

CHAPTER X.

AN ACT TO EXTEND THE CORPORATE LIMITS OF THE CITY OF MANKATO.

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

SECTION 1. That lot two in section thirteen, and lot fourteen in section fourteen, township one hundred and eight north, of range twenty-seven west of the fifth principal meridian, be and the same are hereby annexed to the city of Mankato as a part thereof, and the corporate limits of said city are hereby extended so as to include the above described territory.

SEC. 2. This act shall take effect and be in force from and after its passage.

Approved February 17, 1873.

CHAPTER XI.

AN ACT IN RELATION TO THE CITY OF MANKATO, PRESCRIBING THE MANNER OF TAKING PRIVATE PROPERTY FOR PUBLIC USE, AND LEVYING ASSESSMENTS THEREFOR, AND FOR OTHER LOCAL IMPROVEMENTS.

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

SECTION 1. That the municipal corporation of the city of Mankato is hereby authorized to levy assessments for local improvements upon the property fronting upon such improvements, or upon the property to be benefited by such improvements without regard to a cash valuation.

SEC. 2. That such assessments may be made by the city of Mankato for the filling, grading, leveling, paving, curbing, walling, grading, macadamizing, planking, constructing bridges upon, or otherwise improving any street, lane, alley or highway, and for keeping the same in repair, for laying out, opening, extending, widening,

straightening, or altering any street, lane, alley or highway, and for planting shade trees upon or otherwise ornamenting the same, also for filling, grading, protecting, ornamenting or otherwise improving any public square, park or grounds now or hereafter laid out, also for constructing, laying, relaying, erecting, cleaning and repairing cross and sidewalks, area walls, gutters, sewers and private drains. *Provided*, That lots one, two and three in block four, Branson addition to Mankato, shall not be liable for any assessment for widening or straightening Fifth street in said city.

SEC. 3. The cost of any improvements mentioned in the foregoing section shall be defrayed, save as herein otherwise provided, by a special assessment upon the real estate benefited thereby, to be levied in the manner hereinafter described; *Provided*, That all street crosswalks and sidewalks adjacent to public grounds, other than streets, lanes or alleys, be constructed at the expense of the city at large; *Provided, also*, That upon a vote of two-thirds of the aldermen elect any improvement mentioned in the foregoing section may be made by the city at large without special assessment; *Provided, also*, That the repairing of any street, alley, highway, public ground, bridge, sewer or drain, the cost of which repairs is estimated not to exceed the sum of one hundred dollars, may be done by the street commissioner of said city, under the direction of the common council without special assessment therefor.

SEC. 4. Such assessment except as hereinafter provided, shall be made by a board of commissioners, to be known as the city commissioners, who shall be appointed as follows: on the first Monday of March of each year, or as soon as practicable thereafter, the judge of the district court of the judicial district in which said city may be situated, upon his own motion, or upon the written or verbal application of the mayor of said city shall appoint as such commissioners three persons who shall be each respectable freeholders of said city, and qualified electors therein, and shall have been residents of said city for at least three years prior to such appointment, and none of whom shall be officers of said city. Such appointment shall be in writing, signed by said judge of the district court, and transmitted to and filed by the city recorder of said city in his office, and shall thereupon become prima facie proof of such appointment, and of the regularity of the same. Each of said commissioners shall hold his office for one year and until his successor shall be appointed and qualified; and all vacancies for an unexpired term shall be filled by said judge of the district court in like manner as original appointments are above provided to be made. *Provided*, That no commissioner shall act in relation to any assessment upon or condemnation of any property in which he has any property interest; but in case of any commissioner being, for any cause, disqualified from acting in any

case, a commissioner pro tempore may be appointed in like manner as above provided for appointment of commissioners, to act in place of such disqualified commissioner. Each commissioner, before entering upon the discharge of his duties, shall take and subscribe an oath to the effect that he will faithfully and impartially execute his duties as city commissioner, to the best of his ability. Each of said commissioners shall be entitled to receive as compensation for his services, three dollars per day for each day of actual service in the duties of such office, which shall be paid out of the city treasury. Said board of commissioners shall have power to elect one of their own number as chairman of said board. Meetings of said board may be called by the chairman or by any two members thereof, by personal or written notice to the several members, by written notice left at their respective places of residence, or by notice published for one week in the official paper of said city. The city recorder shall act as secretary of said board, and shall keep a record of all the proceedings of said board in a book to be kept for that purpose, and report the same to the common council of said city whenever required. Such records shall be kept in the office of the city recorder, and shall be deemed to be a public record. The city surveyor shall act under the orders of said board, and do all surveying, make all plans and estimates, and perform any such like work as may be required by said board. In case any commissioner, upon being personally notified of any meeting of said board, shall neglect or refuse to attend, he shall, except in case of sickness or absence from the city, forfeit and pay a fine to said city not exceeding fifty dollars in each case, which shall be recovered in the same manner as is provided for prosecutions for violations of ordinances of said city by the act incorporating the same. Two of said three commissioners shall constitute a quorum, and perform any act and have all the power of such board of commissioners.

