

SEC. 13. This act is a public act and need not be pleaded or proven in any court in this state.

SEC. 14. This act shall take effect and be in force from and after its passage.

Approved February 18, 1879.

CHAPTER LVII.

AN ACT TO AMEND THE CHARTER OF THE CITY OF SAINT CHARLES, WINONA COUNTY.

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

That the act entitled "An act to incorporate the city of St. Charles, Winona county," approved February twenty-eighth, eighteen hundred and seventy, and all the acts amendatory thereof, are hereby amended so as to read as follows:

Section 1. All that part of the county of Winona and state of Minnesota, contained within the limits and boundaries hereinafter described, shall be a city of the name of Saint Charles, and the people inhabiting and those who shall hereafter inhabit within the district of country herein described, shall be a municipal corporation by the name of the city of Saint Charles, who shall have the general powers possessed by municipal corporations at common law, and in addition thereto shall possess the powers hereinafter especially granted, and the authorities thereof shall have perpetual succession; shall be capable of contracting and being contracted with, of suing and being sued, pleading and being impleaded, in all courts of law and equity, and may have a common seal, and may change and alter the same at pleasure, and may take, hold and purchase, lease and convey such real, personal and mixed estate as the purpose of the corporation may require within or without the city.

Sec. 2. The territory included within the following boundaries and limits shall constitute the city of Saint Charles, viz: Section nineteen, the north half of section thirty, the northwest quarter of section twenty-nine, the west half of section twenty, the southwest quarter of section seventeen, and the south half of section eighteen, in township one hundred and six, range ten.

Sec. 3. The said city shall constitute an election district, and the elective officers thereof shall be a mayor, treasurer, recorder, one assessor, two justices of the peace, two constables, and four aldermen. The mayor, aldermen, treasurer, recorder, assessor, and constables shall hold their respective offices for one year, the justices of the peace two years.

Sec. 4. No person shall be eligible to the office of mayor, recorder, treasurer, assessor, constable, alderman, or justice of the peace who shall not have been a resident of the city one year preceding his election. All city officers shall be qualified electors of the state.

Sec. 5. There shall be a council to consist of a mayor and the aldermen, which shall be styled the city council of the city of Saint Charles.

Sec. 6. The city council shall judge of the qualifications, elections, and returns of its own members, and shall determine all contested elections, and in such cases shall have power to send for persons and papers.

Sec. 7. A majority of the city council shall constitute a quorum to do business, but a smaller number may adjourn from day to day and compel the attendance of absent members, under such penalties as may be prescribed by ordinance.

Sec. 8. The city council shall have power to determine the rule of its proceedings, punish its members for disorderly conduct, and, with the concurrence of two-thirds of the members elected, expel a member, after due notice given and an opportunity extended to the accused to be heard, by counsel or otherwise.

Sec. 9. The city council shall keep a journal of its proceedings, and the ayes and nays, when demanded by any member present, shall be entered on journal.

Sec. 10. The city council shall, at its first regular meeting after the annual election, or as soon thereafter as may be, appoint a city marshal, one or more street commissioners, an attorney, and a city surveyor, who shall each possess the same qualifications for office as are required in the cases of aldermen.

Sec. 11. No alderman shall be appointed to any office under the authority of the city which shall have been created, or the emoluments of which shall have been increased during the time for which he shall have been elected.

Sec. 12. There shall be one regular meeting of the city council in each month, at such time and place as shall be prescribed by ordinance.

Sec. 13. The annual election of city officers shall be held on the first Tuesday in March in each year, at such place within the city as the city council shall designate, and the polls shall be kept open from ten o'clock A. M. until four o'clock P. M., and ten days' previous notice shall be given by the city recorder of the time and place of holding such election; and the officers to be elected, by posting notices thereof in three of the most public places in the city, and by publishing the same in some newspaper published in said city.

