

CHAPTER IV.

AN ACT TO AMEND THE CHARTER OF THE CITY OF STILLWATER, APPROVED MARCH THIRD, ONE THOUSAND EIGHT HUNDRED AND SEVENTY.

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

SECTION 1. That chapter one (1) of an act entitled "an act to reduce the law incorporating the city of Stillwater, in the county of Washington and state of Minnesota, and the several acts amendatory thereof, into one act, and to amend the same, approved March third, eighteen hundred and seventy, be and the same is hereby amended by adding a new section at the end of said chapter as follows, to-wit :

Sec. 3. Said city shall comprise and is hereby divided into three wards as follows, to-wit : The first ward shall comprise all that part of said city lying south of a line drawn as follows : beginning at a point on the shore of Lake St. Croix where the centre line of Nelson street extended strikes said lake shore, and running thence westerly along said centre line of Nelson street to the centre of Second street ; thence southerly along said centre of Second street to the centre of Pine street ; thence westerly along the centre line of Pine street, and of Pine street extended, to the western limits of the city. The second ward shall comprise all that part of said city lying north of the first ward, and south of the centre line of Mulberry street extended, westwardly to the western limits of the city. The third ward shall comprise all that part of said city lying north of said second ward.

SEC. 2. Section one of chapter two of said act is hereby amended so as to read as follows :

Section 1. There shall be an annual election of city officers on the first Tuesday of April of each and every year, at such place in each ward as the city council shall designate, and the same shall be conducted and governed in all respects in accordance with the general laws of this state regulating elections, except as hereinafter provided ; and ten days previous notice of such elections shall be given by the city clerk by posting notices thereof in three public places in each ward, and by publishing the same in at least one of the newspapers published in said city, but the omission to give such notice shall not invalidate any election.

SEC. 3. That section two of said chapter two of said act is hereby amended so as to read as follows :

Sec. 2. The elective officers of said city shall be a mayor, a treasurer, and a justice of the peace for the city, who shall be styled city justice, all of which officers shall be residents within and qualified voters of said city. Each ward shall elect three aldermen, one justice of the peace, and one constable, who shall be residents in, and qualified voters of the ward for which they may be elected; all other officers necessary for the proper management of the affairs of the city, shall be appointed by the city council, except as otherwise provided herein. The justices of the peace and constables shall hold their respective 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, except the aldermen whose term of office shall be as hereinafter provided. At the first general city election after the passage of this act, there shall be elected in each ward three aldermen, one for one year, one for two years, and one for three years, and at every annual election thereafter one alderman shall be elected from each ward, who shall hold his office for three years and until his successor shall be elected and qualified. Every person elected to any city or ward 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 such officer shall be removed except for cause, nor unless first furnished with or notified of the charges against him, nor until such officer shall have had reasonable opportunity to be heard in his own defense. The city council shall have power to fix a time and place for the trial of such officer of which not less than ten days notice shall be given, and to compel the attendance of witnesses and the production of papers, and to hear and determine the case; and if such officer shall neglect to appear and answer such charges, the city council may declare the office vacant; *Provided further*, That the council shall have the power to remove at pleasure any officer or agent under the city government appointed by the council.

SEC. 4. That section five of said chapter two of said act be and the same is hereby amended so as to read as follows:

Sec. 5. All persons entitled to vote for county and state officers, and who shall have resided for ten days next preceding the election in the ward where they offer their vote, shall be entitled to vote for any officer to be elected under this law, and to hold any office hereby created.

SEC. 5. That section six of said chapter two of said act be and the same is hereby amended so as to read as follows:

Sec. 6. The aldermen in each ward shall be the judges of election in their respective wards, and shall appoint two qualified electors of such ward who shall be clerks of election. Said election shall be held and conducted in the same manner and under the same penalties;

and vacancies in the board of inspectors thereof shall be filled, as required by the laws of the state regarding elections. For the first election to be held under this act, the city council shall appoint the judges of election for each ward from among the qualified electors thereof, and such judges shall appoint the clerks of such election.

