

## CHAPTER XXXI.

March 5, 1870.*An Act to authorize the Incorporation of Cities.*

## CHAPTER

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

## CHAPTER I.

SECTION 2. That cities may be organized within the limits of this state as herein provided. Whenever two-thirds of the legal voters residing within the limits of a territory comprising not less than two thousand inhabitants, and not more than fifteen thousand, and which territory they desire to have incorporated as a city, shall sign and have presented to the judge of probate of the county in which such territory is situated, a petition setting forth the metes and bounds of said city, and of the several wards thereof, and praying that said city may be incorporated under such name as may therein be designated, the judge of probate shall issue an order declaring such territory duly incorporated as a city, and shall designate therein the metes, bounds, wards and name thereof, as in said petition described. And the said judge of probate shall in said order designate the time and place of holding the first election of officers for said city, which shall be not less than thirty nor more than sixty days from the

Cities incorporated—how—who to designate time and place of first election—power of corporations.

presenting of said petition, and shall cause said order to be posted in five of the most public places in said city, at least for thirty days prior to the day of such election, and also cause the same to be published in some newspaper published in said city, at least once in each week for three consecutive weeks prior thereto, and if there be no newspaper published in said city, then in the paper published nearest thereto, and if there be more than one newspaper published in said city, then in one of such papers. Upon presenting the petition aforesaid to the judge of probate as aforesaid, the inhabitants within the metes and bounds therein described shall thenceforth be a body politic and corporate, subject to and with power to act under the authority of all the provisions of this act. They shall have power to sue and be sued; complain and defend in any court; make and use a common seal; and alter it at pleasure; and take, hold and purchase, lease and convey such real and personal or mixed estate as the purposes of the corporation may require, within or without the limits aforesaid; shall be capable of contracting and being contracted with; and shall (have) the general powers possessed by municipal corporations at common law, and in addition thereto, shall possess the powers hereinafter specifically granted; and the authorities thereof shall have perpetual succession.

## CHAPTER II.

### ELECTIONS.

Annual election when held—manner of holding the election.

SECTION 1. There shall be an annual election for elective officers hereinafter provided, held on the first Tuesday of April of each and every year, at such place in each ward as the common council shall designate; and the polls shall be kept open from nine o'clock in the forenoon until five in the afternoon; and ten days previous notice shall be given by the common council, of the time and place of holding such election, and of the officers to be elected, by posting notices thereof in three public places in each ward, and by publishing the same in at least one of the papers published in the city, if one shall be published in said city.

To be divided into wards—limitation.

SEC. 2. Each city governed by this act shall be divided into not less than two nor more than five wards, as may be provided by ordinance of the city council thereof, and

each ward shall contain as nearly as practicable, an equal number of legal voters, and also an area equal to each other.

SEC. 3. The corporate name of each city governed by this act, shall be "The City of \_\_\_\_\_," and all and every process and notice whatever affecting any such city shall be served upon the mayor, and in his absence, upon the president of the council, and in the absence of both, upon the clerk, and in the absence of these officers from the city, then by leaving a certified copy at the office of said clerk.

Corporate name of each city—all process to be served on the mayor.

SEC. 4. The elective officers of each city shall be a mayor, treasurer, recorder, one justice of the peace for each ward, who shall be styled city justice, all of whom shall be qualified voters of the city, and two aldermen in each ward, who shall be qualified voters therein; all other officers for said city shall be appointed by the common council, unless otherwise provided. At the first general election for city officers, there shall be elected in each ward two aldermen, one for one year, and one for two years, at every annual election thereafter one aldermen shall be elected from each ward, who shall hold his office for two years and until his successor is elected and qualified. The city justices shall hold their offices for two years and until their successors are elected and qualified; all other elective officers shall hold their offices for one year and until their successors are elected and qualified.

Elective officers—term of office.

SEC. 5. Every person appointed to any office by the common council, or elected to any office by the people, may be removed from said office by a vote of two-thirds of all the aldermen authorized to be elected. But no officer elected by the people shall be removed except for cause, nor unless furnished with a written statement of the charges against him, nor until he shall have had a reasonable opportunity to be heard in his defence. The common council shall fix a time and place for the trial of such officer, of which not less than ten days' notice shall be given, and have power to compel the attendance of witnesses and the production of books and papers, and to hear and determine the case; and if said officer shall neglect to appear and answer the charges against him, the common council may declare the office vacant.

Officers can be removed—how—when office may be declared vacant.

SEC. 6. Whenever a vacancy shall occur in the office of mayor or alderman by death, removal, resignation, or otherwise, the common council shall have power, and it

Vacancies how filled.

shall be their duty to declare the office vacant by resolution entered upon their minutes. Such vacancy shall be filled by a new election, which shall be ordered by the common council within ten days after said vacancy is declared, and held within twenty days after such declaration, and reasonable notice of such election shall be given. Any vacancy happening in any other office shall be filled by the common council unless otherwise provided for. 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.

Elections shall be by ballot—in case of a tie how decided.

SEC. 7. All elections by the people shall be by ballot, 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 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.

Who entitled to vote—what to constitute election districts—to whom returns to be made.

SEC. 8. All persons entitled to vote for state or county officers, and who shall have resided in the city for four months next preceding the election, and ten days in the ward where they offer to vote shall be entitled to vote for any officer to be elected under this law, and to hold any office hereby created, provided their name shall have been duly inserted in the list of qualified electors of the ward in which they reside, as in the case of the election of state and county officers; and the different wards established by law shall constitute election districts for state and county as well as city elections, and the mode of conducting all state and county elections in said city shall be in the manner herein provided in reference to city elections, except that the returns thereof shall be made by the judges of election to the county auditor of the county within the time and manner prescribed by law.

How elections to be conducted.