Sec. 14. Whenever a vacancy shall occur in the office of mayor, such vacancy shall be filled by a new election, which shall be ordered and be held within twenty days after such vacancy shall occur, and ten days' notice of such election shall be given. Any vacancy occurring in any other office shall be filled by the city council. The person elected or appointed to fill a vacancy shall hold his office and discharge the duties thereof for the unexpired term, and with the same rights and subject to the same liabilities as the person whose office he may have been elected or appointed to fill.

Sec. 15. All elections by the people shall be by ballot, and each ballot shall contain all the names of the persons voted for, with a proper designation of the office written or printed thereon, and a plurality of votes shall constitute an election. When two or more candidates for an elective office shall receive an equal and the highest number of votes for the same office, the election shall be determined by the casting of lots, in the presence of the city council, at such time and in such manner as they shall direct.

Sec. 16. All persons entitled to vote for state and county officers, and who shall have resided in the city for ten days next preceding the election, shall be entitled to vote for any officer to be elected under this law, and the city hereby established shall constitute an election precinct for state and county, as well as city, elections, and the mode of conducting all state and county elections in said city shall be in the manner herein provided in reference to city elections, except that the returns thereof shall be made by the judges of elections to the county auditor of the county of Winona, within the time and in the manner prescribed by law.

Sec. 17. The elections in said city shall be held and conducted by three judges, chosen by the city council, who shall be inspectors of election, and shall take the usual oath or affirmation as prescribed by the general laws of the state, to be taken by the judges and inspectors of elections, and who shall have power to appoint clerks of such elections, and to administer the necessary oaths. Said elections shall be held and conducted in the same manner and under the same penalties, and vacancies in the board of inspectors thereof filled, as required by the laws of this state regarding elections. *Provided*, That no candidate for office shall act as inspector or clerk at such election.

Sec. 18. If either of the inspectors of election shall suspect that any person offering to vote does not possess the qualifications of an elector, or if the vote of such person be challenged by a qualified elector of the city, the inspector before receiving the vote of any such person shall require him to take the following oath: "You do solemnly swear (or affirm, as the case may be) that you are a citizen of the United States (or have declared your intentions to become a citizen conformably to the laws of the United States on the subject of naturalization), that you have resided in this state four months, and within this city ten days next preceding the election, that you have not voted at this election, and that you have made no bet or wager depending on the result of this election." And if the person offering to vote shall take such oath, his vote shall be received, and if such person shall take such oath falsely, he shall be deemed guilty of wilful and corrupt perjury, and upon conviction thereof, upon indictment, shall suffer the punishment provided by law for persons guilty of perjury. If any person who is not a qualified voter shall vote at any election, or shall vote more than once at any election, he shall be liable to indictment, and on conviction thereof, shall forfeit and pay a sum not exceeding one hundred dollars, and not less than twenty-five dollars. It shall be the duty of the inspectors to keep a list of the names of all persons whose votes may be challenged as aforesaid, and who shall make

the oath aforesaid, and if any inspector shall knowingly and corruptly receive the vote of any person not authorized to vote, or shall make out false returns of an election, or if any clerk shall not write down the name of every voter as he votes, or shall wilfully make untrue and incorrect counts and tallies of votes, each and every such inspector and clerk shall be liable to indictment, and on conviction thereof shall severally forfeit and pay a sum not exceeding five hundred dollars, nor less than one hundred dollars. All such indictments shall be tried in the district court of the county of Winona.

Sec. 19. When an election shall be closed, and the number of votes for each candidate or person voted for shall be counted and ascertained, the said inspectors shall make return thereof, stating therein the number of votes for each person for each and every office, and shall immediately deliver or cause to be delivered, such returns to the recorder. Within one week after any election, the city council shall meet and canvass said returns, and declare the result as it appears from the same. The city recorder shall immediately give to each officer so declared elected a written notice of his election.

