7. Before any account, claim or demand against the city of Wabasha for which said city shall be liable, shall be audited or allowed by the common council, the person in whose favor such account, claim or demand shall be, or his agent, shall reduce the same to writing in items, and the common council may receive and consider the same, and may allow or disallow the same in whole or in part, as to the common council shall appear just and lawful, saving to such claimant the right of appeal.

SEC. 8. At the first stated meeting in June of each year, the mayor shall appoint by and with the consent of the common council, one (1) alderman from each ward in the city, who shall constitute a board of review. They shall be sworn according to law as such board, and meet at the room of the common council in said city on the fourth (4th) Monday in June of each year, or at such time as such boards may hereafter be required to meet by the general laws of this state, and devise, alter and equalize the assessments on the roll of the assessor as they may deem just and proper. It shall be the duty of the assessor and city recorder to be present at all meetings of said board of review; the recorder shall act as clerk of said board and the assessor shall present before the board all facts relating to the assessment. Such board of review shall possess and be vested with all the powers which are or may be vested in town boards of review, and may require any person who may be required to list property, or whose property is listed for taxation to appear before said board and submit to an examination on oath touching any property owned by him or under his control subject to be listed for taxation, and they may examine upon oath any person whom they may suppose to have knowledge of the amount or value of the personal property of any person, and for that purpose any member of said board is hereby

authorized to administer oaths to all persons, who by the provisions of this act are required to submit to any examination before said board. Said board of review may sit from day to day or adjourn from time to time as it shall deem proper; until it shall have revised and equalized said assessments. Any person aggrieved by any assessment shall have the right to appear before such board of review and present his grievances, and whenever it appears upon a hearing or otherwise that any property is listed or assessed at more or less than its true value, said board shall immediately proceed to correct such over or under valuation as the case may be; and whenever it appears to the satisfaction of the board that property which ought to be listed has been omitted by the assessor, or otherwise, the board shall immediately proceed to list and place such property on the tax roll, with the true value thereof. Any two of said board of review are authorized to act at any meeting of said board. When the assessment rolls shall have been revised by said board, they shall return the same to the common council who may confirm the same or return the same to the board for further revision, to be again reported to the common council. When the common council shall have confirmed the assessment, the city recorder shall attach thereto a certificate of such confirmation, and such rolls shall then be returned to the county auditor, within the time and in the same manner as are other assessment rolls. In case the common council shall neglect to take final action on such assessment rolls on or before the time required by law for the return thereof to the county auditor, it shall be the duty of the city recorder to return them to the county auditor with a certificate of that fact, and in such case the assessment rolls as revised by the board of review shall have the same validity as if confirmed by said common council. Each member of the board of review shall receive two and one-half dollars (\$2.50) per day for the time actually employed in serving on said board.

## CHAPTER VII.

### STREETS, SIDEWALKS AND BRIDGES.

SECTION 1. The common council shall have the care, supervision and control of all the highways, bridges, streets, alleys, levees, public parks, public squares and grounds within the limits of the city, and shall have power to build and keep in repair bridges, lay out, open, alter and vacate and release public squares, parks, levees, and grounds, highways, streets, lanes and alleys, and to extend, narrow, widen or straighten the same, and to purchase, hold and convey land in fee simple, and to take grounds for the site of public buildings and public parks, subject to the assessment of damages as hereinafter provided.

SEC. 2. The common council shall have power to establish the grade of any street, when such grade has not been established and may, by vote of two-thirds ( $\frac{2}{3}$ ) of all the aldermen, change the grade of any street after such grade has been established. It shall cause accurate profiles of the grades of all streets to be made and kept in the office of the city recorder.

SEC. 3. The common council may also by a vote of two-thirds ( $\frac{2}{3}$ ) of all the aldermen, vacate any highway, street, lane or alley, or portion of either; and such power of vacating highways, streets, lanes and alleys within the city of Wabasha is vested exclusively in said common council, and no court or other body, or authority shall have any power to vacate any such highway, street, lane or alley, nor any plat or portion of any plat of lands within said city.

SEC. 4. The common council shall have power to designate districts or portions of the streets and alleys of the city for the purpose of cleaning the same, and may provide for the cleaning of such districts by contract on such terms as may be deemed advisable.

SEC. 5. All work done or constructions made pursuant to the provisions of this chapter shall be done by contract, when calling for the expenditure of one hundred dollars (\$100) or more, and public notice shall be given and proposals invited for the same in such manner as the council shall direct.

SEC. 6. The street commissioner of the city may also act as health inspector for said city, and shall have the same authority as police officers in enforcing the ordinances of said city for the security of public health, and shall act under the direction of the health officer and board of health of said city. All work done by the street commissioner shall be subject to the approval of the common council. It shall be the duty of such street commissioner to see that all streets and sidewalks under his charge, which have been graded and opened for travel, are kept clear from obstruction, and in such repair as to be safe and passable; also to superintend, subject to the directions of the common council, the grading of streets and laying of sidewalks, and to carry into effect all orders of the common council. The street commissioner shall not do any work upon streets except such as is necessary to keep traveled and improved streets and sidewalks in repair and passable condition, and unless such work is specially ordered by the common council. The street commissioner shall keep accurate accounts of all his works and expenditures, and make detailed and itemized report thereof to the common council at least once in every two (2) months, and oftener if ordered by the council; and no bill for compensation shall be allowed unless the same shall be accompanied or preceded with the full and itemized reports of all his work and expenditures up to the time of the rendition of such bill.

SEC. 7. The street commissioner shall not be interested in any contract for any work to be done under his charge, nor be allowed compensation for any work in which he shall have any interest, nor for any material or labor furnished by him, except his personal services; nor shall he receive, directly or indirectly, any commission, gratuity, money or valuable things from any person doing work or furnishing material for any work or construction under the charge of such street commissioner or the common council of the city.

SEC. 8. If the street commissioner or any other officer of the city shall have any interest in any contract, work or construction done pursuant to this chapter, all such contracts shall be void, and all such work done, material furnished or supplied for the use of the city shall be forfeited; and every such street commissioner or other officer who shall accept any gift or gratuity, or any commission, from any person



having contracts with said city, or furnishing material, or performing labor, under the provisions of this chapter, which contract, material or labor shall be made under the charge or supervision of such street commissioner or other officer, or is subject to acceptance by them or either of them, shall be punished in the same manner as provided by law for the acceptance of bribes by public officers.

SEC. 9. All bridges in said city, whatever the form or material used in the construction thereof, shall, together with the guards and embankments connected therewith and the immediate approaches thereto which form a necessary part of the same, and also all such bridges crossing railway tracks, and the approaches thereto, or any portions thereof, as shall not be chargeable to any railway company or the county of Wabasha, or any town, be built, maintained and kept in repair by the city, as a general city charge; and all other expenses connected with the opening, grading and keeping in repair of streets, lanes, alleys, highways and thoroughfares, shall be paid from the general fund, except where other provisions are made therefor

SEC. 10. Whenever the common council shall determine to lay out or open new streets or alleys in said city, or to widen, straighten, or extend any that now exist or may hereafter exist, it may for such purpose purchase or condemn any real estate, or interest therein, which is private property, and provide for the payment of the value of such property as may be taken for such improvements, and all damages done to any private property by reason of such improvement, and the expense of making such improvement, by assessing, levying and collecting the whole expense of such improvement, or such parts thereof as may be considered equitable upon the property to be benefited by such improvement, without regard to cash valuation; but no assessment for such improvement shall exceed the actual benefit to the property upon which the same shall be assessed, and in case the whole expense of such improvement shall exceed the benefits accruing therefrom to any specific property, the excess of such expense shall be made a general city charge, and be paid, as current expenses of the city. Nothing in this section shall be construed as permitting the condemnation of any ground of any cemetery or burial place, and occupied for such purpose, without the consent of the owners of such ground.

