

CHAPTER II.

An Act to incorporate the City of Wabashaw.

- CHAPTER 1. City Boundaries.
 2. Election of Officers, and vacancies.
 3. Powers and Duties of Officers.
 4. City Council—its powers and Duties.
 5. Taxes. Manner of Assessment, Levying and Collecting.
 6. Opening of Streets, Lanes, &c.
 7. Miscellaneous Provisions.

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

CHAPTER I.—CITY BOUNDARIES.

SECTION. 1. All that part of the county of Wabashaw, contained within the limits and boundaries hereinafter described, shall be a city by the name of the city of Wabashaw, and the people now inhabiting and those who shall hereinafter inhabit within the district of country herein described, shall be a municipal corporation by the name of the City of Wabashaw, and in addition thereto, shall possess the powers hereinafter specially granted, and the authorities thereof shall have perpetual succession, shall be capable of contracting and being contracted with, of suing and being sued, pleading and being pleaded in all courts of law and equity, and shall have a common seal and may change and alter the same at pleasure.

Corporation

SEC. 2. Territory included within the following boundaries and limits, shall constitute the city of Wabashaw, viz: Beginning at a point in the Mississippi River on the dividing line between Wisconsin and Minnesota, at the mouth of a small creek, called Smith's creek, between Wabashaw and Reed's Landing; thence up said creek to the west line of township No. 111, range 10; thence along said township line to the south-west corner of section 6 in township 110, range 10; thence along the south line of sections 6, 5 and 4 of township 110, range 10, to the south-east corner of said section 4; thence north along the east line of said section 4, township 110, range-10 and section 33, township 111, range 10, to the Wisconsin line; thence along the Wisconsin line up to the place of beginning.

Boundaries

CHAPTER II.

SEC. 1. The annual elections of city officers shall be held on the first Tuesday of April of each year, at such place within the city as the Common Council shall designate, and

Elections.

the polls shall be kept open from twelve o'clock at noon until four in the afternoon, and ten days previous notice shall be given by the City Council of the time and place of holding such elections, and the officers to be elected, by posting notices thereof in three of the most public places in the city and by publishing the same in all the papers published in the city.

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

Elective of
officers

Vacancies how
filled

SEC. 3. Whenever a vacancy shall occur in the office of Mayor, such vacancy shall be filled by a new election, which shall be ordered and held within twelve days after such vacancy shall occur; any vacancy occurring in any of the other offices, shall be filled by the Common Council, the person elected or appointed to fill a vacancy shall hold his office and discharge the duties thereof for the unexpired term, and with the same rights and subject to the same liabilities as the person whose office he may be elected or appointed to fill.

Plurality of
vote for an e-
lection

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

Who may
vote

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

Manner of
holding elec-
tion

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

SEC. 7. If either of the Inspectors shall suspect that any person offering to vote does not possess the qualifications of an elector, the Inspectors, before receiving the vote of any such person, shall require him to take the following oath: You do solemnly swear, (or affirm, as the case may be,) that you are twenty-one years of age; that you are a citizen of the United States, or have declared your intentions to become a citizen conformably to the laws of the United States on the subject of naturalization; that you have resided in this city four months; and that you have not voted at this election, and that you have made no bet or wager depending on the result of this election. And if any person offering to vote shall take such an oath, his vote shall be received, otherwise rejected. And if any person shall take such an oath falsely, he shall be guilty of wilful and corrupt perjury. If any person who is not a qualified voter, shall vote at such election, he shall be liable to indictment, and on conviction thereof, he shall forfeit and pay a sum not exceeding one hundred dollars, nor less than twenty-five dollars. It shall be the duty of the Inspectors to keep a list of the names of all persons whose votes may be challenged as aforesaid, and who shall swear in their votes, and if any Inspector shall knowingly and corruptly receive the vote of any person not authorized to vote, or shall make out false returns of an election, or if any clerk shall intentionally or corruptly fail to write down the name of every voter as he votes, each and every such Inspector and clerk shall be liable to indictment, and on conviction thereof, shall severally forfeit and pay a sum not exceeding five hundred dollars. All such indictments shall be tried in the District Court in the county of Wabashaw.

Oath on challenge of vote

Penalty for illegal voting

Inspector's duty

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

Return of election

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

Special election

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

Failure of officer to enter upon duty

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

CHAPTER III.

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

Bond and sureties

Mayor, his duties **Sec. 2.** The Mayor shall, when present, preside over the meetings of the Common Council, and take care that the laws of the State and the ordinances of the city be strictly enforced and duly observed, and all other executive officers of the city discharge their respective duties. The Mayor, or two aldermen may call special meetings of the Common Council. He shall inspect the conduct of all subordinate officers, and cause negligence and persistent violations of duty to be prosecuted and punished, and may require of any officer of the city, wherever he may deem it necessary, an exhibit of his books and papers. He shall from time to time communicate to the Common Council, and recommend such measures as he may deem advantageous to the city. He shall have power to execute all acts that may be required of him by any ordinance made in pursuance of this act, and is hereby authorized to call upon every male inhabitant of said city, over the age of eighteen years, to aid in enforcing the laws and ordinances, and in case of riot, to call out the militia to aid him in suppressing the same, or carrying into effect any law or ordinance. Any person who shall not obey such call, shall forfeit to said city, a fine not exceeding twenty-five dollars, and not less than five dollars.