SEC. 5. Whenever a petition for the making of any improvement mentioned in section two of this act shall be presented to the common council of said city, purporting to be signed by owners of real estate in the vicinity of such proposed improvements, and which signers shall, in the opinion of said common council, be the owners of more than one-half in area of the real estate which may, by said common council, be deemed to be especially benefited by such improvements; or whenever, without such petition two thirds of all the aldermen elect shall vote in favor thereof, the common council shall, except in cases herein otherwise provided, refer the same to the board of city commissioners. The said board shall then proceed to investigate the subject so referred, and may cause such surveys or plats to be made as they may deem necessary, and shall make report to the common council, and give an estimate of the expense of making

such improvement, and of the proportion or amount thereof which, in their opinion, may properly be assessed upon real estate as benefits derived from such improvements, and what proportion or amount should properly be assessed upon, or borne by the city at large. They shall also report whether, in their opinion, the contemplated improvement is desired by the owners of the greater part, in area, of the property likely to be assessed therefor. If the said board of commissioners shall not approve of the making of such improvements, they shall, in their report to the common council, give the reasons for their disapproval; and in such case the common council shall not order the prosecution or making of such improvement except by a vote of two-thirds of all the members elect of said council. After the report of said commissioners shall have been made to the common council, the common council may, in any respect, modify the plan of the contemplated improvement. *Provided*, That such modification shall not be such as to materially increase the expense or alter the general plan thereof, except upon a vote of two-thirds of all the aldermen elect. The common council may, for any reason, again, or as often as they may deem necessary, refer the subject of any contemplated improvement to said board of commissioners, to be acted upon by them anew, as above provided, or for any other or special purpose they may deem proper.

SEC. 6. When the city commissioners shall have reported to the common council in relation to any proposed improvement, involving the doing of any work, or the furnishing of any materials, the common council may direct the city recorder to advertise for proposals for doing said work, or furnishing such materials; a plan and profile of the work to be done, accompanied with specifications for the doing of the same, in all cases where such plan, profile and specifications may be necessary for perfect description of the work to be done, being first placed on file in the office of city recorder, which plans, profiles and specifications shall at all times be open for public inspection. The city commissioners may, for the sake of convenience or accuracy in making the assessments, as hereinafter provided, divide the proposed work or improvement into several divisions or sections, and indicate the same in their report to the common council, and in such case the plan, profile and specifications shall correspond, as near as may be, with, and indicate such divisions or sections. Bids for doing any work or making any improvement, as provided herein, shall name a gross sum for the whole work or improvement, or some specified section or division thereof; and the contract, when awarded, shall be for the doing of the work, or making the improvement, or some specified section, portion or division thereof, at a gross sum for the whole, or for such specified part thereof. Upon being directed to advertise for proposals, as above provided, the

city recorder shall cause an advertisement to be published for at least two weeks, in the official paper of said city, stating briefly in general terms the nature of the work to be done; stating where the plan, profile and specifications may be examined, and within what time bids for the doing of such work will be received. Such bids shall be directed to the common council of the city of Mankato, and shall each be accompanied by a bond to the said city, in a sum equal to thirty per cent. of the amount of the bid signed by the bidder, and two responsible sureties, to the satisfaction of the common council, conditioned that the bidder shall execute the work for the price mentioned in his bid, and according to the plan and specifications, in case the contract shall be awarded to him; and in case of default on his part to execute the contract and perform the work in accordance with its terms, said bond may be sued and judgment recovered thereon by said city, for the full amount thereof, in any court having jurisdiction of the amount. Said bids shall be opened by the common council at their next meeting after the time for receiving bids shall have expired, or at any other appointed regular or special meeting thereafter. Upon the opening of said bids, or at any time thereafter, the common council may award the doing of the work, or any part thereof, to the lowest reliable and responsible bidder or bidders who shall have complied with the above requirements, and who shall have sufficiently guaranteed to the satisfaction of the common council the faithful performance of said work. The common council may let such contract upon such conditions or provisions not inconsistent with the provisions of this act, as they may deem proper.

SEC. 7. Any contractor, or person who enters into a contract for the doing of any work or making any improvement provided for in this act, shall take such contract with the condition that he and the sureties upon his bond shall be personally and directly responsible for any and all loss, damage or injury to person or property by reason of the neglect or failure of himself, or any one in his employ, to so perform such work as to guard against all loss, damage and injury to person or property; and he shall so guard the said work by suitable guards by day, and with lights at night, as to prevent any such loss, damage or injury. The provisions of this section shall be regarded as forming part of the contract entered into by any such person with the city.