SEC. 11. The common council is authorized, in its discretion, to cause to be paved, repaired or macadamized, any street or alley, or any part thereof in the city, or any gutter along any side of any street or alley, or any portion thereof in such manner as it may direct, and to collect the cost and expense of the same by special assessment upon the property fronting on such improvements on the same side of the street; but the expense of paving or otherwise improving the crossings of such streets, and of such improvements as shall be in front of property exempt from such assessment, or belonging to the city shall be paid from the permanent improvement fund of the city. No assessments shall be made for paving or macadamizing any ground occupied by railway tracks or lying between such tracks.

SEC. 12. It is hereby made the duty of all owners of land adjoining any street, lane or alley in said city to construct, reconstruct and maintain in good repair such sidewalks along the side of the street,

lane or alley next to the lands of such owners respectively as may have been heretofore constructed or as shall hereafter be constructed or directed by the common council to be built, and of such material and width, and upon such place and grade as the common council may by ordinance or otherwise prescribe. Whenever the common council shall deem it necessary that any sidewalk in the city of Wabasha shall be constructed or reconstructed it shall by resolution direct such construction or reconstruction, specifying the width thereof and the material of which the same is to be constructed. The publication of such resolutions once in the official paper of the city shall be sufficient notice to the owners of the land along which such sidewalk is to be built, to construct the same, and unless such owners shall each, along his respective land, construct and fully complete such sidewalks within two (2) weeks after the publication of such resolution, as aforesaid, the common council shall forthwith proceed to ascertain the expense of constructing the same and assess and levy such expense upon and against each lot and parcel of land upon which such sidewalks shall front. Such assessment shall be collected in the same way as in all things as is provided for the collection of special assessments under the provisions of chapter six (6) of this charter; and the common council may, either before or after making such assessment, cause such portion of such sidewalks as have not been built by the owners of such land fronting upon the same, and all street crossings, to be built by the street commissioner or upon contract, or by any other person as the council may determine.

SEC. 13. If the owner of any lot or parcel of land shall suffer any sidewalk along the same to become rotten, broken or out of repair, it shall be the duty of the street commissioner to immediately repair the same in a good, substantial and thorough manner and to report to the common council the cost of such repairs in each case and a description of the lot or parcel of land abutting which such repairs are made, and such report shall be filed and carefully preserved by the city recorder; and the common council shall, once in each year, at, or as near as conveniently may be, the time of levying the yearly city taxes, assess and levy upon each of the lots and parcels of land, fronting or abutting upon sidewalks which have been repaired by the street commissioner, the cost of making such repairs. In each case all assessments for all such repairs within the year may be combined in one assessment or roll, and be collected as provided for in chapter six (6) of this charter. In case any such sidewalk shall become so out of repair as to become dangerous and cannot be made safe without being rebuilt, and there are no funds to defray the expenses of such rebuilding, it shall be the duty of the street commissioner to remove the same entirely, and the expenses of such removal shall be added to the cost of rebuilding, when the same shall be reconstructed, and collected with the assessment for such reconstruction.

SEC. 14. Money to build or repair sidewalks, when the same shall be done by the street commissioner under this act, or in case of building by a contractor, may be advanced from the improvement fund, to be reimbursed by the special assessment, when collected; and the expense of constructing all street crossings of sidewalks shall be chargeable to the general fund, and whenever any damages for injuries to

any person, through or by means of defective sidewalks shall be paid by the city, the money for the same shall be raised by taxation upon the taxable property of the city.

SEC. 15. It shall be the duty of the common council, before ordering the construction of any new sidewalk, to cause the ground upon which it is to be built to be properly graded.

SEC. 16. All persons who shall by means of any excavations in, or obstructions upon, any street of said city, not authorized by law or by ordinances of said city, or by means of any dangerous, defective sidewalk from any cause, render such streets or sidewalks unsafe for travel, or who shall, by negligence in the management of any such excavation or obstruction as shall be authorized, or by failure to maintain proper guards or lights thereat, render such street insufficient or unsafe for travel, shall be liable for all damages not caused by the negligence of the party injured, to whomsoever resulting, by reason of such obstruction, negligence or dangerous sidewalk; and no action shall be maintained against said city for damages, unless such person or persons shall be joined as party defendants; and in case of judgment against the defendants in such action, execution shall at first issue only against the defendant joined with the city, and the city shall not be required to take steps to pay said judgment, until such execution shall be returned unsatisfied, and if the city shall pay such judgment, it shall become the owner of the same, and may enforce payment of the same from the other defendant, and shall be entitled to execution therein against him, and to take such other proceedings as judgment creditors are entitled to take and shall have the right to bring suit on said judgment if the protection of its interests shall demand the same.

SEC. 17. Whenever any party is joined with said city as co-defendant in any action for the insufficiency of any street or sidewalk, and such party is not a resident of and cannot be found within the state, service of summons in such actions may be made upon such defendant upon like evidence and in the same manner as is prescribed by the general law for service by publication in other actions.

SEC. 18. No action shall be maintained against the city of Wabasha on account of any injuries received by means of any defect in the condition of any street, bridge, sidewalk or thoroughfare, unless such actions shall be commenced within one (1) year from the happening of the injury, nor unless notice shall have first been given in writing to the mayor of said city or the city recorder within sixty (60) days after the occurrence of such injury or damage, stating the place where and the time when and the manner in which such injury was received, and that the person so injured will claim damages from the city for such injury; said notice shall also state the amount of damages claimed and the cause of such injury; but the notice will not be required when the person injured shall in consequence thereof be bereft of reason. Nor shall any such action be maintained for any defect in any street until the same shall have been graded; nor for any insufficiency of the ground where sidewalks are usually constructed, where no sidewalk is built.

SEC. 19. No railway company or street railway company shall have any right in clearing their tracks through any part of said city or

otherwise to pile up snow or other material and leave the same piled upon any traveled portion of any street in said city. And any such company shall be liable to any person who shall be injured by means of any such obstruction caused by such company or its servants for all damages sustained, and in case any damages shall be recovered against the city for injuries caused by such obstruction the city shall have the right to recover the same again from the company by whom the obstruction was caused.

SEC. 20. The acceptance of plats of additions of any grounds, either within or outside the limits of said city, shall not make the city liable to grade the streets therein designated, nor responsible for any insufficiency of such street until the common council shall direct the same to be graded and opened for travel.

SEC. 21. It shall be the duty of the owners of all lots and real estate in said city to destroy all weeds growing in, on or along any of the public highways, streets and alleys of said city abutting thereto; and the common council shall provide by ordinance for the enforcement of the duty hereby enjoined and shall provide that any person refusing to do so shall be punished by fine or imprisonment or both.

## CHAPTER VIII.

### FERRY—RIGHT TO MAINTAIN AND OPERATE.

SECTION 1. The city of Wabasha shall have the right to operate and maintain a ferry across the Mississippi river from any part of said city to the state of Wisconsin, and for said purpose shall have the right to hold, take and acquire any and all rights and franchises for the maintaining and operating of such ferry now owned by any other persons; and upon the expiration of such rights, franchises and privileges as may have been heretofore granted to any other persons there is hereby granted to the city of Wabasha in its corporate capacity the exclusive right and privilege of establishing, keeping, operating and maintaining a ferry or ferries across the Mississippi river from any point in said city to that portion of the state of Wisconsin which lies opposite, perpetually, with full power to construct or purchase all necessary or convenient boats, vessels, machinery, docks, piers, ferry houses and other appurtenances to such business.

SEC. 2. The said city of Wabasha, through its common council, may by ordinance determine and decide that such ferry or ferries may be run, operated and maintained without cost to the traveling public, or shippers using the same, or in case such council shall determine for the best interests of said city, that said ferry or ferries, or any of them, should be operated altogether or in part for compensation, toll, or pay, they may by ordinance control, fix and regulate the rates and charges for ferriages upon said ferry or ferries, whether operated by said city or its lessees.