SEC. 9. The elections in said city shall be held and conducted by the aldermen of each ward, and one other elector of each ward, to be appointed by the common council, who shall be inspectors of election, and shall take the usual oath or affirmation as prescribed by the general laws of the state to be taken by the judges and inspectors of elections, and shall have power to appoint clerks of

such elections, 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 filed as required by the laws of this state regarding elections. *Provided*, That no candidate for office shall act as inspector or clerk at such election.

SEC. 10. When a city election shall be closed and the number of votes for each person voted for shall have been counted and ascertained, the said judges shall make returns thereof, stating therein the number of votes for each person for each and every office, and shall deliver or cause to be delivered such returns to the clerk of the common council, within three days after any election, and the common council shall meet and canvass said returns and declare the result, as it appears from the same, within three days thereafter. The recorder of the common council shall forthwith notify the officer or officers elected, of their election by written notice served upon such officers in person, or left at their usual place of abode, with some person of suitable age and discretion.

Duties of inspectors—when votes to be canvassed— who to notify officers of their election.

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

Special election how conducted— how called.

SEC. 12. Any officer removing from the city or ward for which he is elected, or any officer who shall refuse or neglect for ten days after notice of his election or appointment, to enter upon the discharge of the duties of his office, shall be deemed to have vacated his office, and the common council shall proceed to fill the vacancy as herein prescribed.

When office deemed vacant.

SEC. 13. The term of every officer elected under this law shall commence on the second Tuesday of April for the year for which he was elected, and shall, unless otherwise provided, continue for one year and until his successor is elected and qualified.

When term of office to begin.

SEC. 14. 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 being given.

When new election may be ordered.



## CHAPTER III.

## DUTIES OF OFFICERS.

Officers to give bonds—penalty for refusal to give additional bonds.

SECTION 1. Every person elected or appointed to any office under this act, shall, before he enters upon the duties of his office, take and subscribe an oath of office and file the same duly certified by the officer taking the same, with the recorder of the city, and the treasurer and marshal and such other officer as the common council may direct, shall severally before entering upon the duties of their respective offices, execute to the city a bond, with at least two sureties, (to be approved by the common council) who shall make affidavit that they are each worth the penalty specified in said bond over and above all debts, exemptions or liabilities, and said bonds shall contain such penal sum and such conditions as the common council may deem proper, and they may from time to time require new or additional bonds, and remove from office any officer refusing or neglecting to give the same.

Duties of mayor—to be the chief executive officer and head of the police.

SEC. 2. The mayor shall take care that the laws of the State and the ordinances of the city are duly observed and enforced, and that all other executive officers of the city discharge their respective duties. He shall from time to time give the common council such information and recommend such measures as he may deem advantageous to the city. The mayor shall be the chief executive officer and head of the police of the city, and shall appoint such police officers and watchmen, except when otherwise provided for; and in case of a riot or other disturbances, he may appoint as many special or temporary constables as he may deem necessary; and any police officer or watchmen appointed by the mayor as aforesaid, may be discharged from office by him whenever in his opinion the welfare of the city may demand it, or a reduction of their number renders it necessary.

Mayor to sign all laws, &c.—in case of veto how council to act.

SEC. 3. All ordinances and resolutions shall, before they take effect, be presented to the mayor, and if he approve thereof, he shall sign the same, and such as he shall not sign he shall return to the common council with his objection thereto, by depositing with the recorder to be presented to the common council at their next meeting thereafter; and upon the return of any resolution or ordinance by the mayor, the same vote by which the same was passed shall be reconsidered, and if after such recon-

sideration the common council shall pass the same by a vote of two-thirds of the members elected, it shall have the same effect as if approved by the mayor, and in such case the vote shall be by ayes and noes, which shall be entered in the record by the recorder. If an ordinance or resolution shall not be returned by the mayor within five days (Sundays excepted) after it shall have been presented to him, the same shall have the same effect as if approved by him.

SEC. 4. At the first meeting of the common council in each year, they shall proceed to elect by ballot from their number a president and vice president. The president shall preside over the meetings of the common council, and during the absence of the mayor from the city or his inability from any cause to discharge the duties of his office, the said president shall exercise all the powers and discharge all the duties of the mayor. In case the president shall be absent at any meeting of the common council, the vice president shall act as presiding officer for the time being, and discharge the duties of said president. The president of the common council, or temporary presiding officer, while performing the duties of mayor, shall be styled the acting mayor, and acts performed by him while acting as mayor as aforesaid, shall have the same force and validity as if performed by the mayor. The mayor and president and vice president of the common council shall have the right to administer oaths and affirmations.

When officers of council elected—when president of council to act as mayor—who may administer oaths.

SEC. 5. 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 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 meeting it shall be his duty to attend. Copies of all papers filed in 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 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 take acknowledgment of deeds and other writings.

Duties of recorder.

When recorder to  
make special re-  
port—when to  
make annual re-  
port—what to  
contain.

SEC. 6. 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 purposes, 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 annually on or about the first day of April to the common council, an estimate of the expenses of the city, and likewise the revenue necessary to be raised for the current year; and the fiscal year shall commence on the first day of April.

Further duties of  
recorder.

SEC. 7. 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 issued by the common council, the amount of all 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 with 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 any other purpose, 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 common 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 land, 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 wherein the validity of such special tax or assessment shall come in 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 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 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 expenses of which shall exceed the revenue actually collected for the fund to which such expenses are properly chargeable. The recorder shall examine all 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. All claims and demands against the city, before they are allowed by the common council, shall be audited and adjusted by the recorder. 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. He shall not be interested directly or indirectly in any contract or job to which the city is a party, or in which the city is interested; and any contract in which he may be interested shall be null and void.

Further duties of recorder.

SEC. 8. 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 upon any subject submitted to him by the common council or its committees.

Council to elect city attorney—duty of.