SEC. 8. When the city commissioners shall have reported to the common council in relation to any proposed improvement which shall require the appropriation or condemnation of any land or real estate, and the common council shall direct the further prosecution of such improvement, the said board of commissioners shall thereupon proceed, in the manner hereinafter prescribed, to ascertain

and assess the damages to the owners of such land for such appropriation or condemnation; and to assess upon the real estate by them determined to be especially benefited by the making of such improvement, such damages and the cost of making such improvement, to the extent of the special benefits deemed to be derived by such real estate therefrom.

SEC. 9. The said board of commissioners in making such assessment of damages shall determine and appraise to the owner or owners the value of the real estate appropriated for the improvement, and the injury to them respectively, arising from the condemnation thereof, which shall be awarded to such owners respectively, as damages, after making due allowance therefrom for any benefits which such owners may respectively derive from such improvement. If the damage to any person be greater than the benefit received, or if the benefits be greater than the damage, and in any case where both damages and benefits are to be assessed, the said board of commissioners shall strike a balance and carry forward the difference, so that the assessment may show what amount is to be received or paid by such owners, respectively; and only such difference shall in any case be collected of them or paid to them, as the case may be.

SEC. 10. If there should be any building standing in whole or in part upon the land to be taken, the said board of commissioners shall add to their estimate of damages for the land, the damages also for the building or part of building necessary to be taken, if it be the property of the owner of the land. When owned by any other person, the damages for the building shall be assessed separately. The value of such building to the owner to remove, or of the part thereof necessary to be taken, shall also be determined, by the same board of commissioners, and notice of such determination shall be given to the owner, when known, if a resident of the city, or left at his usual place of business or abode. If the owner is not known, or is a non-resident of the city, notice to all persons interested shall be given by publication for two weeks in the official paper of the city. Such owner may at any time, within twenty days after service, or the first publication of such notice, notify the board of commissioners, in writing, of his election to take such building or part of building at their appraisal; and in such case the amount of such appraisal shall be deducted by the board of commissioners from the estimated damages for the land and building, where they belong to the same owner, and from the estimated damages for the building where they belong to different owners; and the owner shall have such reasonable time for the removal of the building after the confirmation of the assessment as the board of commissioners may allow. If the owner shall refuse to take the building at the appraisal, or fail to give notice of his election as aforesaid, then no such deduction

shall be made from the estimated damages aforesaid; and after the confirmation of such assessment of damages for the taking of such property and after provision shall have been made for payment of the same, as hereinafter provided, such building or so much thereof as may be necessary, may be then taken and appropriated, sold or disposed of in such manner as the common council shall direct, and the same, or the proceeds thereof, shall belong to the city.

SEC. 11. When any contract for the doing of any work, or the making of any improvement, as herein provided, shall have been made or awarded by said common council, or when the damages to be paid for the appropriation or condemnation of any property in pursuance of the provisions of this act shall have been ascertained and determined by the city commissioners and confirmed by the common council; or in case an appeal shall be taken as provided in this act, then when such damages shall have been determined by the judgment of the court, the said commissioners shall thereupon proceed to assess in the manner hereinafter provided, upon the real property by them deemed to be especially benefited by the doing of the work or the making of the improvement, in proportion, as nearly as may be, to the benefits resulting thereto, the amount for which any such contract may have been awarded, or let, or the amount of damages so ascertained and determined as the case may be, to the extent of the special benefit deemed to be derived by such real estate therefrom. The balance of the amount for which such contract may have been awarded or let, or of the damages for the taking of any property so ascertained and determined, shall be chargeable upon, and paid by the city at large.

SEC. 12. Before proceeding to make such assessment of benefits to be derived from any improvement, or of damages for the taking of any property, as hereinbefore provided, said board of commissioners shall cause notice to be given by publication in the official paper of said city, for at least two weeks, of the time and place of their meeting for the purpose of making such assessments, which notice shall specify, in general terms, the object of such assessment. *Provided*, That in case any such improvement consists in or includes the taking or appropriating of any land or property, written or printed notice of the meeting of such commissioners for the purpose of determining the damages to be awarded to the owner of such property for such taking, shall be served, at least one week before such meeting, by the chief of police or any police officer of said city, upon the person whose property is to be so condemned, if such person is known and is a resident of said city; such notice shall be served by delivering the same to the person to be served, personally, or by leaving the same at the usual place of abode of such person with some person of suitable age and discretion, there residing. If the owner of such property is unknown or is a non-

resident of said city, or is absent therefrom, and has no place of residence therein where service can be made in the manner above provided—of which facts the return of the chief of police of said city shall be conclusive evidence—notice of such meeting shall be published as hereinbefore in this section provided. All persons interested in any such assessment shall have the right to be present and be heard either in person or by attorney. The commissioners shall view the locality of the contemplated improvement and shall receive any legal evidence that may be offered relative to the matters to be determined by them, and are hereby authorized to administer oaths to all witnesses produced before them. They shall permit the city attorney or the common council to appear before them at such hearing to represent the interests of the city. They may adjourn from time to time, and from place to place, until such assessment shall be completed. The action or determination of any two of said commissioners shall be binding as the act of the said board.