SEC. 3. The common council of said city may at any time, by ordinance, lease, for rent or otherwise, such rights and privileges to establish, operate and maintain such ferry or ferries within said limits or any

portion of said limits, to any person or persons who shall construct and carry on and operate the ferry or ferries; *provided*, that no lease or letting of any ferry shall be for a longer term at any one time than ten (10) years; *and provided, further*, that no lease or letting shall be made without reserving the right of said city to terminate said lease or letting at any time within said ten (10) years, upon the payment by the city to the lessee or lessees of a sum sufficient to reimburse him or them for any outlay in constructing boats, docks, levees, landing-places, or ferry buildings, upon said lessees conveying the same to said city free of incumbrance; *and provided, further*, that the lease or letting shall not be deemed to be a privilege which shall, upon the termination of the lease or letting by the terms of this proviso, bear any value for which payment may be demanded from said city by the lessee or his legal representatives; *provided, further*, that in case of any grant or lease of any ferry privilege to any person or persons, there shall, prior to the passage of any ordinance making such lease, be filed with the recorder of said city, by the lessees, a bond, executed to said city, in such sum and with such surety as may be determined upon by said common council, for the compliance with the terms of the ordinance making such lease, and the provisions of this act.

SEC. 4. The said city of Wabasha shall have power, through its common council, by ordinance, to appoint, regulate and control the place or places of landing and departure of such ferry or ferries, and the running time thereof, and to provide regulations for the general management of the same.

SEC. 5. If any company or companies, person or persons, other than the said city or its lessees, shall, after the establishment of any ferry or ferries, as aforesaid, set up, keep or maintain any ferry, or shall carry any person, animal, goods or chattels, for hire or pay, across said Mississippi river, within the limits above specified, every such company or person, for every such offense, shall forfeit and pay to the city of Wabasha the sum of twenty-five (25) dollars, to be recovered in a civil action before any court having competent jurisdiction; and every such person, for every such offense, shall be deemed guilty of a misdemeanor, and upon conviction thereof before any magistrate or court having jurisdiction, shall be fined not more than fifty (50) dollars for each and every offense, and pay all costs of prosecution, and be imprisoned in the county jail until such fine and costs shall be paid not exceeding sixty (60) days.

SEC. 6. There is hereby granted to the city of Wabasha in its corporate capacity the right and authority to construct, keep and maintain, or to aid in constructing, keeping and maintaining any wagon road or wagon roads in the state of Wisconsin leading to and terminating at said ferry landing, or at any point opposite to the corporate limits of said city of Wabasha, with full power to construct all necessary and convenient bridges, culverts, piling and docks, and to render said road passable and easy for travel.

SEC. 7. The net cost and expenses to said city of building, establishing, keeping, operating and maintaining said ferry or ferries and said road and bridges shall be paid out of the general fund of said city.

SEC. 8. The said city of Wabasha is hereby authorized to execute by its mayor and recorder, under the direction of its common council, under the corporate seal its bond or bonds of indemnity to any town or towns, or board or boards of supervisors of such town or towns in the state of Wisconsin, in which such road or roads or any part thereof shall be located, in such penal sum as may be deemed necessary or proper, conditioned that the city of Wabasha shall keep said road or roads in a safe condition and in good repair, and to indemnify said town or towns from all liabilities they shall incur on account of any failure of said city or said town or towns to keep and maintain said road or roads in safe condition and in good repair.

SEC. 9. Said 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 end of the government dam extending from the Wisconsin side out into the river, opposite said city; and the common 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 necessary to employ in operating the same, and may when necessary either lease or purchase sites for landings on the Wisconsin side of said river.

SEC. 10. The city of Wabasha is hereby authorized and empowered to construct, operate and maintain a wagon bridge across the Mississippi river, or any part thereof, commencing at any point within the corporate limits of said city or on the Wisconsin shore opposite thereto, and if built but part way across said river, to operate the same in connection with a ferry.

SEC. 11. The common council of said city may by ordinance decide and determine that said bridge shall be used, operated and maintained with or without cost to the traveling public, or to persons crossing the same, or for property conveyed across the same; and should they decide to charge toll therefor, they may, by ordinance, control, fix and regulate the rates or charges for toll upon said bridge, and are hereby authorized by ordinance to provide regulations for the general management of said bridge.

SEC. 12. The net cost and expense to said city of building, keeping, operating and maintaining said bridge shall be paid out of the general fund of said city.

SEC. 13. The common council may at any time, if authorized thereto by a majority of the electors who shall vote upon the question of issuing the same, issue and negotiate the bonds of said city in any amount not exceeding the sum of ten thousand dollars (\$10,000) to pay such expenses as may be necessary to incur in carrying out the objects, provisions and powers of this chapter. Such bonds shall run for such length of time and bear such rate of interest, not to exceed six (6) per cent, as to the common council shall seem proper, and the interest and principal of said bonds shall be paid from the general fund of the city, as the same fall due.

## CHAPTER IX.

## WATER WORKS, SEWERS AND LIGHTING OF STREETS.

SECTION 1. The common council shall have the power to construct and maintain water works and sewers, to enlarge, extend, relay and improve the same from time to time as it shall consider the public good shall require, and the common council may permit, franchise and contract with any party or corporation to construct and establish water works, and to lay water mains and pipes in any street, alley, highway or public ground within the limits of said city, under such restrictions and regulations as the common council shall impose.

SEC. 2. Whenever in the construction, establishment, enlargement or extension of water works or sewers, it shall, in the judgment of the common council be necessary to take any private property, consisting of lands, buildings, water powers, or other private property, the common council shall have power to take and acquire the same by purchase or by condemnation in the manner provided for by chapter eleven (11) of this act, and in case of condemnation a full title in fee simple to the property acquired shall vest in the city.

SEC. 3. Whenever water mains shall be laid, relaid or extended through any of the streets, alleys or lanes of the city or any portion thereof, the common council shall have power, and it shall be its duty to levy and collect by special assessments such portions of the cost or expense thereof as shall not exceed the estimated cost of laying a six (6) inch main, including pipe, hydrants, valves and all necessary specials, by special assessment upon the property on both sides of such street, alley or lane fronting upon such improvement of an equal sum per front foot, without regard to the valuation of such property, as provided for in chapter eleven (11) of this act.

SEC. 4. The common council may, in like manner, whenever it shall deem it necessary, lay, relay, or extend, any sewer through any street or alley, and levy and assess, and collect the cost thereof, not exceeding the estimated cost of a sewer two (2) feet in diameter, including all necessary catch basins, man holes, dump holes, and flushing valves, by a special assessment upon the property on both sides of the street abutting upon such improvements, of an equal sum per front foot.

A sewer of two (2) feet in diameter is hereby declared to be an ordinary sewer within the meaning of this act, for draining of abutting property.

SEC. 5. The cost not provided for by such assessment, including the cost of large water mains and larger or main sewers, and constructing the same across streets and against property by law exempt from such assessment, shall be paid out of the improvement fund or any other fund provided for that purpose by the common council.

SEC. 6. The common council may at all times regulate and control the time and manner of laying and constructing by private parties, branch pipes and sewers leading from the main line of watermains and sewers, and of making connections with main lines and branch ines both public and private.

The common council may, too, whenever it shall deem it necessary to lay or construct branch pipes or sewers, in order in future to, to prevent tearing up of streets, or for any other reason, determine in the case of each main line or of any specified portion of a main line, the location, manner and construction of such branch line, providing in its discretion, one (1) or more for each lot or parcel of land, or one (1) for two (2) or more adjoining lots or parcels of land, may require the proper officer to make surveys, plats and profiles showing the same, which when approved and adopted, shall hereafter be preserved in the office of the city recorder, and may thereupon, whether such main line has been constructed or is in process of construction forthwith lay and construct all such branch pipes and sewers not already constructed by private parties interested, from a connection with the main line to the line of the street; and whenever the common council constructs such branch pipes and sewers, it shall assess the whole cost of each upon the parcel or lot of land to which it runs regardless of valuation or frontage. But in case one (1) branch is to serve two (2) or more lots or parcels of land, then it shall assess the whole cost of the same upon all the lots or parcels of land to be served, at an equal sum per front foot without regard to the value thereof. The cost of such branches may be assessed and collected in advance of their construction as in case of other improvements, in which case the cost shall be estimated and fixed in manner substantially like the way pointed out by section eight (8) of chapter eleven (11) of this act for improvements therein specified. The common council may however, in case it constructs any branch at the same time that it constructs a main line, assess, in the manner above indicated, the whole costs thereof and add the same to and include it with the assessment for the main line.