SEC. 9. The treasurer shall receive all moneys belonging to the city, including all taxes, license money and fines, and keep accurate and detailed account thereof, in such a 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 the receipts and expenditures after the date of the last annual report, and also of the state of the treasury, which account shall be filed with the clerk, and a copy of the

Duties of treasurer.

same published in one or more of the city newspapers, or in the paper published nearest to said city. He shall also report to the common council at such times and in such manner as they may require.

Mayor to appoint chief of police—powers of police and watchmen.

SEC. 10. There shall be a chief of police of said city, who shall be appointed by the mayor, by and with the consent of the common council, and who shall perform such duties as shall be prescribed by the common council for the preservation of the public peace. All police officers and watchmen of said city shall possess the powers of constables at common law, or by the laws of this state; and it shall be their duty to execute and serve all warrants, process, commitments, and all writs whatsoever, issued by the city justice, for any violation of the laws of the state of Minnesota, or of the ordinances or by-laws of said city; and also all writs and process whatever, issued by the city justice in civil actions; and they shall have authority to pursue and arrest any person fleeing from justice, in any part of the state, and when performing the duties of constables aforesaid, shall be entitled to like fees. Watchmen shall have authority to arrest and detain any person guilty of any breach of the peace, or any violations of the laws of this state, or of the ordinances or by-laws of the city; and for these purposes shall possess the powers of constables at common law, while on duty.

When council to elect street commissioner—term of office—duties of—to give bonds.

SEC. 11. The common council shall, at their first meeting after the annual election, or an adjournment thereof, elect by ballot a street commissioner, who shall hold his office for one year, and until his successor is elected and qualified. It shall be the duty of the street commissioner to superintend all work and improvements on the streets, bridges and public grounds of the city, and carry into effect all orders and ordinances of the common council in relation to work or improvements upon the streets, roads, bridges and public grounds of the city; 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.

When council to elect assessor—duties of—term of office.

SEC. 12. The common council shall, in the month of April in each year, elect an assessor, who shall be styled the city assessor, who shall perform all the duties in relation to the assessing of property for the purpose of levying of all city, county and state taxes. And upon the com-

pletion of the assessment roll, he shall return the same to the common council, who may alter, revise and equalize the same, as they may deem it just and proper. Said city assessor shall hold his office for one year, and until his successor is elected and qualified.

SEC. 13. The justices of the peace of the city, styled city justices, shall possess all the authority, power and rights of a justice of the peace of the county under the laws of this state, and shall have, in addition thereto, exclusive 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 regulation of the said city or its charter, and in all cases of offenses committed against the same. And the said city justices shall have jurisdiction in cases of larceny, and may hear and try the same where the amount claimed to have been stolen does not exceed the sum of twenty-five dollars. In all prosecutions for assaults, batteries and affrays, and for all other offenses not indictable, and in all civil suits or proceedings before said city justices the same forms and proceedings shall be had and used, where 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 judgment and decisions of said city justices 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 ordinances of the city for breach of the peace, disorderly conduct, keeping houses of ill-fame, or frequenting the same, and of keeping or 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 months, and in a sum not exceeding five hundred dollars. The said justices shall have the same power and authority in cases of contempt, as a justice of the peace under laws now in force. All fines and penalties imposed by the city justices for offenses committed within the city limits, for the vio-

Jurisdiction of  
justices of the  
peace.

lation of any ordinance, by-law or regulation of said city, shall belong to and be a part of the finances of said city, for offenses against the laws of the state, of the county treasury.

When to report to council—what to contain—fees.

SEC. 14. The city justices 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 said city; and said justices shall be entitled to receive from the county such fees in criminal cases as are allowed by statute to justices of the peace for similar services.

When to be in attendance at their offices.

SEC. 15. Said justices 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.

Tax authorized to be imposed— for what purpose.

SEC. 16. In all suits brought on behalf of said city for the recovery of any forfeiture, fine or penalty, in all cases arising on complaints for the violation of any ordinance, by-law or regulation of said city, and on complaints 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 dollar for each trial, for the benefit of said city, and their residence in said city shall not deprive them of jurisdiction of actions brought in favor of or against said city, when said actions are otherwise within the jurisdiction of a justice of the peace.

When council to elect city surveyor—duties of—plans, &c., to belong to the city.

SEC. 17. The common council, at their first meeting in each year, or as soon thereafter as may be, shall 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 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 said city, and shall be carefully preserved in the office of the surveyor, open to the inspection of persons interested; and the same, together with all the books and papers appertaining to said office, shall be delivered over by the surveyor, at the expiration of his term of office, to his successor, or the common council.

SEC. 18. The common council, at their first meeting

after each annual election, or as soon thereafter as may be, shall advertise for proposals to do the city printing, giving public notice of not less than one week, in such manner as the council may direct, that sealed bids shall be received by the recorder of the common council for doing said printing. The bid or bids received by the clerk to do said printing shall be publicly opened and read by the recorder, at such time and place as the common council shall appoint, and the person or persons offering to do said printing for the lowest sum or price in any newspaper published in said city, and shall give satisfactory security for the performance of the work, shall be declared city printer for the ensuing year, and in the newspaper designated in said accepted bid or proposal, shall be published all ordinances, by-laws and other proceedings and matters 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, or offer to publish in any newspaper published in said city, such ordinances or other matters 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 matters requiring publication as it may think fit, anything herein contained to the contrary notwithstanding.

SEC. 19. If any person, having been an officer of said city, shall not, 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, he shall forfeit and pay to the use of the city, one thousand 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. 20. The common council shall have power at any time to require other and further duties to be performed

Printing given to lowest bidder—what to be evidence of publication, &c.

Penalty for refusing to deliver books, &c., to successor in office.



Further powers  
of council.