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

Sec. 4. In case the Mayor shall be absent from any meet-

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

Absence of
Mayor

SEC. 5. The Recorder shall keep the corporate seal and all the papers and records of the city, and keep a record of the proceedings of the Common Council. He shall draw and countersign all orders on the Treasury 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, and make a fair and full record of all the by-laws, rules or ordinances made or passed by the Common Council. The Recorder shall have power to administer oaths or affirmations, and copies of all papers filed in his office, and transcripts from the records of the Common Council certified by him under the corporate seal, shall be evidence in all courts in like manner as if the original were produced. He shall report annually on or about the first day of May, to the Council, an estimate of the expenses of the city for the current year and revenue necessary to be raised therefor, and the fiscal year of the city shall commence on the first day of May. He shall make, or cause to be made, estimates of the expense of any work to be done by the city, and countersign all contracts made in behalf of the city, and all certificates of work by any officer of the city or any committee of the Common Council. He shall negotiate, between the first day of May and the time of collection of taxes for the same year, such temporary loans for the city as the Council shall direct, anticipating the revenue for the current year, and such loans shall be subject to the approval of the Common Council. He shall examine the reports, books, papers, vouchers and accounts of the Treasurer, and from time to time perform such other duties as the Council shall direct. All claims against the city before they are allowed by the Common Council, shall be audited and adjudged by the Mayor. The Recorder shall keep a record of all his acts and doings, which record shall be at all times open to the inspection of all parties interested. He shall not be directly, or indirectly, interested in any contract or job to which the city is a party, or in any loan negotiated by the city.

Recorder, his
duties

SEC. 6. The Common Council shall have power to elect any Attorney for the city, who shall perform all professional duties incident to his office, and when required, shall furnish written opinions upon any subject submitted to him by the Common Council or its committees.

City Attorney

SEC. 7. The Treasurer shall receive all moneys belonging to the city, and keep an accurate and detailed account thereof,

Treasurer in such manner as the Common Council shall from time to time direct. The Treasurer shall exhibit to the Common Council, at least fifteen days before the annual election, or sooner if required by them, a full and detailed account of all the receipts and expenditures after the date of the last annual report, and also the state of the Treasury, which account shall be filed with the recorder.

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

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

Official newspapers **Sec. 10.** The Common Council at their first meeting in each year, or as soon thereafter as may be, shall designate what newspapers printed in the city, and how many, in which shall be published all the ordinances and other proceedings and matters required by this act, as by the by-laws or ordinances of the Common Council to be published in a public newspaper.

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

Failure of officers to deliver up books **Sec. 12.** Any person having been an officer of said city, shall, within ten days after notification and request, deliver to his successor in office, all property, books, papers, and effects of every description in his possession, belonging to said city, or pertaining to the office he may have held; if he fails so to do after such notification and request, he shall forfeit and pay to the use of the city, one hundred dollars, be-

sides all damages caused by his neglect or refusal so to deliver, and such successor may recover the possession of such books, papers and effects in the manner prescribed by the laws of this State in cases of unlawful detention.

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

Contracts—
members of
council not to
be interested
in

Sec. 14. The Mayor, Sheriff of Wabashaw county, and each and every Alderman, Justice of the Peace, Marshal, Recorder, and constables of the townships or precincts of which said city is a part, shall be officers of the peace, and may command the peace and suppress in a summary manner all rioting and disorderly behavior within the limits of the city, and for such purpose may command the assistance of all bystanders, and if any person so commanded shall refuse to aid in maintaining the peace, every such person shall pay a fine of twenty-five dollars.