SEC. 6. That section seven of said chapter two of said act be and the same is hereby amended so as to read as follows :

Sec. 7. 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 return thereof, stating therein the number of votes for each and every office, and shall deliver or cause to be delivered such returns to the city clerk within three days after any election, and the city council shall meet and canvass said returns and declare the result within three days thereafter. The city clerk shall forthwith notify the officer or officers elected of their election.

SEC. 7. That section eight of said chapter two of said act be and the same is hereby amended so as to read as follows :

Sec. 8. 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 ordinance or resolution.

SEC. 8. That section nine of said chapter two of said act be and the same is hereby amended so as to read as follows :

Sec. 9. 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 written notice of his election or appointment, to qualify and enter upon the discharge of the duties of his office, shall be deemed to have vacated his office, and the city council may proceed to fill the vacancy as herein prescribed.

SEC. 9. That section two of chapter three of said act be and the same is hereby amended so as to read as follows :

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 city 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. *Provided*, That the appointment of all police officers, except the chief of police, shall be subject to the confirmation of the city council. In case of a riot or other disturbance, he may appoint as many special or temporary constables as he may deem necessary ; and any police officer or watchman 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 render it necessary. 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 council with his objections thereto, by depositing the same with the city clerk, to be presented to the city council at the next meeting thereafter. Upon the return of any ordinance or resolution by the mayor, the vote by which the same was passed shall be re-considered, and if after such re-consideration, the city 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 nays, which shall be entered by the city clerk upon the record. If any ordinance or resolution shall not be returned within five days (Sundays excepted) after it shall be presented to him, the same shall have the same effect as if approved by him.

SEC. 10. That section four of said chapter three of said act be and the same is hereby amended so as to read as follows:

Sec. 4. At the first meeting of the city 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 council, and during the absence of the mayor from the city, or his inability from any cause to discharge the duties of the office, the said president shall exercise all the powers and discharge all the duties of the mayor. In case the president shall be absent the vice president shall discharge the duties of such president and act in his place. The president or temporary presiding officer while performing the duties of mayor shall be styled acting mayor, and acts performed by him when acting as mayor as aforesaid shall have the same force and validity as if performed by the mayor.

SEC. 11. That section five of said chapter three of said act be and the same is hereby amended so as to read as follows:

Sec. 5. There shall be a clerk of said city styled the city clerk, who shall be elected by the city council. He shall keep the corporate seal and all the papers and records of the city, and keep a record of the proceedings of the city council. He shall draw and countersign all orders on the treasury, in pursuance of any order or resolution of the city council, and keep a full and accurate account thereof in books provided for that purpose, and make a fair and full record of all the by-laws, rules and ordinances made or passed by the city council. The city clerk shall have power to administer oaths or affirmations, and copies of all papers filed in his office, and transcripts from the records of the city council, certified to by him under the corporate seal, shall be evidence in all courts, in like manner as if the original were produced. He shall report annually, on or about

the first day of May, to the council, an estimate of the expenses of the city for the current year, and the revenue necessary to be raised therefor, and the fiscal year of the city shall commence on the first day of May. He shall make or cause to be made, estimates of the expenses of any work to be done by the city, and countersign all contracts made in behalf of the city, and all certificates of work by any officer of the city or any committee of the city council. He shall negotiate between the first of May and the collection of taxes for the same year, such temporary loans for the city as the city council shall direct, anticipating the revenue for the current year, and such loans shall be subject to the approval of the city council. He shall examine the report, books, papers, vouchers and accounts of the treasurer; and from time to time shall perform such other duties as the council shall direct. All claims against the city, before they are allowed by the city council, shall be audited and adjusted by a committee of the city council appointed for that purpose. The city clerk shall keep a record of all his acts and doings, which record shall be at all times open to the inspection of all parties interested. He shall not be directly or indirectly interested in any contract or job to which the city is a party, or in any loan negotiated by the city.