The common council may, subject to such terms and under such regulations as it may fix, require of all persons using any area, or any space within the lines of any street, to permit to be laid in such area all necessary branch pipes for both water and gas, and back sewers, to a connection with other branches, and also to be laid therein, enclosed in tubes or otherwise sufficiently protected, any and all electric light wires at any time required to be laid beneath the surface of the street, and no permits for excavation or use of any area or space; within the lines of a street shall be given except upon condition that it may be used by others in the manner and for the purposes above named.

SEC. 7. All expenses of keeping up and operating said water works and of constructing, enlarging, altering and keeping in repair pump houses, machinery, hydrants and laying of water mains and anything connected with said water works, shall, except so far as the laying water mains, which is to be paid by special assessment upon abutting property, be paid from the general expense fund of the city, and any excess of special assessments shall belong to the general expense fund.

SEC. 8. It shall be the duty of the common council from time to time to fix by ordinance rates for the use of water from the city water works and provide for the collection of the same, and also to provide for the protection of such water works from injury or misuse or abuse.

The owner of private property which property has upon it pipes



connected with the city water works to convey water upon such property, shall, as well as the lessee or occupant of the premises, be liable to the city of Wabasha for rents or rates of all water used upon such premises, which may be recovered by action against such owner, lessee or occupant or agent, any or all of them.

SEC. 9. The common council shall have authority to contract with any persons or corporations for the lighting of such streets or parts of streets and public places as they shall deem proper for the convenience and safety of the inhabitants, by electric lights, gas or otherwise as the common council shall deem best.

SEC. 10. The common council may permit the laying of gas pipes in any and all the streets, alleys, highways and public grounds of the city; but in all cases the common council shall regulate the laying of the same, so that said gas pipes may not at any time interfere with the construction of common sewers or the lateral branches thereof, or with the proper and convenient location of water mains and pipes, and may at any time require the location of any gas pipe to be changed, if the same shall be found to interfere with the proper and convenient location of common sewers, or water mains and pipes.

## CHAPTER X.

### FIRE DEPARTMENT.

SECTION 1. The common council for the purpose of guarding against the calamities of fire, shall have power to prescribe the limits within which wooden buildings, or buildings of all other materials that shall not be considered fire-proof, shall not be erected, renewed, placed or repaired, and to direct that all and any buildings within the limits prescribed shall be made and constructed of fire-proof materials, or of such materials and with such precautions against fire as the common council shall by ordinance prescribe; and to prohibit the repairing or rebuilding of wooden buildings within the fire limits when the same shall be in the judgment of the common council damaged to the extent of fifty (50) per cent or more of the value thereof and to prescribe the manner of obtaining the consent of the common council to make repairs in such fire limits and of ascertaining the extent of damages.

SEC. 2. The common council shall have power to prescribe in what manner and of what material chimneys shall be constructed, and to prevent the dangerous construction and condition of chimneys, fire places, hearths, stoves, stove pipes, ovens, boilers and apparatus used in and about any building, and to cause the same to be removed or placed in secure condition when considered dangerous, to prevent the deposit of ashes in unsafe places, and the throwing of ashes in the streets and highways; to compel the use of spark arresters in all smoke stacks connected with apparatus where light fuel is consumed; to regulate and prevent the carrying on of manufactories dangerous in causing and promoting fires and the storing of inflammable or explosive materials and the use of fireworks and firearms; to regulate and prevent the sale or keeping for sale or use, of any fireworks, Chinese crackers, rockets, torpedoes, or other explosive contrivances; and

to provide for the seizure and destruction of the same. Also to compel owners of buildings to have scuttles in roofs and floors, and ladders to the same, and to compel owners of buildings of three (3) or more stories in height to maintain ladders or fire escapes and to regulate the number and location thereof; to regulate the construction and location of smoke houses and to prohibit them where they shall be deemed dangerous to other buildings and to make any other provisions to guard against fires or to prevent the spreading of fire, which the common council may deem proper.

SEC. 3. The common council shall have power to purchase, keep and maintain fire engines and other fire apparatus and to build and maintain engine houses, hose houses and such other buildings as may be necessary or convenient; also to maintain and erect fire alarm telegraphs and boxes, and every other means for giving notice of fires.

SEC. 4. The common council shall have power and authority to make by ordinance, all needful rules for the government of the fire department and for the protection and use of all engine houses, telegraph lines and other property and apparatus pertaining thereto, and of the water works, mains, pipes, cisterns and hydrants in said city, as used in connection with said department, and by such ordinances provide for the punishment of persons injuring or interfering with such property or any portion thereof, and may also by such ordinances make provisions to keep away from the vicinity of any fire all idlers and suspected persons, and to compel all bystanders to aid in the preservation of property exposed to damage by such fire.

SEC. 5. The common council may appoint a chief of the fire department, and provide by ordinance for such other officers and men as may be deemed necessary for such department, and define the respective duties and rank of such engineer and other officers and men and their compensation.

SEC. 6. The common council may designate such officer of the fire department as it may select to act as fire marshal of the city, to see that the ordinances of the city relating to the building and care of chimneys, and respecting all other precautions against dangers from fires, are not violated, and who shall have power and be fully authorized to enter any dwelling house or other buildings at all hours between seven (7) o'clock in the morning and six (6) o'clock in the evening, and examine all chimneys, stoves, furnaces, pipes and other parts of such buildings and see that the ordinances of the city respecting the same are enforced. It shall be the duty of such fire marshal to examine particularly into the cause of every fire which shall happen within the city, and to make and keep a brief record of the same, and make report thereof to the common council at the first regular meeting in every month.

SEC. 7. If any person shall at any fire refuse to obey the orders of the chief of the fire department, or other officer vested with authority at such fires, such person may be arrested by the direction of the officer whose orders are so disobeyed, and upon complaint made before any justice of said city, shall be punished by fine not exceeding fifty dollars (\$50) and costs of prosecution, and imprisonment until such fine and costs are paid, not exceeding sixty (60) days.

SEC. 8. All expenses of the fire department, and all amounts paid for the purchase of fire apparatus, or other property for the use of the fire department, or the erection of any telegraph and construction of engine houses or other buildings for the use of such department shall be paid out of the general funds of the city.

SEC. 9. The common council shall have power to prohibit the construction of wooden sidewalks within the fire limits of the city whenever it shall deem the safety of the city to require it.

## CHAPTER XI.

### CONDEMNATION OF PRIVATE PROPERTY FOR PUBLIC USE AND ASSESSMENTS FOR LOCAL IMPROVEMENTS.

SECTION 1. Whenever the common council shall consider it necessary to procure ground for any public building, public grounds, engine houses, markets, or water works, or any water power for water works, the common council shall appoint a committee of not less than three (3) of its own members, who, together with the city surveyor, shall make examination and propose to the common council a description of the land suitable for such public grounds, engine houses, markets or public buildings, or for water works, as the case may be, and the most convenient manner of taking and using the same, and present to the common council a plat of the land proposed to be taken, and their report shall show, as far as the committee may deem necessary, what streams, buildings, tunnels and structure can be used in the appropriation, and any other matter which the committee may deem proper, and such committee may present for consideration more than one (1) plat or location.

SEC. 2. Such committee shall file their report with the city recorder of said city, who shall give notice of publication twice in the official paper of said city, that such report is on file for the inspection of all persons interested, and that the same will be presented to the common council, for action thereon at a meeting of the common council, to be named in said notice, which shall be a stated meeting of said council, which shall occur next after one (1) week from the second (2nd) publication of such notices. At the meeting named in such notice the city recorder shall next after the reading of the minutes of previous meetings, present such report, and the matter may be acted upon by the council at the same or any subsequent meeting. The council may under such rules as it may prescribe, hear any person interested in the matter, or refer the matter to a committee to hear and report.