SEC. 13. When such assessments of damages or of benefits shall have been completed, the commissioners shall cause the same to be entered in a book to be kept for that purpose by the clerk of said board. After the same is so entered, said commissioners shall cause notice to be given by at least one week's publication in the official paper of said city, that such assessment has been completed and entered as aforesaid, and that at a time specified in such notice application will be made to the common council for a confirmation of the same. Objections to said assessment may be heard before the common council at such time; *Provided*, That all such objections shall be in writing, and shall be filed in the office of the city recorder at least one day prior to such meeting of the common council. Should no quorum be present at such appointed meeting of the common council, such meeting for confirmation may be adjourned by the members of said common council present to such other time as they may deem expedient; and at such adjourned time, without further notice or publication, the common council may act in reference to such assessment in the same manner and with the same authority as they might have done at the meeting appointed for that purpose, had a quorum been present; *Provided*, That nothing herein contained shall preclude the said commissioners from causing a new notice of application for confirmation to be given by publication in the manner above provided, in case any previous notice shall be found irregular or invalid, or in case of there being no quorum present at any prior appointed meeting, or for any other cause, preventing a regular and valid action by the common council in relation to such assessments. The council shall have power to adjourn such hearing from time to time, and shall have power, in their discretion, to revise and correct the assessment, and to confirm the same, in whole or in part,

and to annul the same, in whole or in part, and to direct a new assessment to be made. Said assessment, when confirmed by the common council, or the same as corrected by said common council, without further action thereon by the commissioners or formal confirmation by the common council, shall be final and conclusive upon all parties interested therein, except as hereinafter provided. If said assessment shall be annulled by the common council, or set aside by any court, in whole or in part, the board of commissioners shall proceed to make a new assessment in place of so much of the former assessment as may have been annulled or set aside, and return the same in like manner and give like notice as hereinbefore provided, and all parties in interest shall have the like rights, and the common council shall perform the like duties and have like powers in relation to any subsequent assessment or determination as are hereby given in relation to the first.

SEC. 14. Any person whose property has been appropriated, and who has filed objections to the assessment of damages therefor, as hereinbefore provided, shall have the right at any time within twenty days after the confirmation of such assessment to appeal to the district court of the county of Blue Earth from such confirmation of such assessment. Said appeal shall be made by filing a written notice with the city recorder, containing a description of the property of such appellants so appropriated, and the objections of such appellant to such assessment. And by filing with the clerk of said court a bond to the city of Mankato, conditioned to pay all costs which may be awarded against the appellant, which bond shall be in such sum and with such surety as shall be approved by the judge of said court, or in case of his absence or inability to act, by the judge of any court of record of this state. A copy of such notice of appeal, with the date of filing the same, certified by the city recorder, shall also be filed with the clerk of said court, within the time above limited for perfecting such appeal. A copy of the record of such assessment, as confirmed, as provided in section thirteen of this act, and of the objections, as aforesaid, made to the confirmation thereof, certified by the city recorder at the expense of the appellant, shall be filed in the office of the clerk of said court at the time of taking such appeal. Such appeal shall be entitled in said court in the name of the person taking the same against the city of Mankato, as an appeal from assessment.

SEC. 15. Such cause shall then be deemed to be at issue, and shall be tried in said court as in the case of other civil actions pending therein, except that no pleadings shall be necessary. Upon such appeal the damages for the taking of the property specified in the objections shall be re-assessed, but such re-assessment shall be, so far as practicable, in accordance with the same rules and principles

herein prescribed in reference to the assessment by the commissioners. Judgment shall thereupon be entered, to the effect that upon the amount of damages so determined being paid or secured in accordance with the provisions of this act, the city shall have the right to take, use and appropriate the property in question for the purposes for which the same were sought to be taken. The same remedies may be had by either such appellant or the city, by appeal or otherwise, to the supreme court, from the proceedings in and determination of the district court, as are provided by law, in respect to civil actions tried in the district court; *Provided*, That no such appeal shall be taken after twenty days after such determination of the district court.

SEC. 16. When such assessment shall have been confirmed by the common council, and no appeal have been taken; or if an appeal shall have been taken, when judgment shall have been rendered therein, the same shall be a lawful and sufficient condemnation of the land or property to be appropriated; and whenever there shall have been appropriated by the common council, from moneys actually in the hands of the treasurer of said city, the amount of damages assessed for the taking of the same, and orders upon the treasurer for such amounts, in favor of the person entitled thereto, shall have been drawn, signed by the recorder and president of the common council, and delivered or tendered to the persons entitled to such damages—or whenever, instead of such delivery or tender, such orders shall have been deposited with the city recorder for the use of such persons, and to be delivered to them upon demand, and notice thereof shall have been published for one week in the official paper of said city—then the said city may enter upon and appropriate such property to the uses for which the same was condemned. Whenever in any case the city shall be unable to determine to whom the damages awarded should be paid, or in case of disputed claims in relation thereto, the amount thereof may be deposited, by order of the common council, in the district court for Blue Earth county, in the same manner as moneys are paid into court until claimants and parties shall substantiate their claims thereto; and such payment into court shall be deemed, so far as the city is concerned, as a payment of the same to the person or persons entitled thereto, and the city shall be thereafter discharged from all further liability in respect thereto, and may enter upon and appropriate the property for the taking of which such damages were assessed.