SEC. 12. That section six of said chapter three of said act be and the same is hereby amended so as to read as follows:

Sec. 6. The city council shall have power to elect an attorney for the city, who shall perform all professional services incident to his office, and when requested, shall furnish written opinions upon any subject submitted to him by the city council.

SEC. 13. That section nine of said chapter three of said act be and the same is hereby amended so as to read as follows:

Sec. 9. The city council shall have power, from time to time, to require other and further duties to be performed by any officer whose duties are herein prescribed, and to appoint an assessor and such other officers as may be necessary to carry into effect the provisions of this act, and to prescribe their duties, and to fix the compensation of all officers elected or appointed by them, whose compensation is not fixed by this act. The mayor shall receive a salary of three hundred dollars per annum; the city clerk a salary of six hundred dollars per annum; and the aldermen each one hundred dollars per annum. No other or further compensation shall be paid to said officers, or either of them, for any services performed by them as such officers. The treasurer, justices of the peace, and constables shall be entitled to the same fees as like officers in towns receive for similar services, under the laws of this state. The city attorney shall receive such compensation as the services rendered by him shall be reasonably worth; and the aggregate amount of all fees, compensations and emoluments, allowed or paid to any and all officers and

committees, by the city, and the gross amount of all expenditures incurred by said city, shall not exceed in any year the tax levied during that year for the support and maintenance of the said city government.

SEC. 14. That section thirteen of said chapter three of said act be and the same is hereby amended so as to read as follows:

Sec. 13. The justices of the peace, assessors and constables of said city shall have and possess all the authorities, rights and powers of justices of the peace, assessors and constables under the general laws of this state; and in addition thereto, the city justice shall have sole and exclusive jurisdiction to hear all complaints, and conduct all examinations and trials in criminal cases arising within the city, cognizable before a justice of the peace. Said city justice shall also have exclusive jurisdiction in all cases cognizable before a justice of the peace, in which the city is a party, and of all suits, prosecutions and proceedings for the recovery of any fine, forfeiture or penalty, under any by-law, ordinance or regulation of said city, or for the breach or violation of any such by-law, ordinance or regulation. All prosecutions for assaults, batteries and affrays not indictable, and for a breach or violation of any by-law, ordinance or regulation of said city, shall be commenced in the name of the city of Stillwater, and the same proceedings shall be had as are required by law in criminal cases tried before justices of the peace; *Provided*, That in the cases above mentioned, no appeal shall be allowed when the judgment or fine imposed, exclusive of costs, shall not exceed twenty-five dollars. In all cases of convictions for assaults, batteries and affrays, breaches of the peace, disorderly conduct, keeping houses of ill-fame, or frequenting the same, and of keeping disorderly houses in said city, the said city justice shall have power, in addition to the fine or penalty imposed, to compel such 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; *Provided*, That nothing herein contained shall be deemed to divest the district judges of their authority as conservators of the public peace, nor to affect in any manner the jurisdiction or powers of the district or supreme courts of this state. And all fines levied and collected for or on account of any breach of the peace, assault and battery, or other offense not indictable, committed within said city, and for all offenses against the ordinances of said city, shall be paid into the city treasury for the use of the city.

SEC. 15. That section fourteen of said chapter three of said act be and the same is hereby amended so as to read as follows:

Sec. 14. The city justice shall monthly report to the council a list of all proceedings instituted before him, in behalf of the city, and the disposition thereof; and shall at the same time account and

pay over the amount of all penalties and costs collected, which may by law accrue to the city, and he shall be entitled to receive from the county of Washington such fees in criminal cases as are allowed to other justices of the county for similar services. In case of a vacancy in the office of the city justice, or if he shall be absent from the city, or for any reason unable to act, the mayor may appoint one of the ward justices to act as city justice during such vacancy, absence or disability, which appointment shall be in writing, and filed with the city clerk.