'Peace officers
defined

Sec. 15. The Justice of the Peace for the city shall possess all the authority, power and rights of a Justice of the Peace, except he shall in no case entertain any civil proceeding to which the city is not a party, and shall have sole exclusive jurisdiction to hear all complaints, and conduct all examinations and trials in criminal cases within the city, cognizable before a Justice of the Peace, but warrants returnable before the said city Justice may be issued in criminal cases by any Justice of the Peace of the said county of Wabashaw, but no fees shall be received therefor by such Justices; said Justice shall have exclusive jurisdiction in all cases in which the city is a party, and he shall have the same power and authority in cases of contempts as other Justices of the Peace, provided, that nothing herein contained shall be deemed to divest the District Judges or Judges of the Supreme Court of their authority as conservators of the peace. In case of absence or sickness, or other disability of said Justice, or for any sufficient reason, the Mayor by warrant may authorize any other Justice of the Peace within the limits, or either one of the Aldermen of said city, to perform the duties pertaining to the office of said Justice, and the Mayor shall thereupon inform the city Attorney and Marshal of such appointments, and make report thereof to the City Council and they shall confirm or set aside such appointment, or appoint some other Justice or Alderman, and the person so appointed shall for the time being and until his appointment is vacated, possess all the authority, powers and rights appertaining to the office of Justice of the Peace for the city; provided, nothing herein contained shall be deemed or so construed as to oust the city Justice of the Peace of his jurisdiction, but the Justice so appointed until his appointment is vacated, shall have concurrent jurisdiction with the city Justice and shall receive like fees for his services as said Justice of the Peace for the city.

City Justice, his
duties

**Justice to
make report to
council**

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

City Surveyor

SEC. 17. There shall be annually appointed by the Common Council, a City Surveyor, who shall hold his office for one year and until his successor shall be appointed and qualified, and the Common Council shall 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 the city, and shall be carefully preserved in the office of the Recorder, open to the inspection of the parties interested.

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

**Who are the
common coun-
cil**

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

**Powers of the
council**

SEC. 2. The Common Council shall have the management and control of the finances, and of all the property of the city; and the Common Council shall likewise have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify, correct, and repeal, all such ordinances, rules and by-laws, for the government and good order of the city; for suppression of vice as they shall deem expedient; and declare and impose penalties, by fine and imprisonment, or both, and to enforce the same against any person or persons who violate any of the provisions of such ordinances, rules or by-laws, and which ordinances, rules and by-laws, are hereby declared to be and have the power of law; and for those purposes shall have authority by ordinances, resolutions or by laws, provided they be not repugnant to the Constitution and Laws of the United States, and of this State.

**To grant li-
censes**

1st. To license and regulate the exhibition of common showmen, or shows of any kind or the exhibition of Caravans, Circuses, or Theatrical performances, Billiard Tables, Bowling Saloons, and to provide for the abatement and removal of all nuisances under the ordinances, or at common law, or under this

act; and to grant licenses and to regulate groceries, taverns, victualling houses, and all persons vending or dealing in spirituous, vinous, fermented, mixed, or intoxicating liquors; *provided*, that the license for so dealing in spirituous, vinous, fermented or intoxicating liquors, shall be at least fifty dollars, and as much higher as the Council may direct; and shall be for the current year, which shall expire on the second Monday in May.

2nd. To restrain and prohibit all E. O or Rolette Tables, Faro or Pharo Banks, and all gaming with Cards, and all gambling tables, and to prohibit the use of all gambling devices whatever from being set up or used for gambling purposes, and to restrain and prohibit all descriptions of gaming and fraudulent devices and practices, and playing of cards, dice or other games of chance, for the purpose of gaming in said city; and to restrain and prohibit any person from vending, giving or dealing in spirituous, vinous, fermented, mixed, or intoxicating liquors of any kind, and impose such restrictions, or prohibitions by fine or imprisonment, or by both fine and imprisonment.

To restrain
gambling and
tippling houses

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

To prevent
riots

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

To make
the same
regula-

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

Slaughter
houses &c

6th. To prevent the encumbering of streets, side-walks, lanes or alleys, with carriages, carts, wagons, boxes, sleighs, fire-wood, lumber or any other material or substance whatever.

St. sets

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

Horse racing

8th. To restrain the running at large of cattle, horses, mules, swine, sheep, poultry and geese, and to authorize the impounding, detaining and sale of the same.