SEC. 17. All owners of real estate in front of, adjacent to, or upon which the common council shall order or direct any sidewalk to be constructed, relaid or repaired, shall construct, relay or repair such sidewalk at their own cost and charge in the manner and within the time prescribed by said common council, in a notice served as

hereinafter provided. Whenever said common council shall order any such work to be done, and shall, by ordinance or otherwise, prescribe the manner of constructing such work, or shall have before done so, they shall cause a notice to be given by personal service upon the owner of such real estate, or by leaving the same at his usual place of abode, with some person of suitable age and discretion, or by publishing the same for at least two weeks in the official paper of said city, such notice stating the character of the work and the manner in which it is to be done, and the time within which the same shall be completed, which statement may be made in terms in said notice or by reference to any ordinance or resolution of said common council, then or theretofore published. Such notice shall state upon what lot or tract of land, or in front of or adjacent to what lot or tract the said work is to be done, and the name of the owner or occupant of such land need not be given or stated therein. No reference to the city commissioners need be made before the ordering of such work. If the work be not done in the manner and within the time so prescribed by the common council, the council may proceed to do the work by contract. They shall cause advertisements for proposals for doing such work to be made as is provided in section six of this act; but no plan, profile, or specifications of such work need be made or filed, as is therein provided, but the terms upon which the work is to be done, the manner of doing the same, and any necessary particulars or specifications may be stated in said advertisement, in terms, or by reference to any ordinance or resolution or notice of the common council then or theretofore published, designating the same by its title or date, or the date of the publication or of the approval thereof by the mayor or acting mayor of said city. The same proceedings shall be had in relation to the receiving and opening bids and awarding or letting contracts for the work in this section mentioned so far as the character of the work to be done may require as are hereinafter provided in reference to other improvements; *Provided*, That bids for constructing sidewalks, and contracts made thereon, may state the price of doing any work at a gross sum for any lot or tract of land or part thereof adjacent to which or upon which the same is to be done, or it may be at a certain sum per lineal foot or other unit of measurement. After the letting or awarding of the contracts for constructing, relaying or repairing any sidewalk, as herein provided, the city commissioners shall proceed to assess upon the real property in front of, adjacent to, or upon which such sidewalk is to be or may have been constructed, relaid or repaired, the cost of such construction, relaying or repairing, as determined by the contract so let or awarded. No previous notice of such assessment by said commissioners need be given, nor shall they be required to view the premises upon which

such improvement is to be or has been made, or to hear any testimony or evidence or objections relating to such assessment. The same proceedings shall be had in regard to the entering of said assessment, and in respect to the review or confirmation thereof by the common council as are provided in section thirteen of this act; and all the provisions of said section thirteen, except as herein otherwise provided, shall apply to the proceedings had under this section.

SEC. 18. When any special assessment for any of the improvements in this act mentioned, shall have been confirmed by the common council, or corrected and determined by the said council, it shall be the duty of the city recorder to issue to the treasurer of said city a warrant for the collection thereof, which shall be under the corporate seal, and signed by the mayor or acting mayor of said city and the city recorder, and shall contain a copy of the assessment as confirmed by the common council or as corrected and determined by them, or so much thereof as describes the real estate assessed and the amount of assessment in each case. Any such warrant may contain copies of several of said assessments for any improvements made or to be made in pursuance of this act, and the same proceedings may be had for the collection of all the assessments charged therein, as are herein provided in relation to any one of such assessments.

SEC. 19. All warrants issued for the collection of special assessments shall be delivered by the city recorder to the city treasurer for collection. The city treasurer shall, when he shall have completed the proceedings incumbent upon him in respect thereto, return said warrant to the common council accompanied with a written return, executed by him of his proceedings thereunder. Upon the receipt of any such warrant the city treasurer shall, by publication in the official paper of said city for at least two weeks, give notice that such warrant is in his hands for collection, briefly designating the improvement or improvements on account of which such assessment was made, and requesting all persons interested to make payment at a place therein designated within thirty days after the first publication of said notice.

SEC. 20. When any lot or tract of land upon which any assessment may have been made in pursuance of the provisions of this act, shall be owned by more than one person, as tenants in common, it shall be lawful for any one or more of such tenants in common to pay such proportion of the whole assessment upon such lot or tract, as his undivided interest in such lands bears to the whole thereof, which payment shall discharge such undivided portion of such land from such assessment leaving the balance of such assessment to attach to the remaining undivided portions of such land, and in respect to such unpaid balance of assessment, and such remaining undivided

portions of such lands, all of the provisions of this act shall, so far as applicable, be construed to apply.