SEC. 3. Whenever the common council may determine upon the lands or other property to be taken and appropriated, it shall designate the same as nearly as may be convenient and shall cause such plat or survey as may be necessary to show or explain the same to be made and filed therewith with the city recorder, and the common council shall then or afterwards appoint three (3) commissioners, who shall be freeholders of said city, and no two (2) of whom shall reside in the same ward, to view the lands, water power or other

premises to be taken or appropriated and ascertain and award the amount of damages or compensation to be paid to the owners of the property so to be taken or appropriated. Two (2) or more of such commissioners shall constitute a quorum, and be competent to do any act required of such commissioners. They shall be notified by the city recorder, by notice served upon them severally, either personally or through the mails, to attend at his office, on or before a day fixed by him, not less than two (2) days after the service or mailing of such notice, to qualify and enter upon their duties; and if any commissioner shall refuse or neglect to attend as aforesaid, he shall forfeit and pay to the city of Wabasha the sum of fifty (50) dollars, to be recovered to the use of said city in a civil action; and in case a quorum of said commissioners shall not attend at the time and place designated in such notice, the mayor or acting mayor, of said city, may, in writing appoint one (1) or more commissioners to act in place of such absentees. The commissioners shall be sworn by the recorder, or some officer authorized to administer oaths, to discharge their duties as such commissioners with fidelity and impartiality, and make due return of their action to the common council. They shall give notice by two (2) publications in the official paper of the city, that they will on the day designated in such notice, (which shall be at least ten (10) days after the first (1st) publication of such notice,) meet at a place designated in such notice on or near the premises proposed to be taken and appropriated, and ascertain and award therefor compensation and damages; and that they will then and there hear such allegations and proofs as interested persons may offer. Such commissioners shall meet and view the premises, pursuant to such notice, and may adjourn from time to time, and after having viewed the premises, may for the purpose of hearing evidence, or preparing the award, adjourn, or go to any other convenient place in said city; and such commissioners shall make a fair and impartial appraisal and award of compensation and damages, to be paid each person whose property is taken or injuriously affected, and report the same to the common council, and such award shall lie over to the next stated meeting of said council, which shall occur more than one (1) week after such report is returned, at which, or at any subsequent time, the council may act on any such award and hear any objections made thereto, or may refer the said report to a committee, to hear and report such objections to the common council. The council may affirm or amend such award, or any part thereof, and send the same back to the commissioners for further action thereon; and such commissioners may, upon two (2) days notice by publication in the official paper of the city, meet at the time and place mentioned in such notice, and hear any further evidence that may be adduced by any interested party and may adjourn from time to time for any such purpose; and may correct mistakes in such award, and reverse and alter the same, as may be just, and report the same again to the common council, who may confirm or annul the same. When any such award shall have been confirmed by the common council, the same shall be final and conclusive on all parties interested, except as hereinafter provided.

SEC. 4. Any person whose property is taken or injuriously affected under the provisions of this chapter and who deems that there is

any irregularity or injustice in the proceedings of the council or action of the commissioners, by reason of which such award of the commissioners ought not to be confirmed, may at any time before the confirmation thereof by the common council file with the city recorder, in writing, his objections to such confirmation, setting forth specially such irregularity complained of, and if, notwithstanding, such objections, the common council shall confirm the award, such person so objecting shall have the right to appeal from the order confirming such award to the district court of the county of Wabasha at any time within ten (10) days after such confirmation. Such appeal shall be made by serving a written notice of such appeal upon the city recorder which shall specify the property of the appellant affected by such award, and refer to the objections filed as aforesaid, and by also delivering to said recorder a bond to the city of Wabasha, executed by the appellant or some one in his behalf, with two (2) sureties who shall justify in the penal sum of fifty (50) dollars, conditioned to pay all costs of such appeal, which may be awarded against the appellant and which bond shall be approved by the recorder. Thereupon the recorder shall make out and transmit to the clerk of the district court, a copy of the award of such commissioners, as confirmed by the common council, and of the order of the common council confirming the same, and of the objections filed by the appellant aforesaid, all certified by the recorder to be true copies, within ten (10) days after taking such appeal, the expense of which copies shall be paid in the first instance by the appellant. The cause shall be docketed by the clerk in the name of the person taking such appeal against the city of Wabasha, as an appeal from assessments. The cause shall then be at issue in said court, and shall have the preference, in order of trial, over all other civil actions pending in said court. Such appeal shall be tried in the district court as all other civil causes, except that no pleading shall be required, and on the trial the only question to be passed upon shall be whether the said commissioners had jurisdiction in said case, and whether the valuation of the property specified in the objections is a fair valuation, and the assessment of damages so far as it affects said property is fair and impartial. The judgment of said court shall be either to confirm or annul said assessment, in so far as the same affects the property appropriated as aforesaid of said appellant, from which judgment no appeal or writ of error shall lie, and if the court shall be of the opinion that such appeal was frivolous or vexatious, it may adjudge costs against said appellant in any sum not exceeding thirty-five (35) dollars; otherwise no costs shall be recovered by either party.

SEC. 5. Whenever an award of compensation and damages shall be confirmed by the common council and not appealed from, and whenever the same when appealed from shall not be set aside by the court the same shall constitute a lawful and sufficient condemnation and appropriation to public use of the land and property rights in property for which compensation of damages are so awarded and the common council shall thereupon cause to be paid from the general fund of said city, or from such other fund as to which the same may be properly chargeable to the owners of such property the amount awarded to each severally, but before the payment of such award the

owner of such property shall furnish an abstract of title to such property, showing himself entitled to the compensation or damages claimed. In case such payment is not made within one (1) year after the confirmation of such award or determination of appeal thereupon the proceeding shall be deemed to be abandoned. In case of neglect to furnish the abstract of title as aforesaid, or if there shall be any doubts as to who is entitled to such compensation or damages or any part of the same, the amount so awarded shall be appropriated and set apart in the city treasury for whoever shall be entitled thereto, and paid over whenever any person shall show clear title to the property and right to receive the same. The common council may at its discretion require of such claimant a bond with good and sufficient sureties conditioned to indemnify the city against all claims for such compensation or damages so awarded or for the property for which the same was awarded and all costs and expenses that may be incurred on account of such claims. Upon the payment of said award or appropriation and upon setting apart in the city treasury of the money to pay the same as aforesaid, the city shall become vested with the title to the property so taken or condemned absolutely for all the purposes for which the city shall or may ever have occasion to use the same and may forthwith enter upon the use of the same. This section shall apply to all cases of appropriation of private property for public uses provided in this chapter.

SEC. 6. Whenever the common council shall vote to lay out, grade or open any new street or alley, or to straighten, widen, grade, or extend any street or alley that now or hereafter may exist, which shall make it necessary to take, injure or interfere with private property, it shall determine and designate in a general way, as nearly as may be convenient, the character and extent of the proposed improvement, showing the course, character and extent of the same and the property necessary to be taken or interfered with thereby, with the name of the owner of such property so far as known, and such statement as in the opinion of the city surveyor, may be proper to explain such plat or survey, and his estimate of the cost of such improvement; and the common council may cause said plat and survey to be amended, modified or changed, as it may deem proper, and shall estimate and fix upon the cost of making such improvement. When such plat and survey shall be finally adopted by the common council, it shall be filed with the city recorder, and it shall be held to show correctly the character and extent of such improvement as is actually agreed upon and ordered by said common council. Said plat shall also show the amount of land to be taken from each owner, so far as known, and the land contiguous to and affected by such improvement. The common council shall then or afterwards appoint three (3) freeholders of said city, no two (2) of whom shall reside in the same ward, as commissioners to view the premises and ascertain and award the amount of damages and compensation to be paid the owners for property to be taken or injured by such improvements, and to assess the amount of such damages and compensation and the expense of the improvements upon the lands and property to be benefited by such improvements, and proportion the benefits to be secured to each parcel of lands benefited thereby, without regard to cash valuation. Two (2)

or more of such commissioners shall constitute a quorum, and be competent to perform any duty required by such commissioners, and they shall be notified of their appointment, and vacancies filled in their number in the same manner, and shall take the same oath and be subject to the same penalties for refusal or neglect to perform their duties, as is provided for commissioners under section four (4) of this chapter. Such commissioners shall give such notice and proceed in the same manner to view, hear and determine the damages and compensation to be paid to the owners of such property, and report their award to the common council in the same manner as required by section four (4) of this chapter;