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 year, and until his successor is elected or appointed and duly qualified. The common council shall have the power, unless 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 months from the first organization and meeting of the common council after the first year, the compensation of officers shall be fixed for the fiscal year in the month of April of each year, except for such offices as may hereafter be created, in regard to which the compensation shall be fixed at the time of the creation of such office, nor shall the compensation of any officer, after having been fixed, be 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. *Provided*, That the mayor and aldermen shall receive no compensation for their services as such officers.

Who deemed to  
be officers of the  
peace.

SEC. 21. The mayor or acting mayor, recorder and each alderman, the city justices, police officers and watchmen, shall be officers of the peace, with powers of constables at common law, 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 by-standers, and, if need be, of all the citizens and military companies; and if any person, by-stander, military officer or private, shall refuse to aid in maintaining the peace when so required, each person shall forfeit and pay a fine of fifty dollars; and in cases where the civil power may be required to suppress riots or disorderly behavior, the superior or senior officer present, in the order mentioned in this section, shall direct the proceedings.

## CHAPTER IV.

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

SECTION 1. The aldermen shall constitute the common council, and the style of all ordinances shall be, "The common council of the city of \_\_\_\_\_ do ordain," &c. The common council shall meet at such time and place as they by resolution may direct. A majority of the aldermen shall constitute a quorum.

Style of ordinances—when and where council to meet—quorum.

SEC. 2. The common council shall hold stated meetings, and the mayor may call special meetings, by notice to each of the members, to be delivered personally or left at their usual place of abode. The common council shall be the judges of the election and qualification of its own members, and in such cases shall have power to send for persons and papers, and shall also determine the rules of its own proceedings, and have power to compel the attendance of absent members.

To hold stated meetings—mayor to call special meetings—who to judge of the qualifications.

SEC. 3. The common council shall have the management and control of the finances and all the property of the city, and shall likewise, in addition to the power herein vested in them, have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify, amend and repeal all such ordinances, by-laws, rules and regulations for the government and good order of the city, for the suppression of vice and intemperance, and for the prevention of crime, as they shall deem expedient; they shall have power to establish and maintain a city prison: *Provided*, That until otherwise ordered by the common council, the county jail of the county shall be used as a city prison, and it shall be the duty of the sheriff or jailor of the county to take into custody and safely keep in said jail all persons committed thereto until discharged according to law. 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 provisions of any ordinance or by-law passed or ordained by them, and all such ordinance, rules and by-laws are hereby declared to have all force of law: *Provided*, That they be not repugnant to the constitution and laws of the United States, or of this state, and for these purposes shall have authority by ordinance, resolution or by laws—

Council to control finances—further powers.

*First*—To license and regulate the exhibitions of com-

mon showmen, and shows of all kinds, or the exhibition of caravans, circuses, concerts, or theatrical performances, billiard tables, nine or ten-pin alleys, bowling saloons, to grant licenses to and regulate auctions and auctioneers, tavern keepers and victualing house keepers, and all persons dealing in spirituous, vinous or fermented liquors: *Provided*, That all licenses for so dealing in spirituous, vinous or fermented liquors, shall not be less than fifty dollars a year, and no license shall be granted for a less term than one year, and all licenses shall commence and terminate on the first day of May of each year.

*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 in said city, and to restrain any person from selling, giving or dealing in spirituous, vinous or fermented liquors, unless duly licensed by the common council.

Powers of the  
council.

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

*Fourth*—To compel the owner or owners of any cellar, tallow-chandler shop, soap factory, tannery, stable, barn, privy, sewer or other unwholesome structure or place, to cleanse, remove or abate the same from time to time, as often as may be deemed necessary for the health, comfort and convenience of the inhabitants of said city.

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

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

*Seventh*—To prevent and punish immoderate driving or riding in the streets, to regulate (the speed of) cars and locomotives in said city, and to prevent their obstructing the streets of said city, to compel persons to fasten their

horses or other animals attached to vehicles or otherwise, while standing in the streets, and to regulate places of bathing and swimming in the waters within the limits of the city.

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

*Provided*, That when a sale of such animals shall be made, the proceeds thereof, after deducting the expenses of distraining, keeping, advertising and selling such animals, shall be deposited in the office of the treasurer of said city, for the use and benefit of the owners thereof, if called for by such owner within one year from the day of such sale.

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

*Tenth*—To prevent any person from bringing, depositing or having within said city any putrid carcass or unwholesome substance, and to require the removal of the same by any person who shall have upon his premises any such substances, or any putrid or unsound meat, flesh, or fish, or hides or skins of any kind, and to authorize the removal of the same at the expense of the owners.

Powers of the  
council.

*Eleventh*—To establish and construct public pounds, pumps, wells, cisterns, reservoirs, and hydrants; to erect lamps, and provide for the lighting of the city, and to control the erection of gas works or other works for lighting the streets, public grounds and public buildings, and to create, alter and extend lamp districts; to regulate and license hacks, carts, omnibuses, and the charges of hackmen, draymen, cabmen and omnibuses drivers in the city.

*Twelfth*—To establish and regulate boards of health, provide hospitals and hospital grounds, and the registration of births and deaths, and the returns of bills of mortality, and to regulate or prevent, if deemed expedient, the burial of the dead within the city limits.

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

*Fourteenth*—To prevent all persons riding or driving any horse, mule, or ox or other animal on the sidewalks

in said city, or in any way doing any damage to said sidewalks.

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

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

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

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

*Nineteenth*—To license and regulate butcher shops and stands for the sale of game, poultry, butchers' meats, butter, fish and other provisions.

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

*Twenty first*—To compel the owner or occupant of buildings or grounds to remove snow, dirt or rubbish from the sidewalk, street or alley opposite thereto, and to compel such owner or occupant to remove from the lot owned or occupied by him, all such substances as the board of health shall direct, and in his default to authorize the removal or destruction thereof by some officer, at the expense of such owner or occupant.