SEC. 21. If the assessments charged in any such warrant shall not be paid within thirty days after the first publication of such notice by the city treasurer, all such assessments then unpaid shall from and after the expiration of such time, be deemed to be delinquent, and shall from thenceforth, without any other act or thing, be a lien upon the real estate upon which the same may have been assessed, which lien shall continue until such assessment shall have been paid. And such unpaid and delinquent assessment shall bear interest from the time of their becoming delinquent, as aforesaid, at the rate of two per cent. per month for each and every month thereafter until the same shall be paid.

SEC. 22. After the assessment upon any lands shall have become delinquent, as herein before provided, the city treasurer shall cause to be delivered to the register of deeds of the county of Blue Earth, a list of all such lands with his affidavits attached thereto, to the effect that there are special city assessments upon such lands remaining unpaid and delinquent, which are a charge thereon. On account of receiving such list, the register of deeds shall be entitled to charge against and collect from the city of Mankato a fee of ten cents for each distinct lot or tract of land described in said list. After the delivery of such list to him, the register of deeds shall not receive for record, nor shall he record any deed of conveyance or mortgage of any of the lands described in such list, excepting the certificate of sale herein provided to be made by the treasurer of said city, until such assessments shall have been paid. For every violation of this provision of this act, such register of deeds shall be liable to a penalty of one hundred dollars which may be collected by said city for its own use in a civil action in any court having jurisdiction of the amount. When the delinquent tax charged upon any land in such list described, shall have been paid to the city of Mankato, such land shall be discharged from such list. The register of deeds, upon there being presented to him the city treasurer's receipt in full for all assessments upon such land, shall discharge the same by writing opposite thereto the word "paid" and adding his signature thereto; or the city treasurer may discharge the same by writing opposite the description of the land, the word "paid" and adding his signature thereto.

SEC. 23. Upon the expiration of the time hereinbefore prescribed for the payment of such special assessments, or as soon thereafter as may be, the city treasurer shall cause to be published in the official paper of said city for at least two weeks, a notice of the sale of such delinquent lands. Such notice shall contain a list of the delinquent lots or tracts to be sold, the amount of the assessment upon each of said lots or tracts as charged in the assessment roll, or the assessment

then remaining unpaid, the time and place when such sales will commence, and that such sale will be made in pursuance of the provisions of this act. The name of the owner of said lands need not be given in said notice if the property be otherwise described with sufficient certainty. The proceedings may be suspended, in reference to any lands, at any time before the sale thereof, by the payment to the city treasurer of the amount assessed thereon, with interest as hereinbefore provided; *Provided*, That the common council may, for any reason, delay or suspend proceedings for the sale of any delinquent lands, for such time as they may see fit, by direction to that effect to the city treasurer.

SEC. 24. Such sales shall be conducted by the city treasurer, or by some general or special deputy. The lands shall be offered in the order in which they are described in the published notice of sale; *Provided*, That nothing herein contained shall be so construed as to prevent said treasurer from re-offering for sale any of said lands out of the order above prescribed, where a former sale of such lands was for any reason not perfected, or was invalid. The sale shall be made separately of each lot or tract of land described in said advertisement, on which the assessment and interest shall not have been paid, or of such undivided portion thereof as may be necessary to satisfy the amount of the assessment thereon, with interest, as herein provided, and the person offering at said sale to pay such assessment and interest for the least undivided part of said land, shall be the purchaser thereof. Such sales may be adjourned from time to time, by public outcry, by the city treasurer. The person purchasing any lot or tract of land, or any undivided part thereof, shall forthwith pay to the city treasurer the amount of the assessment and interest as hereinbefore provided, and on failure so to do, the property upon which such assessment is charged shall be again offered for sale in the same manner as if no such sale had been made. If no purchaser shall offer to take such lands, or any undivided part thereof, and to pay the amount of such assessment and interest, the same shall be struck off to the city of Mankato as the purchaser thereof, and thereupon the city shall receive in the corporate name a certificate of the sale thereof, and shall be vested with the same rights as other purchasers at such sales.

SEC. 25. A certificate of sale shall be made and subscribed by the city treasurer and delivered to the purchaser, or to the city recorder in case such land is struck off to the city, which certificate shall contain the date of the sale and the name of the purchaser, a description of the premises sold, the amount for which the same was sold, and the time when the right to redeem the same shall expire. Such certificate shall be executed in the same manner as deeds of conveyance of real estate are required by law to be executed, and

may be recorded in the office of the register of deeds of said county in the records of deeds.

SEC. 26. Such certificate, so executed and recorded, shall, upon the expiration of the time for redemption as herein provided, operate as a conveyance to the purchaser, or his assigns, of the real estate therein described, in fee simple, without any other conveyance whatever, unless the same be redeemed as hereinafter provided.