SEC. 16. That section one of chapter four of said act, be and the same is hereby amended so as to read as follows :

Sec. 1. The aldermen shall constitute the city council, and the style of all ordinances shall be, "The city council of the city of Stillwater do ordain." The city council shall meet at such time and place as they may direct. A majority of the aldermen shall constitute a quorum. The city council shall determine the rules of their proceedings, and be the judges of the election and qualification of their own members, and have the power to compel the attendance of absent members.

SEC. 17. That the ninth sub-division of section two in said chapter four of said act, be and the same is hereby amended so as to read as follows :

Ninth—To prevent the running at large of dogs ; to impose an annual license tax on their owners ; and to authorize the destruction of dogs in a summary manner when at large contrary to the ordinances.

SEC. 18. That section three of said chapter four of said act be and the same is hereby amended so as to read as follows :

Sec. 3. All ordinances, regulations, resolutions and by-laws, shall be passed by an affirmative vote of a majority of the members of the city council present, and shall be published once in some newspaper published in the city, or posted in three of the most public places in the city for ten days, before the same shall be in force ; and within twenty days thereafter they shall be recorded by the city clerk in books to be provided for that purpose ; but before any of the said ordinances, regulations or by-laws shall be recorded, the posting of the same, or the publication thereof as aforesaid respectively, shall be proved by the affidavit of the foreman or publisher of said newspaper, or the certificate of the city clerk of said posting, and the said affidavit or certificate shall be recorded therewith, and at all times shall be deemed and taken as sufficient evidence of the time, manner and place of such publication or posting. No appropriation shall be made without a majority of the city council voting in favor of it ; and the vote shall be taken by ayes and noes, and entered among the proceedings of the city council.

SEC. 19. That section nine of said chapter four of said act be and the same is hereby amended by striking out the word "sidewalk," in the seventeenth line of said section, and inserting the words "said work" in lieu thereof.

SEC. 20. That section six of chapter five of said act be and the same is hereby amended so as to read as follows:

Sec. 6. Should the commissioners report that it is necessary to take such premises for the public use, the city council shall enter an order among their proceedings confirming such report, and directing said commissioners with all reasonable dispatch to again view said premises, for the purpose of assessing and awarding the amount of damages to be paid to the owner or owners of the property proposed to be taken for the public use for the purposes of such improvement. The said commissioners shall with the assistance of the city engineer cause a survey and plat of the proposed improvement to be made and filed with the city clerk, exhibiting as far as possible the lands or parcels of property proposed to be taken, and shall thereupon give notice by publication in some newspaper of said city once in each week for two successive weeks, to the effect that such plat has been filed, and that the said commissioners will meet at a time and place designated in such notice, and thence proceed to view the premises and assess the damages for property to be taken or which may be damaged by such improvement. The time so designated must be at least fifteen days after the first publication of such notice.

SEC. 21. That section seven of said chapter five of said act be and the same is hereby amended so as to read as follows:

Sec. 7. At the time and place designated in such notice the commissioners shall proceed to view the premises, and may hear any evidence or proof offered by parties interested, and may adjourn from day to day for such purpose. When their view and hearing aforesaid shall be concluded, they shall determine and assess the amount to be paid to the owner or owners of each parcel of property proposed to be taken, or which may be damaged by such improvement, and in so doing shall take into consideration the value of the property proposed to be taken, and also the advantages which will accrue to such owner or owners from said improvement.

SEC. 22. That section eight of said chapter five of said act be and the same is hereby amended so as to read as follows:

Sec. 8. 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 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 shall be assessed separately from the damages in relation to the lands upon which they are erected.

SEC. 23. That section nine of said chapter five of said act be and the same is hereby amended so as to read as follows :

Sec. 9. If the lands and buildings belong to different persons, or if the lands be subject to lease, mortgage, judgment or lien, 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.

SEC. 24. That section ten of said chapter five of said act be and the same is hereby amended so as to read as follows :

Sec. 10. Said commissioners having ascertained and assessed the damages aforesaid, shall make and file with the city clerk a written report to the city 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 names of the owners, if known to them, and also a statement of the costs and proceedings.