*Provided, however,* that the said commissioners, in considering and awarding compensation and damages, shall also consider, estimate and offset the benefits which will accrue to the same owners from such improvements in respect to the remainder of such property, and only award him the excess, if any, as compensation or damages. The commissioners shall then assess the amount of such compensation and damages so awarded, together with the cost of making such improvements, upon the land and property benefited by such improvements, in proportion to such benefits; but in no case shall the amount so assessed exceed the actual benefits to the lot or parcel of land so assessed, deducting therefrom the damages or injuries to the same parcels which are less than such benefits, and assessing only the excess, and prepare and report to the common council their appraisal and award. And if, in the judgment of such commissioners, the whole amount of such compensation and damages, together with the cost of making such improvement, shall exceed the actual benefit to the specific property subject to assessment, they shall so indicate in their report, and shall state the amount of such excess. Said commissioners shall also report to the common council an assessment list, containing their assessment of such compensation, damage and expense of such improvement, or so much thereof as shall not exceed the actual benefit to the property so assessed, the names of the owners thereof, if known, and the amount assessed as such compensation, damages and costs of such improvement aforesaid, which they shall return as unassessed. The common council shall proceed to consider, confirm or annul or recommit such reports, and provide for like proceedings upon such reports as are provided for in section four (4) of this chapter.

Whenever the common council shall confirm any such award and assessment, such confirmation shall make such award and assessment final and conclusive upon all parties interested, except as herein provided; and the common council shall proceed to levy such assessment upon the several parcels of land described in said assessment list reported by said commissioners, in accordance with the assessment so confirmed, which said assessment shall become a prior lien upon such parcels of land, and cause to be made out and adopted an assessment roll of the same, which may be in the following form, viz:

“The common council of the city of Wabasha doth hereby assess and levy upon and against the several lots and parcels of land below described the respective sums of money set against each lot or parcel. This assessment is to defray the compensation and damages awarded

for the taking and injury to private property and costs of improvements on and about the..... as shown by the plat and survey of the same now on file in the office of the city recorder of said city. This levy is made conformable to the report and assessment of commissioners duly appointed to make such assessment, and in proportion to the benefits accruing from such improvements to accrue to the parcels, and not exceeding the benefit to the parcels so assessed.

OWNERS' NAME.	Description.	Lot.	Block.	Amount.	
				Dollars	Cts.

Done at a meeting of the common council this....day of.....  
A. D. 18...

Attest, .....  
[L. S.]..... Mayor."  
City Recorder."

SEC. 7. Any person whose property is proposed to be taken, interfered with or assessed for benefits under the provisions of the preceding section, who deems himself aggrieved by such proceedings, may appeal to the district court in and for the county of Wabasha, as provided for in section four (4) of this chapter. All commissioners appointed under the provisions of this chapter shall receive compensation at the rate of three (3) dollars per day, to be paid out of the general funds provided for the current expenses of the city,

SEC. 8. Whenever the common council shall determine to cause to be paved any street, lane or alley in said city, or any gutter or gutters along such streets or alley, or to lay, relay or extend any sewers or water mains along such street or alley or any portion thereof, it shall designate in a general way, as nearly as convenient, the character and extent of such improvements and the materials to be used therein; and thereupon it shall be the duty of the city surveyor to make and present to the common council an estimate of the costs of such improvements stating therein the proportion of such cost which shall be required to construct such improvements in front of abutting lands, which cost, in case of sewers, shall not exceed the cost of ordinary sewers in front of such abutting lands, or in case of water mains the cost of six (6) inch mains, and the proportion thereof to construct the same across streets and alleys, and in front of lands not subject to assessment, and also a list of the several lots and parcels of lands fronting upon such proposed improvements, with the number of feet front of each extending along such improvements and the names of the owners of the several parcels as near as may be. A brief mention of the reception of such report shall be made and published in the records of the proceedings of the common council, which shall be held to be sufficient notice to all persons concerned and such report shall lie over until the next stated meeting of such council occurring



more than one week after such publication; but the common council in its discretion, may direct the city recorder to advertise and receive bids in the meantime for doing the work and furnishing the material required to construct such improvements and report the same to the council at the next meeting of the council to consider such reports, or to any subsequent meeting of the same; the common council may consider such estimates and, under such rules as it may adopt, hear and consider any objections to such improvements; and the common council may adhere to its resolutions to make such improvements or alter or modify it. If the common council shall determine to go on with such improvements, whether modified or not, it may either before or after having contracted for the construction of said improvements, estimate and fix the cost of such improvements and the proportionate amount of such cost which is required to construct such improvements, not exceeding in case of sewers the cost of ordinary sewers, and in case of water mains not exceeding a six (6) inch main, and when larger sewers or water mains are needed it may assess and levy such proportion or amount of such costs upon the same lots and parcels of land upon a basis of an equal sum per front foot of each lot or parcel of land running along the line of such improvements, and the common council shall cause to be made and adopt an assessment roll thereof, which may be in the following form, and such assessment shall be a lien upon the land so assessed:

"The common council of the city of Wabasha doth hereby assess and levy upon and against the several lots and parcels of land below described, the respective sums set opposite each lot or parcel. This assessment is levied to pay the expenses of the city of Wabasha along ..... and said lots and parcels of land are assessed upon the basis of an equal sum per front foot along the line of such improvements.

Owner's Name	Description.	Lot.	Block.	Amount.	
				Dola.	Cents.

Done at a meeting of the common council this.....day of.....A. D. 18....

Attest: .....  
 (L. S.) City Recorder." Mayor."

SEC. 9. The common council may in its discretion, in case where any lot, fronting on two streets, has been previously assessed, and the assessment paid, for laying sewers, pipes or water mains upon a different street from the one through which the proposed improvement is to be extended, remit the assessment from such corner lot, such portions of the second (2nd) assessment, not exceeding the amount of

assessment for a frontage of fifty (50) feet on such lot as it may deem just; but the discretion of the common council in such matters shall be final and the refusal or failure of said council to make such remittance shall not be ground for setting aside such assessment in any court or proceeding.

SEC. 10. Whenever the common council shall have ordered the construction of any sidewalk, and the owners of the land along such sidewalk shall refuse or neglect for the space of two (2) weeks to construct the same according to the order of the common council; the street commissioner shall report to the common council a description of each lot or parcel of land along which said sidewalk has not been built, and his estimate of the cost of building the same; such estimate shall not be binding upon the common council, but advisory merely, and the council may obtain other information as to cost, and the council shall fix and designate the cost of building such sidewalk in front of each lot or parcel of land, and thereupon the common council shall assess and levy upon and against such lot and parcel of land so reported (after correcting mistakes, if any) along which said sidewalk has not been built, such sum as will cover the cost of building such sidewalk along such lots and parcels of land respectively, and cause to be made an assessment roll of the same, which shall be in the following form:

"The common council of the city of Wabasha, doth hereby assess and levy upon and against the several lots and parcels of land below described the respective sums of money set against each lot or parcel. This assessment is made to defray the costs of.....sidewalks along the.....side of.....from.....to.....in accordance with a resolution of the common council passed the.....day of.....18...., and published in the official paper of said city on the.....day of.....A. D., 18....; the amount levied and assessed upon each lot or parcel being the amount necessary to build such sidewalk along and fronting upon such lot or parcel.

Owner's Name	Description.	Lot.	Block.	Amount.	
				Dols.	Cents.

Done at a meeting of said common council this.....day of  
.....A. D., 18....

Attest: ..... Mayor."  
[L. s.] ..... City Recorder."

Provided, that nothing in this act contained shall authorize the common council to assess and levy upon and against any parcel of

land not platted and subdivided into lots, the cost of building sidewalks along such land; but in such cases the cost of building any sidewalk in front of property not platted and subdivided into lots shall be paid out of the general fund.