Public pounds

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

Dogs

10th. To prevent any person from bringing, depositing or

- having within the city, any putrid carcass, or other unwholesome substance, and to require the removal of the same, by any person who shall have the same upon his premises, or from any street, lane or alley; if he shall have thrown or put the same in any street, lane or alley, and in default to authorize the removal thereof by any competent person, at the expense of such person or persons.
- Health**
- 11th. To make and establish public grounds, pumps, wells, cisterns and reservoirs, and to provide for the erection of water-works, for the supply of water to the inhabitants, to erect lamps or other means whereby to light the city, to regulate and license hacks, cabs, drays, carts, and charges of hackmen, coachmen, draymen and cartmen of the city.
- Licenses &c**
- 12th. To establish and regulate boards of health, provide hospital and cemetery grounds, regulate the burial of the dead, and the returns of the bills of mortality, and to exempt burial grounds, set apart for public use, from taxation.
- Burial grounds &c**
- 13th. To regulate the size and weight of bread, and to provide for the seizure and forfeiture of bread, baked contrary thereto.
- Assize and weight of bread**
- 14th. To prevent all persons riding or driving any ox, cow, horse, mule or other animal on the side-walks of the city, or in any way doing damage to such side-walks.
- Sidewalks**
- 15th. To prevent the shooting of fire arm, crackers, rockets, or other projectiles, and to prevent the exhibition of any fireworks in any situation which may deemed by the Council dangerous to the city or any property therein, or annoying to any citizens thereof.
- Firearms**
- 16th. To restrain drunkards, immoderate drinking of intoxicating beverages, brawling and obscenity in the streets or public places, and to provide for assisting, removing and punishing any person who may be guilty of the same.
- Drunkennes**
- 17th. To restrain runners and solicitors for boats, vessels, stages, public houses, rail roads, and other establishments, and to regulate the police of the city.
- Runners**
- 18th. To establish public markets, and to enforce rules and regulations for the government of the same.
- Markets**
- 19th. To regulate the place and manner of selling and to provide for the inspection and weights of hay, and stone-coal, and measuring of charcoal, fire wood, and other fuel, and to appoint suitable persons to superintend and conduct the same.
- Hay wood &c**
- 20th. To compel the owners or occupants of buildings or grounds to remove snow, dirt or rubbish from the side-walks, streets or alleys opposite thereto, and in his default, to authorize the removal or destruction thereof by some officer of the city, at the expense of such owner or occupant.
- Sidewalks**
- 21st. To regulate the construction of wharves or grading such wharves into the Mississippi river within the corporate limits of the city, and to prescribe and control the prices of wharfage thereon.
- Wharves**

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

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

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

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

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

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

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

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

30th. To regulate and tax merchants, retailers, taverns, groceries, ordinances, hawkers, pawn brokers, and money changers. Hawkers

31st. To license and regulate porters, and fix the price of portage. Porters

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

33rd. To regulate and order parapet walls and other partition fences. Fences

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

35th. To provide for the limits within which wooden buildings or buildings of other materials that shall not be deemed fire-proof, shall not be erected, or repaired, and to direct that all and any buildings within the limits prescribed, shall be made and constructed of fire-proof materials, and to prohibit the repairing or rebuilding of wooden buildings within such limits, when the same shall have been damaged to the extent of fifty per cent. on the value thereof, and to prescribe the manner of ascertaining such value and damages. Fire Limits

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

37th. The Common Council shall have power to purchase fire engines and other fire apparatus, to authorize the forma-

tion of fire engine, hook and ladder, and hose companies, and to provide for the due support and regulation of the same, and to order such companies to be disbanded and their apparatus to be delivered up; each company shall not have to exceed seventy-five members, and shall be formed by voluntary enlistment, and each member of every such company shall be exempt from poll tax, from serving on juries, and from military duty during the continuance of such membership.

Fire company

Manner of passing ordinances and their publication

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

Suits at law

SEC. 4. The powers conferred upon the Common Council to provide for the abatement or removal of nuisances, shall not bar or hinder suits, prosecutions or proceedings in the courts according to law. Houses or buildings of any kind, wherever more than twenty pounds of gunpowder are deposited, stored or kept at any time, gambling houses, houses of ill-fame, disorderly taverns or beer shops, or places where spirituous, vinous, fermented, mixed or intoxicating liquors are sold, given away, or dealt in without license required therefor within the limits of the city, are hereby declared and shall be deemed public or common nuisances.

Accounts of city officers to be examined

SEC. 5. The Common Council shall examine and adjust the accounts of the Treasurer, Marshal, Recorder and all other officers and agents of the city, at such times as they may deem proper, and at the end of each year and before the term for which such officers were elected or appointed have expired; and the Council shall require each and every such officer and agent to exhibit his books, accounts and vouchers for such information and settlement, and if any such public officer or agent shall refuse to comply with the order of the Council in the discharge of their duties in pursuance of this section, the Council shall declare the office of such person vacant, and may commence suit or proceedings at law against

any such officer or agent who may be found delinquent as defaulting in his accounts or in the discharge of his official duties. The Council shall make full records of all such statements and adjustments.

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

Streets, &c

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

Sidewalks

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

Street improvements
how to be paid

SEC. 9. Whenever the Common Council shall determine to make any public improvements, as authorized by sections six, seven and eight of this chapter, they shall cause to be made an estimate of the whole expense thereof and the proportion to be assessed and charged to each lot, and in case of grading said streets, alleys, or sidewalks, of the number of cubic yards to be filled in or excavated in front of each lot, and such estimates to be filed in the office of City Recorder for inspection of persons interested. The Common Council shall give notice by advertisement for two weeks in the official paper, to the owner or occupants of the lots or parcels of land fronting on any street, alley, or sidewalk ordered to be graded, graveled, planked or paved, requiring them to do the work mentioned in said notice within a reasonable time, therein to be specified, and if said work is not done within such time, the Common Council shall enter into contract for the doing thereof.