SEC. 25. That section eleven of said chapter five of said act be and the same is hereby amended so as to read as follows :

Sec. 11. Upon such report being filed in the office of the city clerk, said city clerk shall cause to be published in some newspaper published in said city, a notice to the effect that said assessment has been returned and filed, and that the same will be confirmed by the city council at a meeting thereof to be held at a time named in said notice, and which shall be at least ten days after the first publication of said notice, unless objections are made in writing by persons interested in any land or property required to be taken. Any persons interested in buildings standing, in whole or in part, upon land required to be taken, shall, on or before the time specified in said notice, notify the city council in writing of their election to remove such buildings (if they so elect) according to the award of the commissioners. The city council, upon the day fixed for the consideration of such report, or at any 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, and to the interests of the public.

SEC. 26. That section twelve of said chapter five of said act be and the same is hereby amended so as to read as follows :

Sec. 12. 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 one year 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 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 council 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 city council, in the district court for Washington county in the same manner as moneys are paid into court, until the parties entitled thereto shall substantiate their claim to the same.

SEC. 27. That section thirteen of said chapter five of said act be and the same is hereby amended so as to read as follows:

Sec. 13. In case the owner or owners of any buildings aforesaid shall have elected in manner aforesaid to remove his or their buildings, he or they shall remove the same within thirty days from the confirmation of such report, or within such further time as the city council may allow for such purpose, and shall thereupon be entitled to payment from said city to 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.

SEC. 28. That section seventeen of said chapter five of said act be and the same is hereby amended so as to read as follows:

Sec. 17. Any person feeling aggrieved by such assessment may, by notice in writing, served on the mayor or city clerk of said city, a copy whereof, with proof of service, shall be filed in the office of the clerk of the district court in and for said Washington county, within twenty days after the confirmation of such report or assessment, appeal from such assessment to the district court aforesaid. Such appeal shall be tried by the court or jury as in ordinary cases, but no pleadings shall be required, and the party appealing shall specify in the notice of appeal, the grounds of objection to such assessment, and shall not be entitled to have any other objections than those specified considered, and a transcript of the commissioners' 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, and that all proper notices were duly given and proper proceedings had. The judgment of the district court therein shall be

final; such appeal shall be entered and brought on for trial and be governed by the same rules in other respects as appeals from justices of the peace in civil actions. Such appeals shall have precedence in order of trial over all civil causes pending in said court. Upon verdict or assessment in said court, judgment shall be entered that upon payment of the verdict or assessment and costs, if any, within one year thereafter, the premises in question may be taken for the public use for the purposes of such improvement. The city council shall have the same right to appeal to the district court aforesaid, from any award or assessment made by said commissioners.

SEC. 29. That section one of chapter six of said act be and the same is hereby amended so as to read as follows:

Sec. 1. All property real and personal within the city, except such as may be exempt by the laws of the state, or by ordinance of this city, shall be subject to taxation for the support of the city government, and the payment of its debts and liabilities, including the laying out of streets and public grounds, and the repairing of sewers, sidewalks, streets and highways, and the same shall be assessed in the manner provided for by the general laws of this state, for the assessment of taxes for town purposes, but such assessment shall not exceed eight (8) mills on the dollar of the whole valuation, and all qualified voters shall be liable to a poll tax, not exceeding one dollar in any one year, to be levied by the city council.

SEC. 30. That section four of chapter six of said act be and the same is hereby amended, by striking out the words "four-fifths" in the third line, and inserting the words "two-thirds" in lieu thereof.

SEC. 31. That section seven of said chapter six of said act be and the same is hereby amended by striking out the words "four-fifths" in the tenth line, and inserting the words "two-thirds" in lieu thereof.

SEC. 32. That said act be and the same is hereby further amended by striking out the word "recorder" wherever the same occurs in said act, and inserting the words "city clerk" in lieu thereof.

SEC. 33. This act shall take effect and be in force from and after its passage.

Approved March 4, 1873.