SEC. 11. Assessments for repairs of sidewalks may be in the following form:

"The common council of the city of Wabasha doth hereby assess and levy upon and against the several lots and parcels of land below described the respective sums of money set against each lot or parcel of land. This assessment is made to defray the cost of repair of sidewalks fronting upon each parcel or lot which the respective owners have neglected to make, and which have been made by the street commissioner since the . . . day of . . . . . A. D., 18—.

"The amount assessed against and levied upon each of said lots and parcels is the actual cost of the repairs of sidewalks abutting upon such lots or parcels so repaired by such commissioner.

Owner's Name.	Description.	Lot.	Block.	Amount.	
				Dollars.	Cents.

Done at a meeting of said common council this . . . day of . . . . .  
A. D., 18 . . .

ATTEST:

[L. S.] . . . . .

City Recorder."

Mayor."

SEC. 12. The city recorder shall record all assessment rolls of special assessments in books kept by him for that purpose, and shall on or before the tenth (10th) day of October in each year, deliver to the county auditor of Wabasha county all such assessment rolls theretofore recorded; and such county auditor shall extend the assessments in proper columns against the property assessed, and such assessment shall be collected and enforced; and such assessments shall be paid over by the county treasurer, when collected, to the city treasurer in like manner as other taxes.

SEC. 13. No omission, informality or irregularity in proceedings in or preliminary to the making of any special assessment shall affect the validity of the same when the assessment roll has been adopted by the common council; and the assessment roll and the record thereof, kept by the city recorder, shall be competent and sufficient evidence that such assessment was duly levied, and that such assessment roll was duly made and adopted, and that all other proceedings were duly had, taken and performed as required by this charter, and no failure of the city recorder to record the assessment roll or return the same to the county auditor on or before the time prescribed for such

delivery, or to do any other act or thing required of him shall in any way invalidate such assessment, and no variance from the directions herein contained, as to form or manner of proceedings, shall be held as material unless it can be clearly shown that the party objecting was materially injured thereby, unless such objections were taken at the time and in the manner prescribed by and in this chapter.

SEC. 14. In case any special assessment shall, in any suit wherein its validity shall be questioned, be adjudged invalid by the court, the common council may, in its discretion, notify the county auditor to cease the collection of the same, if it shall be transmitted to him for collection, and may proceed anew by proceedings either as in case of an original special assessment for the same purpose or by taking up the previous proceedings at any point, and may make and levy a new assessment in place and stead of the assessment which shall have been adjudged invalid. The city recorder before delivering such new assessment to the county auditor shall ascertain and note thereon payments which have been made on such invalid assessments, for the same purpose, which notation shall cancel the assessment as to the lots and parcels on which payments were made to the extent of such payment. Such new assessments shall be collected in same manner as the original special assessment.

SEC. 15. No special assessment shall be held to be invalid because the amount of such special assessment shall happen to be more or less than the amount of money actually required for the improvements for which such assessment was made. If the special assessment shall happen to be less than the amount required, the balance shall be paid from the current funds of the city, except in case of sewers the balance shall be paid from the permanent improvement fund, and if there should happen to be a surplus of such assessment, the surplus shall be credited to the same fund from which the deficiency would have been supplied, or be otherwise disposed of as the common council shall deem most just toward the person upon whom the special assessment was levied, and upon any assessment rolls or any other papers being used upon any of the proceedings it shall not be necessary that words be written out in full, but abbreviations, letters, figures and other recognized characters may be used whenever their use shall be convenient, and no error or mistake as to name of the owner of any property, shall be regarded as material in any proceedings under this act.

SEC. 16. It shall require a two-thirds ( $\frac{2}{3}$ ) vote of all the aldermen of the city to determine in the first (1st) instance to make any improvements for which special assessments may be levied, except in respect to sidewalks, when a majority vote shall suffice; but this restriction shall not apply to any subsequent action of said common council touching such improvements to provide means therefor.

SEC. 17. Any improvement, the means to make or construct which may be raised by special assessment, may be performed by contract, let in the ordinary way or directly by the city by the employment of labor and purchase of material, or in any manner which the common council shall deem proper in each particular case; and the common council may in its discretion in any case instead of causing the special assessments to be made entirely upon estimates as hereinbefore

provided, wait until receiving bids for the contract before determining and fixing the cost of such improvement or appointing commissioners to fix the assessment; but no bid shall be taken as a basis for an assessment which is not accompanied by a bond with good and sufficient sureties in a penal sum equal to one-half ( $\frac{1}{2}$ ) the amount of the contract price bid, conditioned that, should the common council award the contract to such bidder, that he will accept and enter into such contract to do the work or furnish the material at the bid price.

SEC. 18. The common council may, at the time of ordering any improvement for which any assessment may be made, determine whether to proceed at once with such improvement or await the collection of such assessment. In case it shall determine to proceed with such improvement the money to defray the expenses thereof shall be advanced out of the improvement fund of the city or any other fund provided by law therefor. In such case there shall be added to the cost of such improvement, interest at the rate of seven (7) per cent. per annum from the time of making such improvements until the thirty-first (31st) day of May ensuing, and such interest shall be included in such assessment and be collected as part of the cost of such improvement.

SEC. 19. In case any assessment is collected before the making of such improvement the money so collected shall be kept separate from the funds of the city and not be devoted to any other purposes than such improvements, and as soon as the majority of the assessments for such improvements are paid the common council shall forthwith cause such improvements to be made.

SEC. 20. After any special assessment roll shall have been made and adopted by the common council and before the same shall have been delivered to the county auditor for collection, any assessment thereon may be paid direct to the city treasurer of the city, and upon the production of the treasurer's receipt therefor to the city recorder he shall enter upon such assessment roll opposite the assessment so paid the words, "paid to the city treasurer," which entry shall cancel the assessment so paid. In case the interest shall have been included in such assessment, so much of said interest as shall not have accrued on such assessment at the time of such payment shall be deducted therefrom.

SEC. 21. Nothing herein contained shall intercept or interfere with any assessments which have been heretofore made; but the collection thereof shall go on according to the provisions of the charter in force at the time of making such assessments.

SEC. 22. All assessments provided for under the provisions of this chapter shall become a lien upon the lots and parcels of land upon which assessments are made, which said lien shall be a first lien upon such property from the time such assessment roll is adopted by the common council and recorded in the office of the city recorder, and no sale under execution or other proceedings upon a judgment, decree, foreclosure or lien, and no transfer or mortgage of said property shall divest or affect the lien of such assessment for any tax or for improvements chargeable as assessment against such property under this charter, although confirmation of such assessment may be

subsequent to the lien of such judgment, decree or other lien, or to such transfer or mortgage.

SEC. 23. In all cases when any tract or lot of land, within the boundaries or limits of the city of Wabasha, is divided in parcels of irregular shape that can not be described, except by metes and bounds, and can not be described by government sub-divisions, it shall be the duty of owners of such tracts, upon the order of the common council, to have such land platted into lots—if such plat can not be made without an actual survey of the land, then they shall have the same surveyed—and the plat thereof recorded. If the owners of any such tract shall refuse or neglect to cause such plat and survey, when necessary, to be made and recorded, within thirty (30) days after such order, the city surveyor, upon request of the common council shall make out such plat from the records of the register of deeds, if practicable; but if it can not be made from such records, then he shall make the necessary survey and the plat thereof and designate such tract or parcel of land as "Outlot No. . . .," and each piece or tract of land so surveyed and platted into a lot or lots shall be consecutively numbered, and the common council shall have the same recorded by the register of deeds of Wabasha county, whose duty it shall be to record the same. Such plats being duly certified and recorded, the description of the property in accordance with the number and description set forth in such plat shall be deemed a good and valid description of the lots or parcels of land so described. When the owners of such land fail to comply with the provisions of this section, the costs of surveying, platting and recording shall be paid by the city from the improvement fund, and the amount thereof shall be added to the tax upon such tracts or lots the next ensuing year, which tax, when collected, shall be credited to the improvement fund.