SEC. 10. Whenever the interest of the city requires deep cutting or extraordinary filling in any street, and the owners of the lots or parcels of land fronting on such deep cutting or filling shall deem themselves aggrieved thereby, and shall represent to the Common Council, in writing, that the ex-

Street im-
provements

penses of such excavating or filling will exceed the benefit the same will beto the property assessed therefor, the Common Council shall appoint five freeholders, not interested in said lots or parcels of land, who first being duly sworn faithfully and impartially to perform the trust reposed in them, shall examine the premises. If those first appointed refuse or are incapacitated to serve, the Council shall appoint others in their stead. Upon examination of said premises, if in their opinion the cost of such improvement shall exceed the benefits to be derived therefrom, it shall be their duty to report to the Common Council, specifying in said report what portion of the work to be performed shall be chargeable to such lots, and how much or what portion shall be chargeable to the city funds, and such part or proportion as shall be so reported as properly chargeable to the lots or parcels aforesaid, shall be assessed upon the same and levied and collected as other taxes or assessments, and the remainder shall be paid out of the city fund: *Provided*, That such representation or petition shall not be received unless presented within ten days after the first publication requiring the work to be done; *And, provided further*, That it shall be the duty of the Common Council to appoint such commissioners whenever it shall appear to them that such lauds or lots belong to infants or other persons under legal disability, not reported by guardians.

Wharves

SEC. 11. The Common Council shall have the power to regulate and cause to be constructed, altered and maintained, wharves along the river Mississippi, and shall have and exercise the same control over the river to the eastern boundary of the State of Minnesota, that they possess by virtue of this act over the streets and alleys in said city. The expense of constructing, altering, grading, paving and maintaining the same shall be apportioned by the Common Council among and is hereby made payable by the lots or parcels of land extending to said river, in proportion to the work done opposite to said lot or parcel of land, to be estimated by said Surveyor. *Provided however*, That before causing said work to be done, the same notice shall be given as is required in the cases of grading the streets. *Provided further* That the owners of such lots shall have the same power of petitioning the Common Council, as is provided in section ten of this chapter, in regard to grading of streets and alleys, when the same proceeding shall be had and the work apportioned as herein provided.

Street certificates how to be issued.

SEC. 12. After the completion of any contract entered into by the Common Council, for work chargeable to lots or lands by virtue of this act, they shall give to the contractor a certificate under the hand of the Mayor, and seal of the Common Council, stating therein the amount of work done by such contractor, the nature thereof, and the description of the lot or parcel of land upon which the same is chargeable, which

said certificate shall be transferable by endorsement thereon, and shall bear interest at such rate as the Council shall direct, and if the amount thereof shall not be paid before the time of making out the annual assessment roll, the same shall be assessed and levied upon the lots or parcels of land, respectively and collected, together with interest up to the time of such collection, such as the certificate shall bear, for the use and benefit of the holder of such certificate as other taxes on real estate are collected by virtue of this act; and if the notice to do the work required shall have been given, no informality or error in the proceedings shall vitiate such assessment, and in no event when work is ordered to be done at the expense of any lot or parcel of land, shall the city be held responsible for the payment thereof.

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

Appeal

CHAPTER V.—ASSESSING, LEVYING AND COLLECTING TAXES.

Sec. 1. All property, real or personal, within the city, except such as may be exempted by the laws of the State, or by ordinance of the city, shall be subject to taxation for the support of the city government, and the payment of its debts and liabilities, and the same shall be assessed in the manner hereinafter provided, but such assessment shall not exceed five mills on the dollar of real valuation, and all qualified voters shall be liable to a poll tax not exceeding one dollar in any one year, to be levied by the Common Council.

Property sub-
ject to taxation

Sec. 2. The Common Council shall annually, before the first Monday in March of each year, appoint two persons city Assessors, who shall have and possess the same powers that are or may be enforced by the laws of this State upon township or county assessors, except so far as they may be altered by this act; *Provided*, That the Common Council may prescribe the form of the assessment rolls and may fully define the duties of assessors, and make such rules and regulations in regard to revising, altering or adding to such rolls, as they may from time to time deem advisable.

Assessors

Sec. 3. The assessors so appointed are hereby authorized to administer such oaths as shall be required by this chapter, and within fifteen days after the appointment the said assessors, shall make out a complete and accurate assessment roll, which shall contain a description sufficient to identify the same, of all lands, lots or parcel of lands within said city, and also of all persons or bodies politic, liable to pay taxes on personal property or capitation tax, and opposite to each

Oath and duties of assessor

parcel or lot of land shall be affixed the value thereof, and opposite the name of each person or body politic shall be affixed the value of the personal property for which such person or body politic shall be assessed. When there are buildings upon any lot or parcel of land, their value shall be set forth in a separate column. The assessors may assess any lot or tract of land in such parcels or sub-divisions as they may deem proper, but it shall not be necessary to enter the name of the owner opposite to every tract or parcel of land.