*Twenty-second*—To regulate, control and prevent the landing of persons from boats, vessels or other conveyances whereon are contagious or infectious diseases or disorders, and to make such disposition of such persons as to preserve the health of the city.

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

*Twenty-fourth*—To provide for watchmen, and to prescribe their number and duties, and regulate the same,

and to create and establish the police of said city, and to prescribe the number of police officers and their duties, and to regulate the same.

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

*Twenty-sixth*—To regulate the inspection of flour, pork, beef, fish, salt, whiskey, and other liquors and provisions; and to appoint inspectors, measurers, weighers and gaugers; to regulate their duties and prescribe their compensation.

*Twenty-seventh*—To direct and regulate the planting and preservation of ornamental trees in the streets, alleys, highways and public grounds of the city.

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

Powers of the  
council.

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

*Thirtieth*—To do all acts and make all regulations which may be necessary and expedient for the preservation of health, or the suppression of disease, and to make regulations 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 provide for the punishment of the same.

*Thirty-second*—Fines, penalties and punishments, imposed by the common council for the breach of any ordinance, by-law or regulation of said city, may extend to a fine not exceeding one hundred dollars, and imprisonment in the city prison or county jail not exceeding thirty days, or both, and to be fed on bread and water at the discretion of the city justice; and offenders against the same may

be required to give security for their good behavior, and to keep the peace for a period not exceeding six months, and in a sum not exceeding five hundred dollars.

How ordinances passed—when used as evidence—appropriations how made.

SEC. 4. All ordinances, regulations, resolutions and by-laws, shall be passed by an affirmative vote of a majority of the members of the common council present, by ayes and noes, and published in the official paper, and posted in three conspicuous places in each ward for two weeks, before the same shall be in force, and shall be admitted as evidence in any court in the state, without further proof; they shall be recorded by the city recorder in books provided for that purpose. No appropriation shall be made without a vote of a majority of the members of the council present in its favor, which vote shall be taken by ayes and noes, and entered among the proceedings of the council.

Power herein conferred not to hinder prosecutions in courts.

SEC. 5. 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 in the courts according to law. Depots, houses or buildings of any kind within the limits of said city, wherein more than twenty-five pounds of gunpowder, or more than five barrels of thirty-six gallons each, (or such greater or less quantity as said common council may direct by ordinance,) of petroleum, kerosene, naphtha, or other inflammable or explosive oils or substances are deposited, stored or kept at any one time, gambling houses, houses of ill-fame, disorderly taverns, and houses or places where spirituous, vinous or fermented liquors are sold without license required therefor, within the limits of said city, are hereby declared and shall be deemed public or common nuisances.

Council to audit accounts—penalty for violating this act.

SEC. 6. The common council shall examine, audit and adjust the accounts of the recorder, treasurer, street commissioners, city justice and all other officers and agents of the city, at such times as they may deem proper, and also at the end of each year, and before the terms for which the officers of said city were elected or appointed shall have expired. And the common council shall require each and every such officer and agent to exhibit his books, accounts and vouchers for such examination and settlement; and if any such officer or agent shall refuse to comply with the orders of said council, in the discharge of their said duties, in pursuance of this section, or shall neglect or refuse to render his accounts, or present his

books and vouchers to the council, or a committee thereof, it shall be the duty of the common council to declare the office of such person vacant. And the common council shall institute suits and proceedings at law against any officer and agent of said city who may be found delinquent or defaulting in his accounts, or in the discharge of his official duties, and shall make a full record of all such settlement and adjustment.

SEC. 7. That the common council of the city shall have full power from time to time to borrow money to pay the indebtedness of the city, and in order to pay such indebtedness the city may issue city bonds therefor, bearing interest not to exceed ten per cent. per annum, redeemable at any time within ten years, at the discretion of the common council. *Provided*, That at no time shall it be lawful for said indebtedness, bonded or otherwise, to exceed the sum of fifteen thousand dollars, unless the same be authorized by two-thirds vote of the legal votes cast at the election held for such purposes. *And provided further*, That the city council shall each and every year levy a tax of one mill on the dollar of the taxable property of the city for each thousand dollars that may be funded by the said city into bonds to pay the interest on said bonds and create a sinking fund to pay the same when due. 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 of the city, before the same shall be in force, and within twenty days thereafter they shall be recorded by the recorder in books provided for that purpose, but before any of the said laws, ordinances, regulations or by-laws shall be recorded, the publication thereof, as aforesaid, shall be proved by the affidavit of the foreman or publisher of such newspaper, and the said affidavit shall be recorded therewith, and at all times shall be deemed and taken as sufficient evidence of such publication.

To issue bonds—  
rate of interest—  
amount—princi-  
pal and interest  
how paid.

## CHAPTER V.

### TAXES.

SECTION 1. The common council shall have power to levy upon all the taxable property of said city taxes to provide for the current expenses of the city government

To levy a tax for  
current expenses.



and police, for the opening, maintaining and improvement of public grounds, and the construction of buildings and improvements of a general character; *Provided*, That such taxes shall in no year exceed one per cent. of the assessed valuation.

To levy ward tax  
—disposition of  
proceeds.

SEC. 2. The common council shall have power to levy a special tax upon all the taxable property in the city, or of the different wards of the same, for the purpose of constructing, maintaining bridges and culverts, and opening, constructing, maintaining and repairing roads, highways, streets and alleys; for the construction of reservoirs, cisterns, sewers, drains and street gutters and grading of streets, and for other purposes conducive to good order and cleanliness, and to protection against crime, disease and fire. *Provided*, That such taxes shall, in no year, exceed one per cent. of the assessed valuation. *And provided further*, That for the improvements in this section mentioned, the common council shall have power to assess the tax to pay the same upon the ward or wards benefited by such improvements, in such manner and to such extent as the common council may think just and equitable. The tax shall be apportioned upon a cash valuation of the property, which it shall be determined is liable to assessment for such improvements. No debt shall be incurred or created by the city, the common council, or any officer of the city, except pursuant to the authority herein expressly given for that purpose; and no order or orders shall be issued upon the city treasury exceeding the amount of tax collected or assessed and in process of collection.