SEC. 27. The owner of any real estate, sold under the provisions of this act, his heirs, executors, administrators or assigns, or any creditor having a lien thereon as hereinafter provided, may at any time within one year after the sale, make redemption from such sale by paying to the person holding the right acquired under such sale, or for him to the city treasurer, or his successor in office, the amount for which such land was sold, with interest thereon at the rate of two per cent. per month from the date of such sale, and by producing to such person or officer and leaving with him: *First*, A certified copy of the docket of the judgment, or the deed of conveyance or mortgage, or of the record or files evidencing any other liens under which he may be entitled to redeem as herein provided, certified by the officer in whose custody such docket, record or files shall be. *Second*, Any assignment necessary to establish his claim, executed and acknowledged before some magistrate or officer having authority to take or certify the acknowledgment of deeds. *Third*, An affidavit of himself or his agent, showing the amount then actually due on lien.

SEC. 28. The person or officer from whom such redemption is made shall make and deliver to the person redeeming a certificate, executed and acknowledged in the same manner as deeds of conveyance of real estate are required to be made, containing: *First*, the name of the person redeeming and the amount paid by him on such redemption; *Second*, a description of the property redeemed; *Third*, stating upon what claim such redemption is made, and if upon a lien, the amount claimed to be due thereon at the date of redemption. Such certificate shall be forthwith recorded in the office of the register of deeds of said county, and if not so recorded, such redemption and certificate shall be void as against any person in good faith making redemption from the same person or lien. Subsequent redemption from any redemptioner other than the owner of the land, his heirs or assigns, may be made in the same manner as above provided, and such redemption may be made without regard to priority of lien; *Provided*, That any such subsequent redemption can be made from a former redeeming creditor only by paying in addition to the amount paid by such former redeeming creditor in order to effect such redemption, with interest thereon at the rate of seven per cent. per annum from the time of such former redemption, the amount of the

lien of such prior redemptioner, by virtue of which he made his redemption as above provided. If such redemption is made by the owner of the property sold, his heirs or assigns, such redemption annuls the sale; if by a creditor holding a lieu upon the property or some part thereof, said certificate, executed, acknowledged and recorded as above provided, shall operate as an assignment to him of the right acquired under such sale, subject to such right of any other person to redeem as is or may be provided by law; *Provided*, That when any redemption shall be made from the city treasurer, as hereinbefore provided, the person seeking to make such redemption shall pay to said treasurer, in addition to the amount necessary to be paid to effect such redemption, one per cent. of such amount as his fees therefor.

SEC. 29. The city treasurer of said city may, at any time before the time of redemption has expired, being first authorized by vote of the common council, assign any such certificate of sale of property sold to the city as aforesaid, to any person who shall pay into the city treasury the amount for which the same was sold, as aforesaid, with interest thereon at the rate of two per cent. per month from the time of such sale; and such assignee shall have the same right and title thereunder as if he had received the same upon originally purchasing such lands at the sale thereof.

SEC. 30. The certificate executed to any purchaser or to the city of Mankato under the provisions of this act, shall, either before or after the expiration of the time for redemption, as herein provided, be prima facie evidence that all the proceedings preliminary thereto, as provided in this act, were regularly had and done, and of the validity thereof, and after the expiration of such time for redemption, such certificate shall be prima facie evidence of title in the grantee therein named, his heirs and assigns, of the land therein described as sold; and in all actions or proceedings involving the title to the real estate claimed or held under and by virtue of such certificate, the person claiming title adverse to the title conveyed by such certificate shall be required to prove, in order to defeat said title, either, that the real estate was exempt from assessment at the time when such assessment was made, that the assessment charged had been paid, that such assessment had never been made, or that the land had been redeemed from sale thereof under the provisions of this act, and that such redemption was made for the use and benefit of the person having such right of redemption; and no person shall be permitted to question the title acquired under said certificate without first showing that he, or the person under whom he claims, had title to the land at the time of such sale, or that the title was obtained from the United States, or this state after such sale,

and that all taxes and assessment due upon such real estate have been paid by such person or those under whom he claims title.

SEC. 31. The proceedings of the city commissioners in carrying out the provisions of this act, shall be recorded in a book or books kept for that purpose. Such books and the official files and papers of said board shall be deemed public records, and copies thereof certified by the clerk of said board with the corporate seal of the city attached, shall be evidence in all courts, the same as such original records. The clerk of said board shall be entitled to receive from any private person for any certified copy of such records, the same fees as are received for like services by the clerk of the district courts of this state.

SEC. 32. Two or more of the notices required or authorized by this act to be given by the board of commissioners, the city recorder or the common council, by publication or otherwise, in pursuance of the provisions of this act may be comprised in one; *Provided*, That such notices are of the same general character or for like objects, and that in other respects the notice shall sufficiently comply with the essential statutory requirements, and the provisions of this section shall extend to and embrace all notices required to be given in the official paper of the city by the city treasurer or the delivery to him of all tax and special assessment warrants for collection, and of subsequent proceedings or requirements in relation thereto.