Objections to
assessments
how heard

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

Powers of
council over
assessment roll

SEC. 5. Within six days after the time limited for hearing such objections, the assessors shall return the assessment roll to the Common Council and they shall confirm or refer it back to the assessors. The Common Council shall supply omissions in said roll, and for the purpose of equalizing the same may alter, add to, take from and otherwise revise and correct the same; *Provided*, they do not increase the amount of said roll except by the value of such real property as may be omitted by the assessors.

Filing of the
roll

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

Taxes a lien
upon property

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

Copy of tax
roll to be made
out

SEC. 8. As soon as the tax shall be levied, the Recorder shall copy the same in a book provided for that purpose, setting opposite to each tract of land and to each person named under the proper columns, such sum or sums as may have been levied upon such lot or against such person; the said

copy shall be designated the tax list, and to it shall be appended a warrant signed by the Mayor and Recorder, and sealed with the corporate seal of said city, directed to the Marshal requiring and commanding him to collect the taxes and assessments on said list specified in the manner prescribed in this act; and in case said taxes and assessment shall not be paid within such times as herein directed and specified, then, that he shall proceed to sell the several lots or parcels of land or those parts thereof upon which said taxes and assessments shall remain unpaid, and make due return to the Common Council within such time as shall be fixed by said warrant.

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

Marshal to receive tax roll

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

Manner of collecting tax

Sec. 11. At the expiration of the thirty days mentioned in the preceding section the Marshal shall proceed to enforce the collection of the taxes on personal property in the same manner as prescribed in chapter twelve of the revised statutes of Minnesota Territory, and if such personal taxes shall not be paid or collected in consequence of the neglect or delay of the Marshal, the Common Council may sue for and recover the amount thereof from the Marshal and his surties.

Collecting tax

Sec. 12. On the day and at the place designated in the Marshal's notice, he shall commence by public auction the

Sale of prop-
erty for taxes

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

Purchase mo-
ney

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

Redemption
of property

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

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

Assignment
of tax certifi-
cate

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

The city may
bid off certain
property

Sec. 17. If at any sale of real or personal estate for taxes or assessments, no bid shall be made for any parcel of land, or any goods and chattels, the same shall be struck off to the city; and thereupon the Marshal shall execute to the city in its corporate name, a certificate of the sale thereof, specifying the same facts as a certificate issued to other purchasers, and

the city shall be vested with the same rights as any other purchasers, and which certificate shall be filed with the city Treasurer. If the city shall become the purchaser of any personal property by virtue of this chapter, the Treasurer shall have the power to sell the same at public or private sale as the Council may direct. And if the city shall become the purchaser of any real estate at any tax sale, the Common Council may authorize the Treasurer to sell the certificate issued therefor, with the amount paid therefor, with interest, and to endorse and transfer each certificate to the purchasers thereof.

Sec. 18. If it shall appear to the assessors that any lot or parcel of land was omitted in the assessment roll of either or both of the preceding years, and that the same was then liable to taxation, they shall in addition to the assessment for that year, assess upon the lot or parcel of land so omitted for such year or years that it shall have been so omitted, the just value thereof, noting the year when such omission occurred, and such assessment shall have the same force and effect as it would have had if made the year it was omitted. And the Common Council shall, in addition to the tax for the current year, lay such tax upon such lot or tract of land as the same would have been chargeable had not the same been omitted, and such tax shall be collected as other taxes or assessments for the current year.

Omissions in
the assessment
roll

All lands shall be subject to taxes that may have been omitted in whatsoever hands they may come. Should any tax or assessment upon any lot or parcel of land be set aside or declared void by reason of any defect or informality in the assessing, levying, selling or conveying the same, or other matter, but not effecting the equity or justice of the tax itself, the Common Council shall cause the tax or assessment so set aside or declared void, to be re levied in such manner as they shall by ordinance direct; *Provided*, That if the defect was in the assessment, the same shall again be assessed at such time as the Common Council shall direct, and the said tax or assessment so re-assessed or re-levied, shall be and continue a lien upon such tract or lot, and shall be collected as other taxes or assessments are collected under this act.

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

Evidence of
tax in suits

Sec. 20. All the instructions and directions herein given for the assessing of lands and personal property, and the levying and collecting of taxes and assessments, shall be deemed only directory, and no error or informality in the pro-

Informality
not to effect
validity of tax

ceedings of any of the officers entrusted with the same not affecting the substantial justice of the tax itself, shall vitiate or in any wise affect the validity of the tax or assessment, or of the title conveyed under the sale for taxes under this chapter.