## CHAPTER XII.

### MISCELLANEOUS PROVISIONS.

SECTION 1. All ordinances and resolutions heretofore made and established by the common council of the city of Wabasha, and not inconsistent with the provisions of this act, shall remain in force, except as altered, modified or repealed, and except as may be hereinafter modified or repealed by the common council, and all books or pamphlets published, or that may hereafter be published, purporting upon their title page to be published by the authority of said common council, and purporting to contain the ordinances of said city, standing rules of said common council, or either, are hereby declared to be competent prima facie evidence of the contents of such ordinances, standing rules and orders, or of any resolutions or other matters purporting to be the act of said common council which may be found printed thereon, and of due adoption, approval and publication thereof.

SEC. 2. The common council may from time to time provide for the compilation and publication of the ordinances of the city and such resolutions as may be designated, and for the distribution or

sale of copies of such compilations, in its discretion, and may also provide for exchange of such printed copies with other cities.

SEC. 3. No person shall be an incompetent judge, justice, witness or juror, by reason of his being an inhabitant of said city, in any proceeding or action in which said city is a party interested.

SEC. 4. The said city may lease, purchase and hold real estate sufficient for the convenience of the officers and inhabitants thereof, and may sell and convey the same, or any other property or franchises belonging to the said city, and the same shall be free from taxation while so held by the city; *provided*, no real estate shall be sold without the concurrence of all the members of the common council, and no franchise shall be granted to any party or corporation without the concurrence of two-thirds ( $\frac{2}{3}$ ) of all the aldermen of said city; and until notice has been given in the official paper of the city, that such franchise is asked for, at least two (2) weeks prior to the granting of such right.

SEC. 5. No law of the state containing the provisions of this act shall be considered as repealing, amending or modifying the same, unless such purpose be expressly set forth in such act.

SEC. 6. When any suit or action shall be commenced against the city, service thereof may be made by leaving a copy of the process by the proper officer with the mayor, and it shall be the duty of the mayor to forthwith inform the common council and the city attorney thereof, or to take such other proceeding as the council may direct by ordinance or resolution.

SEC. 7. All actions brought to recover any penalty or forfeiture under this act, or the ordinances or by-laws of the city, or police or health regulations of the city, shall be brought in the corporate name of said city.

SEC. 8. In all prosecutions for any violation of this act, or of any ordinance, resolution or by-law of the city of Wabasha, the first process shall be by warrant on complaint being made. *Provided*, that no warrant shall be necessary in any case of the arrest of any person or persons while in the act of violating any law of the state of Minnesota, or ordinance, or by-law of the city of Wabasha, but the person or persons so arrested may be proceeded against, tried, convicted and punished or discharged in the same manner as if the arrest had been made by warrant, and in all cases of penalty or fine, or the rendering of judgment by a justice of the peace of said city, pursuant to any statute of the state of Minnesota, or the ordinances of said city of Wabasha, as a punishment for the violation of such statute or ordinance, the said offender shall be forthwith committed to the county jail of Wabasha county for a term not exceeding three (3) months, unless said fine be sooner paid, and from the time of the arrest of such person for any offense whatever until the trial of such person so arrested, he may be imprisoned in the county jail of said Wabasha county. All warrants, process or writs issued by the justices of the peace for any violation of any ordinance and by-law of said city, shall be directed to the sheriff of Wabasha county, or the city marshal, or any police officer or constable of the city of Wabasha; and the style of all process shall be, "The State of Minnesota." It shall be a sufficient pleading of the by-laws or ordinances of said

city in any court of this state to refer to the number of the by-law or ordinance and the date of its passage, and giving it in evidence under the complaint. In cases of prosecution for a breach or violation of any ordinance, by-law or regulation of said city or its charter, no change of venue shall be granted; and no appeal shall be allowed when the judgment or fine imposed, exclusive of costs, for the violation or breach of any ordinance or by-law, does not exceed fifteen (15) dollars.

SEC. 9. The city of Wabasha shall not be liable in any case for the board, sheriff's fees, or jailor's fees of any person who may be committed to the jail of Wabasha county under the laws of this state, or this charter, or under any ordinance, by-law or resolution of said city.

SEC. 10. No penalty or judgment recovered in favor of the city shall be remitted or discharged except by vote of all the members of said common council; but nothing in this section shall be construed to prohibit any court from suspending the execution of sentence in its discretion.

SEC. 11. No city officer or employe of the city shall sell, or dispose of, or convert to his own use any city property in his charge without special authority from the common council, and the said council shall by ordinance cause all officers having under their control any tools or other city property, to make out a list of such tools or city property, and file the same with the city recorder and to account for such property from time to time as it in its discretion may deem proper.

SEC. 12. All fines, penalties, judgments and moneys (except officers' fees) that may be imposed, levied or collected by the justices of the peace, or that may be collected by any other officers of said city for any violation of any ordinance or by-law of said city, or of any of the laws of the state of Minnesota shall be vested in and be the sole and exclusive property of said city.

SEC. 13. Notwithstanding the supersedure or repeal by this act of the act incorporating the city of Wabasha and acts amendatory thereof, it is not intended that any rights vested shall be lost thereby, but in all cases affecting past taxes not yet collected, liens for the same, rules of evidence and rights of every kind inchoate or perfected, the provisions of such acts as are hereby suspended or repealed, and of all ordinances theretofore passed by the council of said city shall be deemed to continue in force.

SEC. 14. All accounts, claims or demands, of every kind whatsoever against the city of Wabasha shall first be presented to the common council of said city for their consideration and disposal as to them shall appear just or lawful before any suit or action at law based upon such account, claim or demand, shall be commenced or prosecuted against said city.

SEC. 15. All moneys belonging to the city of Wabasha, including license money and fines, shall be paid in the first (1st) instance to the city treasurer who alone is authorized to receipt therefor.

SEC. 16. This city charter shall be a public act and need not be pleaded in any case, or action, or proceeding in any of the courts of this state.



SEC. 17. All acts and parts of acts inconsistent herewith are hereby repealed, and this act shall take effect and be in force from and after its passage.

Approved, March 21st, 1889.

## CHAPTER 14.

[S. F. No. 290.]

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO ESTABLISH A MUNICIPAL COURT IN THE CITY OF WINONA;" APPROVED MARCH NINTH (9th) A. D. ONE THOUSAND EIGHT HUNDRED AND EIGHTY-FIVE (1885), AND SUBSEQUENT ACTS AMENDATORY THEREOF.

*Be it Enacted by the Legislature of the State of Minnesota:*

SECTION 1. The certain act entitled "an act to establish a municipal court in the city of Winona," approved March ninth (9th) A. D. one thousand eight hundred and eighty-five (1885) as amended by subsequent acts, be and the same is hereby amended as follows to wit: Section nine (9) of said act shall be amended so that said section shall read as follows: "The clerk of the municipal court shall have the custody and care of all the books, papers and records of said court. He shall be present by himself or deputy, at all trials and sessions of the court, and when the court is not in session he shall attend at his office at all suitable hours for the performance of such official duties as may be required of him, unless absent from sickness or by consent of the judge. And in case of the absence of both clerk and deputy, the judge may appoint some person temporarily to the position. He may swear all witnesses and jurors, and administer all oaths and take acknowledgments. He shall keep minutes of all proceedings and enter all judgments and make up and keep the records of the court, under the direction of the judge, and when the judge is not present adjourn the court from day to day. He shall tax all costs and disbursements allowed in any action, subject to review by the judge, receive and collect all fines and penalties, imposed by the court, and fees of every kind accruing to the court or any officer thereof, including the city marshal and police officers, and keep full, accurate and detailed accounts of the same; and shall on the the first (1st) Monday of every month, deliver over to the city treasurer of the city of Winona all moneys so received, with detailed accounts thereof, and take his receipt therefor; but all penalties collected for the forfeiture of any bond, recognizance or bail given in said court shall be paid to the Winona Bar Association to be applied to the support of the law library of said association, and the receipt of the treasurer of said association to said clerk shall be a sufficient voucher for such sums so paid; *provided*, that the said Winona Bar Association shall by proper