

Thirty-sixth. The common council of said city may provide by ordinance that anyone convicted of an offence before the justices of the peace of said city subjecting such offender to imprisonment under the charter and ordinances of said city, may be kept at hard labor in any workhouse established by said city for that purpose, or in case of a male offender may be kept at hard labor during his term of imprisonment in such workhouse or upon the public streets and improvements of said city, or both; and may also provide by ordinance that any one convicted of an offence before the justices of the peace of said city, and committed upon non-payment of a fine imposed, may be kept at hard labor either in such work house or upon the public streets, and improvements or both until such person shall work out the amount of such fine at such rate of compensation as said common council may prescribe, for a time not exceeding the term of such commitment; and the common council shall have full power to establish by ordinance all needful regulations for the security of such prisoners thus employed, and to prevent escape and ensure proper discipline, and shall have power to establish a suitable work house in said city for the purpose aforesaid and under such regulations as the common council may provide.

Provided, That the common council aforesaid shall be and is hereby authorized to use the jail of Mower county as the work house of the city of Austin provided for in this act; the prisoners of the city to be as at present in the custody of the sheriff of Mower county, except when employed upon the public streets and improvements of said city.

SEC. 7. This act shall take effect and be in force from and after its passage.

Approved March 12, 1878.

CHAPTER 40.

AN ACT TO AMEND CHAPTER FOUR (4) OF AN ACT ENTITLED
"AN ACT TO AMEND THE CHARTER OF THE CITY OF WINONA."

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

SECTION 1. That chapter four (4) of an act entitled an "act to amend the charter of the city of Winona," approved March first (1), one thousand eight hundred and fifty-seven (1857), be and the same is hereby amended by adding thereto the following nine (9) sections, to be known respectively as sections seven (7), eight (8), nine (9), ten (10), eleven (11), twelve (12), thirteen (13), fourteen (14) and fifteen (15) of said chapter:

SEC. 7. It shall be unlawful for any person to vend, deal in, give or in any manner dispose of any spirituous, vinous, fermented, malt, mixed, or intoxicating liquors, within the limits of said city, (except physicians and druggists in compounding medicines and filling prescriptions of physicians for purely medicinal purposes only), without first having given bond and procured a license as in this chapter provided, and whoever violates the provisions of this section shall, upon conviction thereof in any court having jurisdiction, be fined for every and such offense in any sum not exceeding one hundred dollars (\$100.00), nor less than twenty-five dollars (\$25.00) for the use of the said city, and upon default of the payment of such fine he shall be committed to the jail for a term not exceeding sixty (60) days or until such fine is paid.

SEC. 8. Every license for the sale or other disposition of liquors as aforesaid, shall be granted by a majority vote of the city council and issued as the council may provide, and no such license shall be assignable. Every applicant for such license shall be required first to make and file with the city recorder a bond running to the city of Winona, with two (2) or more sureties to be approved by a vote of the city council in session, in the penal sum of five hundred dollars (\$500.00) conditioned that the said person so licensed will not sell, give or otherwise dispose of spiritous, vinous, fermented, malt, mixed or intoxicating liquors at any place other than the building for which such person is so licensed, nor on Sunday, nor on Christmas day, nor on any general, special or city election day, nor at any time between the hours of ten (10) o'clock at night and five o'clock in the morning, and that he will keep a quiet and orderly house and not permit gambling with cards or any other device for money or any valuable thing, in the house or place of business of such person, or any room hall or building connected therewith, and will not sell, barter, furnish, give or otherwise dispose of any such liquors to or for any minor person, nor to or for any pupil or student in any public school, academy, seminary or other institution of learning, nor to or for any intemperate person or habitual drunkard, and that he will faithfully observe and obey the ordinances of said city and all the provisions of this chapter, and every surety upon such bond shall be required to justify by making and subscribing an affidavit to the effect that he is a resident and freeholder of this state and is worth double the amount of the penalty of such bond over and above his debts and liabilities and his property exempt from execution sale; *provided*, that the same person shall not become or be accepted as surety upon more than three such bonds in the same year.

SEC. 9. The city council may revoke any license so granted whenever they [may] deem it proper, and every license so granted shall be null and void and cease to be in force from and after any violation of any of the conditions of the bond hereby required is proved before any court having jurisdiction either in an action upon said bond, or in any action brought to recover a penalty or to impose a fine or punishment for any offence under an ordinance

of said city or by indictment or otherwise under the provisions of this chapter; any violation of any of the conditions of such bond shall also work a forfeiture of the amount of the penalty thereof in favor of said city which may be recovered by action upon such bond in the district courts of this State; and it shall be the duty of the city attorney in every instance where such violation of any such condition is brought to his knowledge, or complaint is to him made thereof, to at once bring suit upon such bond and prosecute the same to final judgment; and for every such prosecution he shall be entitled to receive for his own use, in addition to his salary or other compensation as city attorney, ten per cent. of the penalty thereby collected; the remainder of such penalty shall be paid into the city treasury for the use of the city.