To levy annual  
tax—for what  
purpose.

SEC. 3. The common council shall have power, and it shall be the duty of the common council, to levy, annually upon the taxable property of said city, taxes sufficient to pay all bonds or other indebtedness due and payable in any year, and the interest on bonds or other indebtedness due or payable in any year, unless that previously to the first day of September in each year some other adequate provision has been made for the payment of the same. The common council shall have the power to issue bonds and levy taxes exceeding the amount authorized by other sections of this act; *Provided*, The same be authorized by a majority of the voters present and voting at an election to be held for that purpose. The time, place and manner of holding such election to be prescribed by the common council, the same notice to be given as at other

elections. And no bonds for any purpose shall be issued by the common council unless so authorized.

SEC. 4. Taxes may be levied by resolution of the common council, and no tax shall be invalid by reason of any informality 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 is levied; but in such case the surplus shall, if the tax be a general tax, go into the general fund of the city; if it be a bond or interest tax, it shall be kept and used for the future payment of principal or interest of the same class of bonds, or the purchase thereof before due; if it be for improvements, it shall be kept and used for future improvements of the same character.

How taxes to be levied.

SEC. 5. The common council shall cause to be transmitted to the county auditor of the county, on or before the first day of September of each year, a statement of all taxes by them levied, and such taxes shall be collected, and the payment thereof enforced, with and in like manner as state and county taxes are paid and the payment thereof enforced, and the county treasurer of said county shall pay such taxes over as fast as collected, to the treasurer of said city.

When to transmit statement of taxes--how collected

SEC. 6. No money 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 by the mayor and countersigned by the recorder, which orders shall specify the purpose for which they were drawn, and the fund out of which they are payable, 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 the bearer, as the common council may determine.

How orders may be drawn on the treasury.

SEC. 7. When any such order shall have been paid or received by the treasurer, it shall not again be issued, but he shall immediately cancel the same, and file the same away in his office, keeping the orders drawn upon each fund separate.

When orders may be cancelled.

SEC. 8. It shall be lawful for the common council of said city, at any time, to levy a corporation poll tax upon every qualified voter in said city; *Provided*, That said tax shall not in any one year exceed the sum of two dollars on each person.

To levy poll tax.

## CHAPTER VI.

## OPENING AND VACATING STREETS, ALLEYS, &amp;C.

Council to control highways.

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

May open, lay out and vacate streets, &c.—when necessary to take private property how to proceed.

SEC. 2. The common council of said city, by a vote of not less than two-thirds of the members present, and constituting a quorum of any stated or special meeting, such vote to embrace a majority of all the members elect, shall have power to lay out, open, alter and vacate public squares, streets, grounds, highways and alleys, and to widen and straighten the same. *Provided*, That whenever it shall be required to take private property for the purposes above stated, they shall proceed in the manner hereinafter provided.

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

*Second*—The commissioners shall be sworn by the city clerk to discharge their duties as commissioners in the

matter with impartiality and fidelity, and to make due return of their actions and doings to the common council.

*Third*—The said commissioners shall, with all reasonable speed, with the assistance of the city surveyor of said city, cause a survey and plat of the proposed improvement to be made and filed with the city clerk, exhibiting, as far as practicable, the land or parcels of property required to be taken, or which may be damaged thereby, and shall thereupon give notice by publication in the official newspaper of said city, for at least ten days, to the effect that such plat has been filed, and that the said commissioners will meet at a place and time designated by them, and thence proceed to view the premises, and assess the damages for property to be taken, or which may be damaged by such improvement.

When necessary to take private property how to proceed.

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

*Fifth*—If there should be any building standing in whole or in part upon the land to be taken, the said commissioners shall in each case determine and assess the amount of damages which should be paid to the owner or owners thereof, in case such building, or so much thereof as might be necessary, should be taken, and shall also determine and assess the amount of damages to be paid to such owner or owners in case he or they should elect to remove such building, and the damages in relation to buildings aforesaid, shall be assessed separately from the damages in relation to the land upon which they are erected.

*Sixth*—If the lands and buildings belong to different persons, or if the land be subject to lease, mortgage or judgment, or if there be any estate in it less than an estate in fee, (the) injury or damage done to such persons

or interests respectively, may be awarded to them by the commissioners, less the benefit resulting to them from the improvement.

*Seventh*—The said commissioners having ascertained and assessed the damage aforesaid, shall make and file with the city clerk a written report to the common council, of their action in the premises, embracing a schedule or assessment of the damages in each case, with a description of the land and the name of the owners, if known to them, and also a statement of the costs of the proceeding.

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

*Ninth*—The damages assessed shall be paid out of the general funds of said city, and shall be paid or tendered, or deposited and set apart in the treasury of said city, to and for the use of the parties entitled thereto, within six months from the confirmation of such assessment and report, and the land or property required to be taken for the purposes aforesaid, shall not be appropriated until the damages awarded therefor to the owner thereof, shall be paid or tendered to the owner or his agent, or deposited and set apart for his use as aforesaid; and in case the said city should be unable to determine to whom the damages in any particular case so awarded should be paid, or in case of disputed claims in relation thereto, the damages in such case may be deposited, by order of the common council, in the district court of the county, in the same manner as moneys are paid into court, until the parties entitled thereto shall substantiate their claim to the same.

When necessary  
to take private  
property how to  
proceed.