Marshal's duties

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

Liens

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

Fees for collecting taxes

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

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

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

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

Tax sales

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

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

Sec. 26. No person shall be permitted to institute any suit to set aside any assessment or tax levied or assessed upon any lot or tract of land, or to set aside a deed executed by reason of the non-payment of such taxes upon the sale of the premises for taxes, unless such person shall first pay or tender to the proper party, or deposit for his use with the city Treasurer, the amount of all city taxes that remain unpaid or have been paid upon such lot or tract including the tax for which the proceedings are instituted to set aside, since the last sale therefor for taxes to the purchaser, together with the interest and charges thereon. Tax sales

Sec. 27. When any lands sold for taxes shall not be redeemed as aforesaid, the Treasurer of said city shall, after the expiration of eighteen months for the redemption thereof, on the presentation to him of the certificate of sale, execute in the name of the city of Wabashaw under his hand and seal to the purchaser, his heirs and assigns, a deed of the lots or parcels of land so remaining unredeemed, and shall acknowledge the same, which shall invest in the grantee an absolute estate in fee simple of such lands, subject, however, to all unpaid taxes and charges that may be a lien thereon. The fees of the Treasurer for executing and acknowledging such deed, shall be one dollar and fifty cents. Tax sales

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

Sec. 1. The Common Council shall have power to lay out public squares, grounds, streets, lanes, alleys, and to widen and enlarge the same, as follows: Whenever twenty or more freeholders residing in said city, by petition represent to the Common Council that it is necessary to take certain lands within the city for the purpose of laying out public squares, grounds, streets or alleys, or the enlarging or widening the same, the courses, distances, metes and bounds of the land proposed to be taken, together with the names and residences of the owners of such premises, if known to the petitioners, to be set forth in the petition, the Common Council shall cause notice thereupon of such application to be given to the Public squares streets &c may be laid out

occupant or occupants of such lands if there be any, and if such lands, or any portion of them, shall not be in the actual occupation of any one, then the Common Council shall cause such notice, describing as near as may be the premises proposed to be taken, to be published in the official papers for three weeks successively, once at least in each week, and the publishers of such papers, or their foreman, shall make affidavit of such publication and deposit the same with the city Recorder.

Public notice to be given **2** Sec. 2. Such notice shall state on a certain day not less than six days from the day of service of such notice or the expiration of such publication as the case may be, the Common Council will appoint three commissioners to review said premises and to determine whether it is necessary to take the same for the purposes specified in said petition. And at the time specified the said Common Council shall proceed and appoint three respectable freeholders, residents of the city, but not interested in the result of said petition, and shall enter an order in their proceedings requesting the said commissioners within thirty days to view said premises, to be specified in said order and to make return to the Common Council whether in their judgment it is necessary to take said premises for the public use for the purpose specified in said petition.

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

Duty of commissioners Sec. 4. The said commissioners at such time as they may agree upon within thirty days of the time of their appointment, shall proceed to visit the premises in question and shall hear such testimony as may be offered by the party interested, which testimony shall be reduced to writing by one of their number, and either of the commissioners shall be authorized to administer the necessary oaths to witnesses.

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

Sec. 6. Should the commissioners report that it is necessary to take such premises for the public use, the Common Council shall enter an order among their proceedings confirming their report and directing said commissioners within twenty days thereafter to again view said premises for the purpose of ascertaining and determining the amount of dam-

ages to be paid to the owner or owners of the property proposed to be taken, and also what lands or premises will be benefitted by such taking, and to assess such damages and benefits and to return the same to the Common Council within the time limited.

Sec. 7. Said commissioners, within the time limited, shall again view and examine the premises proposed to be taken, and all such other premises as will be injured or benefitted thereby. They shall receive such testimony as may be offered by any party interested, which testimony shall be reduced to writing by one of the commissioners; they shall proceed to make their assessments and determine and apprise to the owner or other parties having an interest in the premises, the value of the premises proposed to be taken and the injury arising to them respectively in consequence of the taking thereof, after making allowances for any benefits that such owner or owners may respectively derive from taking such property for the public use. Such injury, after making allowance, shall be awarded to such persons respectively as damages.

Duty of commissioners

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

Damages

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

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

Assessing damages

Collecting as-
sessment

SEC. 11. The said assessment shall be collected by the city Marshal in the same manner as he is by law empowered to collect taxes upon personal property, and the return of the Marshal shall be conclusive evidence of that fact.

Further pro-
visions.

SEC. 12. The land required to be taken for the purpose mentioned in this chapter, shall not be taken till the damages awarded to the owner thereof for the taking the same shall be paid or tendered to him or his agent, or deposited for his use with the Treasurer in case said owner or his agent is unknown, and the said lands and tenements so taken and appropriated, shall thereafter be subject to all the laws and ordinances of the city in the same manner as streets, alleys, or public grounds heretofore opened or laid out, and the damages so assessed shall be paid or tendered within eight months of the confirmation of such assessment and report, and if not so paid, tendered or deposited, all the proceedings in any such case shall be void, and the benefits so assessed shall be a lien upon the premises assessed from the confirmation of such report.

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

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

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

Oath to com-
missioners

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

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

Appeal

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

CHAPTER VII.—MISCELLANEOUS PROVISIONS.