SEC. 33. Any change made in the incumbent of the office of said city treasurer or of any other officer of said city during the pendency of any proceedings under this act, shall not operate to affect or delay the same, but the successor or successors of such officers shall be authorized to do all acts necessary to complete such proceedings the same as if their predecessors had remained in office; and any proceeding may be completed or act done in pursuance of the provisions of this act by any officer after the expiration of his term of office with the same validity as if he had continued in such office.

SEC. 34. Any change made in the official paper of said city during the pendency of any publication of any notice or proceeding under this act, or the substitution of any other paper as the official paper of said city, shall not invalidate any such publication or proceeding, but the same may be completed in all respects as though no such change or substitution had been made.

SEC. 35. In none of the notices, orders, warrants or records, in the proceedings prescribed by this act relating to assessments of benefits for improvements made, need the name of the owner of the land upon which such assessments are made be given, and no error or irregularity in any notice, order, assessment or proceeding of any kind had in pursuance of the provisions of this act, or any omission of the requirements thereof, shall invalidate the proceedings or cause

the same to be held to be illegal, unless it shall be made to appear affirmatively, that such error, irregularity or omission actually prejudiced the right and affected the interests of the parties interested therein.

SEC. 36. No error, irregularity or invalidity in respect to any assessment upon any one or more of several lots or tracts of lands, or of the proceedings in relation thereto, shall invalidate or make illegal the proceedings or assessments in respect to any other lands than those in immediate respect to which such irregularity or error was made.

SEC. 37. The city treasurer shall receive for the duties imposed by this act such compensation as may be prescribed by the common council of said city.

SEC. 38. No suspension or stay of proceedings, by appeal or otherwise, in respect to any assessment upon or proceedings for the condemnation of any particular property, shall stay or suspend any proceedings under this act in respect to any other property; nor shall the annulling or setting aside of any such assessment or proceeding, in respect to any particular tract or tracts of land invalidate or in any manner affect assessments upon or any proceedings in respect to any other tracts.

SEC. 39. Whenever it shall be deemed necessary to take private property for public use without the delay incident to the proceedings therefor in this act prescribed, the same may be done, upon there having first been executed and deposited with the clerk of the district court for Blue Earth county, the bond of the city of Mankato to the owner or owners of such property, to be approved by the judge of said court and in such sum as he may prescribe, conditioned that the said city will pay all damages that shall be awarded for the taking of such property, and all costs that may be adjudged to such owner or owners, in any court having jurisdiction in the premises; *Provided*, That proceedings shall be forthwith taken in pursuance of the provisions of this act to determine the amount of damages to which owner or owners may be entitled for such taking. The city thereupon enter upon and use the property in the same manner as they might if the damages for the taking had been already ascertained and paid or secured to be paid.

SEC. 40. The act of the legislature of the state of Minnesota entitled "An act to authorize the city of Mankato to make local improvements and to levy assessments therefor," approved February twenty-ninth, one thousand eight hundred and seventy-two, and all the provisions of law inconsistent with this act, are hereby repealed; *Provided*, That such repeal shall not affect any act done or any right accruing, accrued or established, or any assessments or proceedings of the common council of said city, or of the commissioners of

assessments heretofore appointed, or of other officers of said city, or any proceedings heretofore had in pursuance of law; and any assessments or other proceedings pending or unfinished, made or had under any act hereby repealed, shall not, by reason of this act, abate, but shall continue and conform to, and be completed and be enforced under the provisions of this act.

SEC. 41. This act shall take effect from and after its passage.

Approved February 28, 1873.

CHAPTER XII.

AN ACT TO AMEND AN ACT ENTITLED AN ACT TO INCORPORATE THE CITY OF MANKATO.

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

SECTION 1. The city of Mankato shall by [be] divided into four wards, to be called the first, second, third and fourth wards, and shall be limited, bounded and described as follows, to-wit :

All that portion of the city of Mankato lying northerly of a line commencing on the east bank of the Minnesota river, in the centre of Plum street, thence along the centre of Plum street to the centre of Sixth street, thence down the centre of Sixth street to the centre of Marsh street, thence along the centre of Marsh street to the city limits, shall constitute the first ward of the city of Mankato.

All that portion of the city of Mankato lying southerly of the above described line, and between said line and one commencing at a point on the bank of the Minnesota river, opposite the end of Hickory street, thence eastwardly along the centre of Hickory street to the centre of Hanover street, thence along the centre of Hanover street to the centre of Pearl street, thence along the centre of Pearl street to the centre of Hanover [Hannah] street, thence along the centre of Hanover [Hannah] to the centre of Main street, thence eastwardly along the centre of Main street to the city limits, shall constitute the second ward of the city of Mankato.

All that portion of the city of Mankato lying southerly of the last described line, and between said line and one commencing at a point on the bank of the Minnesota river on the section line between section eighteen (18), town one hundred and eight (108), range twenty-