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

When necessary  
to take private  
property how to  
proceed.

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

*Twelfth*—Any person feeling himself aggrieved by such assessment, may, by notice in writing, served on the mayor of said city, a copy whereof, with proof of service, shall be filed in the office of the clerk of the district court of the county, within twenty days from the time of confirmation of said report or assessment, appeal from such assessment to the district court aforesaid, when such appeal shall be tried by the court and jury, as in ordinary cases; but no pleadings shall be required, and the party appealing shall specify, in the notice of appeal, the grounds of objection to such assessment, and shall not be entitled to have any other objections than those specified, considered, and a transcript of such report, certified by the city clerk, or the original thereof, shall be prima facie evidence of the facts therein stated, and that such assessment was regular and just, and made in conformity to law. The judgment of such court therein shall be final. Such appeal shall be entered and brought on for trial, and be governed by the same rules in all other respects as appeals from justices of the peace in civil suits.

Council to cause  
survey and profile  
to be filed.

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

When public  
streets, &c., may  
be vacated.

SEC. 4. No public grounds, streets, alleys, or highways within said city shall be vacated or discontinued by the common council, except upon the petition of a majority of the owners of property on the line of such public grounds, streets, alleys, or highways, resident within the said city; such petition shall set forth the facts and reasons for such vacation, accompanied by a plat of such public grounds, streets, alleys, or highways proposed to be vacated, and shall be verified by the oath of at least two of the petitioners. The common council shall thereupon, if they deem it expedient that the matter should be proceeded with, order the petition to be filed of record with the city clerk who shall give notice by publication in the official paper of said city, for four weeks, at least once a week, to the effect that such petition has been filed as aforesaid, and stating in brief, its object, and that said petition will be heard and considered by the common council, or a committee appointed by them on a certain day and place therein specified, not less than ten days from the expiration of such publication. The common council, or such committee as may be appointed by them for the purpose, at the time and place appointed, shall investigate and consider the said matter, and shall hear the testimony and evidence on the part of parties interested. The common council thereupon after hearing the same, or upon the report of such committee, in favor of granting such petition, may by resolution passed by a two-thirds vote of all the members elect, declare such public grounds, streets, alleys, or highways, vacated, which said resolution, after the same shall go into effect shall be published as in the case of ordinances, and thereupon a transcript of such resolution duly certified by the city clerk, shall be filed for record and duly recorded in the office of the register of deeds of the county.

Persons aggrieved  
may appeal  
to District Court.

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

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

Duties of City Clerk.

## CHAPTER VII.

### 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 other buildings, the material or construction of which shall be regarded as dangerous to surrounding property, shall not hereafter be erected, placed or repaired, and to direct that all and any buildings within the limits prescribed, shall hereafter be built and constructed in such manner and of such materials, as in the judgment of the common council, shall (not) be dangerous to surrounding property, and to prohibit the repairing or rebuilding of wooden buildings within the fire limits, when the same shall have been damaged by fire or otherwise to the extent of fifty per cent. of the value thereof, and to prescribe the manner of ascertaining such damages. The common council shall have power, by resolution, to order any building, structure, or materials therefor, hereafter erected, or in process of erection, of which the construction or materials may be dangerous to surrounding property to be taken down or removed beyond the fire limits of the city, and shall have power to prescribe the notice to be given to the owner or agent to remove such building, and in case the same is not removed in pursuance of the notice given, to order the same taken down, removed by the police, or in such manner as the common council may see fit. And the common council may prescribe penalties for the violation

Council to prescribe fire limits.



of any of the provisions of this section, or of any ordinance made or enacted to carry out the provisions thereof, not exceeding one hundred dollars, which may be imposed by a city justice, upon the complaint of any citizen.

To prevent dangerous erection of chimneys, &c.

SEC. 2. The common council shall have power 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 a safe or secure condition, when considered dangerous. To prevent the deposit of ashes in unsafe places, and the throwing of ashes in the streets and alleys. To require the inhabitants to provide as many fire buckets, and in such manner and time as they shall prescribe, and to regulate the use of them in time of fire. To regulate and prevent the carrying on of manufactures dangerous in causing or promoting fires. To regulate and prevent the use of fire arms and fireworks. To compel owners or occupants of buildings to have scuttles in the roofs, and stairs or ladders to the same. To authorize the mayor, aldermen, fire wardens and other officers of the city to keep away from the vicinity of any fire all idle and suspected persons, and to compel all bystanders to aid in the extinguishment of fires and the preservation of property exposed to danger thereat, and generally to establish such regulations for the prevention and extinguishment of fires as the common council may deem expedient.

To purchase fire engines and other fire apparatus—exemptions.

SEC. 3. The common council shall have power to purchase fire engines and all other apparatus which may be required for the extinguishment of fires, and to authorize the formation of fire engine, hook and ladder and hose companies, and to provide for the proper support and regulation of the same, and to order such companies to be disbanded, their public meetings prohibited and their apparatus to be given up. Every member of each company which may be authorized to be formed, shall be exempt from highway work and poll tax, from serving on juries, and from military duty during the continuance of such membership.

Council to appoint chief and assistant engineers.

SEC. 4. The common council shall have power to appoint the chief engineer and two assistant engineers of the fire department, and also one fire warden in each ward, and to prescribe the duties of such officers.

SEC. 5. Whenever any person shall refuse to obey any lawful order of any engineer, fire warden, mayor or alderman,

at any fire, it shall be lawful for the officer giving such order to arrest or to direct orally any constable, police officer, watchman or any citizen, to arrest such person, and confine him temporarily in any safe place, until such fire shall be extinguished; and in the same manner such officers, or any of them, may arrest, or direct the arrest and confinement of any person at such fire who shall be intoxicated or disorderly; and any person who shall refuse to obey any such lawful order, or who shall refuse to arrest or aid in arresting any person so refusing to obey, shall be liable to such penalty as the common council may prescribe, not exceeding a fine of fifty dollars.