Sec. 1. All funds in the city Treasury shall be under the control of the Common Council, and shall be drawn out on the order of the Mayor and Recorder, duly authorized by vote of the Common Council, and all orders drawn upon the Treasurer shall specify the purpose for which they were drawn, and shall be payable out of any funds in the treasury belonging to the city, and all such orders shall be received in payment of any tax or assessment levied by authority of the city. All orders shall be payable to the order of the person in whose favor they may be drawn, and shall be transferable by endorsement. No moneys shall be appropriated for any purpose whatever, except such as are expressly authorized by this act.

City funds under control of council

Sec. 2. All actions brought to recover any penalty or forfeiture under this act or the ordinances, by-laws, or police or health regulations, made in pursuance thereof, shall be brought in the corporate name of the city; it shall be lawful to declare generally in debt for such penalty or forfeiture, stating the clause of the act, by-law, ordinance or regulation under which the forfeiture is claimed, and to give the special matter in evidence under it.

Actions how to be brought

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

Judgment

Sec. 4. No person shall be an incompetent Judge, Justice, Juror, Witness or Commissioner, by reason of his being an inhabitant of the city, in any action or proceeding in which the city shall be a party in interest.

Interested parties

Sec. 5. The following property belonging to the city, shall be exempt from levy and sale by virtue of any execution, to wit: All engine houses, hook and ladder houses, and the ground upon which they are situated; all fire engines, carriages, ladders, hooks, buckets, hose, or any other fire apparatus used by the fire company, erected or otherwise by the Common Council; school houses and the furniture thereof, and the furniture and office rooms of the Common Council and other officers of the city.

Property exempt from levy

Contracts how to be let **SEC. 6.** All work for the city shall be let by contract to the lowest responsible bidder therefor, and the Council may require of the bidder a bond with sureties for the faithful performance of the contract. Due notice shall be given of the time and place of letting such contract.

Elections **SEC. 7.** If any election by the people for city officers for any cause should not be held in the manner and at the time herein prescribed, it shall not be considered a reason for arresting, suspending or absolving said corporation, but such election may be held on any other subsequent day, and if any of the duties required by this act in the ordinances, by-laws, rules or regulations of the city, to be done by any officer at any specified time be not done or performed at the time, the Common Council may appoint another time at which the said act may be done and performed.

Real estate **SEC. 8.** The city may lease, purchase and hold real estate sufficient for the public convenience of the inhabitants, and the administration of the government of the city, and may sell and convey the same at pleasure and the same shall be free from taxation.

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

Suits against city **SEC. 10.** When any suit or action shall commence against the city, the service may be made by leaving a copy of the process duly certified with the Mayor and it shall be his duty forthwith to inform the Common Council, and they shall take such proceedings as by the ordinances or resolutions of said Council may be in such case provided.

Appeals **SEC. 11.** Appeals and certioraries shall be allowed from decisions in all cases arising under this act or any ordinances, by-laws or regulations passed in pursuance thereof, to the District Court of Wabashaw county and every such appeal shall be taken and granted in the same manner, and with like effect that appeals have which are taken from and granted by Justices of the Peace to the District Court under the general laws of this State.

Charter public act **SEC. 12.** This act is hereby declared to be a public act and may be read in evidence in any court in this State without proof.

Repeal **SEC. 13.** This act shall take effect from and after the passage thereof, and the Legislature may alter or repeal the same at any time.

First election **SEC. 14.** The first general election under this act, shall be holden on the first Tuesday of April next, and the Inspectors of the last State election in the precinct of which the city is a part, shall act as Inspectors at such election and shall give notice as required in chapter second of this act, and said election shall be conducted in the same manner and under the same liabilities as specified in said chapter. The

clerk of said election is required to give notice to the persons elected, of their respective elections, who shall enter upon their duties on the fourth Tuesday of said April, after such election, which shall be the commencement of the fiscal year.

SEC. 15. For all prosecutions for any violation of any of the provisions of this act, or any by-law or ordinance, the first process shall be by summons, unless oath is made for a warrant, as in other cases.

Process

SEC. 16. Execution shall issue forthwith on the rendition of the judgment, unless the same is stayed or appealed according to the laws of this State. The execution shall require the defendant in any such action in case no goods or chattels, lands or tenements whereof the judgment can be collected be found, to be imprisoned in any jail of Wabashaw county, or in which said county are authorized to imprison prisoners, for a term not exceeding six months, in the discretion of the judge or justice rendering judgment, unless the same be sooner paid.

Execution

GEORGE BRADLEY,

Speaker of the House of Representatives.

RICHARD G. MURPHY,

President pro tem. of the Senate.

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

CHAS. L. CHASE, Acting Governor.

SECRETARY'S OFFICE, Minnesota, }

SAINT PAUL, March 20, 1858. }

I hereby certify the foregoing to be a correct copy of the original bill now on file in this office.

CHAS. L. CHASE, Secretary.