Sec. 10. It shall be unlawful for any person to sell, give, barter, furnish or dispose of, in any manner, either directly or indirectly, any spirituous, vinous, fermented, malt, mixed or intoxicating liquors in any quantity whatever to any minor person or to any pupil or student in any public school, seminary, academy or other institution of learning, or to any habitual drunkard, within the limits of said city; and any person violating any of the provisions of this section shall be guilty of a misdemeanor, and on conviction thereof by any court having jurisdiction, shall be punished by a fine of not less than twenty-five (25) dollars nor more than one hundred (100) dollars, or by imprisonment in jail not less than thirty (30) days nor more than ninety (90) days, or until such fine is paid. And any parent, husband, wife, child, master or guardian having minors, minor servants or wards in charge, or any one annoyed or injured by means of the intoxication of any parent, wife, husband, child, minor, ward or student, or any habitual drunkard, may give a distinct written notice to any person having, keeping or dealing in any such liquors, forbidding such person from directly or indirectly furnishing, selling or giving to such person or persons named in the notice, any kind of intoxicating liquor; and if, within one year after such notice, any one to whom such notice was given, sells, gives or furnishes, or causes or permits to be sold, given or furnished, directly or indirectly, any such liquors to the person or persons named in such notice, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty (50) dollars nor more than one hundred (100) dollars, or by imprisonment in jail not less than thirty (30) nor more than ninety (90) days, or both, in the discretion of the court, and his license being thereby revoked and forfeited shall not be re-granted for one year thereafter.

Sec. 11. On the trial of any action or proceeding for the violation of any of the provisions of this chapter or of any ordinance of said city, it shall not be necessary to prove the name or kind of intoxicating liquors sold, and when it shall be proved that intoxicating liquors were found on the premises in question, such fact shall be received as *prima facie* evidence of their sale on such premises, and when it shall be proved that any person drank, on

any premises in question, what appeared to be intoxicating liquors, that fact shall be received as *prima facie* evidence that such liquor was intoxicating liquor and shall be taken as conclusive proof thereof, unless defendant furnishes positive proof to the contrary; and the term intoxicating liquor, wherever it occurs in this chapter, shall be understood to include spirituous, vinous, malt, fermented and mixed liquors.

SEC. 12. All keepers of drug stores, dispensaries, apothecary shops, and all other business houses within the limits of said city, in any manner dealing in such intoxicating liquors for any purpose other than the compounding of medicines and filling physicians' prescriptions for purely medicinal purposes, shall be subjected to all the conditions, liabilities and penalties prescribed in this chapter.

SEC. 13. The penalties imposed in this chapter may be enforced by indictment and trial in any of the district courts of this State. The city justices of the peace shall also have jurisdiction in all cases except in actions on such bonds to recover more than one hundred dollars (\$100).

SEC. 14. The city attorney, city marshal and policemen of said city, having knowledge of the violation of any of the provisions of this chapter, shall make complaint thereof to a city justice or other court having jurisdiction; and if any justice of the peace, city attorney, marshal or other officer of said city wilfully neglects or refuses to perform any duty required of him by this chapter or the ordinances of said city, he shall be deemed guilty of malfeasance in office, and shall be liable on his bond in any amount not exceeding one hundred dollars (\$100) nor less than fifty dollars (\$50), and shall thereafter be disqualified for holding such office for and during the remainder of the term for which he was elected or appointed, and his office shall thereupon become vacant.

SEC. 15. It shall not be lawful for any person dealing in liquors or keeping any billiard hall or room, or bowling alley within the limits of said city, to keep open his shop or place of business, for any purpose, between the hours of eleven (11) o'clock at night and five (5) o'clock in the morning, and it shall not be lawful for any person whatever, not residing or employed in such shop or place of business, (except a guest in a public hotel) between the hours aforesaid, and every person violating any of the provisions of this section; shall upon conviction, be punished for every such offence by fine not less than five (5) dollars nor more than twenty-five (25) dollars, or by imprisonment in jail not less than twenty (20) days.

SEC. 16. The city council may by ordinance or otherwise, make such other or further regulations and provisions not inconsistent with the provisions of this chapter, concerning the sale and disposition of such liquors as they shall deem necessary and proper.

SEC. 17. This act shall take effect and be in force from and after its passage.

Approved, March 9, 1878.