Penalty for refusing to obey orders at any fire.

## CHAPTER VIII.

### STREET GRADES AND SIDEWALKS.

SECTION 1. The common council may cause to be established from time to time, and as rapidly as the convenience of the inhabitants may require, under the direction of the city surveyor, the grade of all streets, sidewalks and alleys in said city, and it shall cause accurate profiles thereof to be made and kept in the office of the city surveyor.

Council to establish grade of streets, &c.

SEC. 2. Whenever the common council shall deem it necessary to construct or repair any sidewalk in said city, they shall require the street commissioner to notify all owners and occupants of any lot or lots, or parcels of land adjoining such sidewalk, to construct or repair the same at his or their own proper expense and charge, within a time designated by the publication in the official paper of said city, for not less than two weeks, of a notice to said owners or occupants, setting forth what work is to be done, and the character of the same, by such owners or occupants, and the time within which they are required to do the same.

Duty of street commissioner.

SEC. 3. If such work is not done and the said sidewalks not built or repaired in the manner, and within the time prescribed, the common council may order the same to be done by the street commissioner, at the expense of the lots and parcels of land adjoining said sidewalks, and said expenses shall be assessed upon such lots and parcels of land so chargeable, by the street commissioner, and returned by him to the common council. And said assessment so made and returned, if approved by the

Expense of constructing sidewalks, how paid.

common council, shall become a lien upon said lots and parcels of land, as in case of city, county and state taxes.

Non-payment of taxes on property improved, how collected.

SEC. 4. If said assessment be not paid to the street commissioner or the city treasurer, on or before the twentieth day of August, in any year, the common council shall cause a statement of the same to be transmitted, with the city taxes levied for that year, to the auditor of the county, on or before the first day of September in each year, and the said auditor shall insert the same with the other taxes in the duplicate statement of taxes annually transmitted by him to the county treasurer for collection, and payment thereof enforced, with and in like manner as city, county and state taxes are collected and payment thereof enforced.

To prescribe width of sidewalk and material used.

SEC. 5. The common council shall prescribe the width of sidewalks, and may establish different widths in different localities, and determine the kind of material of which they shall be constructed, having regard to the business and the amount of travel in the vicinity of each.

## CHAPTER IX.

### LIGHTING OF STREETS—SUPPLY OF WATER.

Contract for lighting streets.

SECTION 1. The common council shall have authority to contract with any person, persons or corporation 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.

To authorize the laying of gas pipes.

SEC. 2. 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.

To permit any corporation to lay water pipes.

SEC. 3. The common council may permit any party or corporation to lay water mains and pipes in any and all streets, alleys, highways and public grounds of the city, and shall regulate the position of the same, so that (they) shall not obstruct or interfere with common sewers or with the proper drainage of the city.

## CHAPTER X.

## MISCELLANEOUS PROVISIONS.

SECTION 1. No vote of the common council shall be reconsidered or rescinded at a subsequent meeting, unless at such subsequent meeting there be present as large a number of aldermen as were present when the vote was taken.

When vote of Council may be rescinded.

SEC. 2. No penalty or judgment recovered in favor of the city shall be remitted or discharged, except by the vote of two thirds of the aldermen elect.

When penalty or judgment may be rescinded.

SEC. 3. In all prosecutions for any violation of this act, 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, 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. All warrants, process or writs by a city justice for the violation of an ordinance and by-laws of said city, shall be directed to the chief of police or any police officer of said city.

When warrant shall be issued—when not issued.

SEC. 4. In all cases of the imposition of any fine or penalty, or of the rendering of any judgment by a city justice of said city, pursuant to any statute of the state of Minnesota, or pursuant to any ordinance or by-law of the said city, as punishment for any offence, or for the violation of any ordinance or by-law as aforesaid, the offender shall be forthwith committed to the city prison of said city, or if there be no city prison, to the common jail of the county, and be there imprisoned for a term not exceeding three months, in the discretion of the city justice, unless the said fine or penalty be sooner paid or satisfied; and from the time of the arrest of any person or persons for any offense whatever, until the time of trial, the person or persons so arrested may be imprisoned in the city prison, or in case there be no city prison, in the common jail of the county.

Non-payment of fines how punished.

SEC. 5. 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 the city shall be a party, in interest.

Qualifications of Judge, Justices, &c.

SEC. 6. Each city may purchase and hold real and

May purchase and hold real estate.

personal estate for public purposes, sufficient for the convenience of the inhabitants thereof, and may sell and convey the same, and the same shall be free from taxation.

No law considered repealing the same unless expressly set forth.

SEC. 7. No law of the state concerning the provisions of this act shall be considered as repealing, amendatory or modifying the same, unless said purpose be expressly set forth in such law.

Who to collect poll tax.

SEC. 8. The street commissioner shall collect the corporation or poll tax, which may be levied by the common council, and said street commissioner shall have all the power as possessed by road supervisors as provided by the laws of the state, and shall report to the common council when required.

When act to take effect.

SEC. 9. This act shall take effect and be in force from and after its passage.

Approved March 5, 1870.

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## CHAPTER XXXII.

March 8, 1871.

*An Act to amend Section One, of Chapter Sixteen, of the General Statutes, relating to the Sale of Intoxicating Liquors.*

- SECTION 1. Amendment to Section One (1) of Chapter Sixteen (16) of the General Statutes.  
Licenses may be granted in municipal townships—how.
2. When act to take effect.

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

SECTION 1. That section one, of chapter sixteen, of the general statutes, be amended by adding thereto the following:

*Provided,* That nothing herein shall be so construed as to prevent the people of any municipal township from deciding for themselves whether licenses shall be granted to