Sec. 20. Special elections to fill vacancies or for any other purpose, shall be held and conducted in the same manner and the returns thereof shall be in the same form and manner as in general or annual elections, and within such time as may be prescribed by resolution.

Sec. 21. Any officer removing from the city, or any officer who shall neglect or refuse for ten days after notice of his election or appointment, to enter upon the discharge of the duties of his office, shall be deemed to have vacated his office, and the city council shall proceed to fill the vacancy as herein prescribed.

Sec. 22. The term of every officer elected under this law shall commence at the time when he is elected and qualified, and unless otherwise herein provided, continue until his successor is elected and qualified.

Sec. 23. Should there be a failure by the people to elect any officer herein required to be elected on the day designated, the city council shall order a new election to be held, ten days' notice of the time and place of holding such election being first given.

Sec. 24. Every person elected or appointed to any office under this act shall, before he enters upon the duties of his office, take and subscribe an oath of office, and file the same, duly certified by the officer taking the same, with the recorder of the city, and the treasurer and marshal, and such other officers as the city council may direct, shall severally, before entering upon the duties of their respective offices, execute to the city of Saint Charles a bond with at least two sureties, (to be approved by the city council,) who shall make affidavit that they are each worth the penalty specified in said bond, over and above all debts, exemptions or liabilities, and said bond shall contain such penal sum and such conditions as the city council may deem proper, and they may from time to time require new or additional bonds, and remove from office any officer refusing or neglecting to give the same.

Sec. 25. The mayor shall, when present, preside over the meetings of the city council, and take care that the laws of the state, and ordinances of the city, be strictly enforced and duly observed, and that all other executive officers of the city, execute and discharge their respective duties. The mayor or two aldermen may call special meetings of the city council. The mayor shall inspect the conduct of all subordinate officers, and cause all negligent and persistent violations of duty to be prosecuted and punished, and may require of any officer of the city, whenever he may deem it necessary, an exhibit of his books and papers. He shall, from time to time, communicate to the city council and recommend such measures as he may deem advantageous to the city. He shall have power to execute all acts that may be required of him by any ordinance made in pursuance of this act, and is hereby authorized to call upon every male inhabitant of said city, over the age of eighteen years, to aid in enforcing the laws and ordinances, and in case of riot, to call out the military companies of the city to aid him in suppressing the same, or carrying into effect any law or ordinance. Any person who shall neglect or refuse to obey such call shall be deemed guilty of a misdemeanor, and on conviction thereof before any justice of the peace of said city, shall be fined in any sum not exceeding twenty-five dollars, beside the cost of prosecution.

Sec. 26. In case the mayor shall be guilty of any wilful oppression or corrupt partiality in the discharge of the duties of his office, he shall be liable to indictment, and on conviction thereof shall pay a fine of not more than five hundred dollars, and the court shall have power to add to the judgment for the fines, that he be removed from office.

Sec. 27. In case the mayor shall be absent from any meeting of the city council, the city council shall proceed to elect one of their own number a temporary presiding officer, who, for the time being, shall discharge all the duties of mayor. In case of the absence of the mayor from the city, or his inability from any reason, other than his removal from the city, to discharge the duties of his office, the council shall elect by ballot from their own number an officer who shall be styled an acting mayor, and all acts performed by him shall have the same power and validity as if performed by the mayor.

Sec. 28. The recorder shall keep the corporate seal, and all the papers and records of the city, and keep a record of the proceedings of the city council at whose meetings it shall be his duty to attend, and copies of all papers filed in his office, and transcripts from the records of the city council, certified by him under the corporate seal shall be evidence in all courts as if the original were produced. He shall draw and countersign all orders on the treasurer in pursuance of any order or resolution of the city council, and keep a full and accurate account thereof in books provided for that purpose. The recorder shall have power to administer oaths or affirmations, and take acknowledgments of deeds and other writing. He shall report annually on or about the first day of June to the city council, an estimate of the expenses of the city for the current year, and the revenue necessary to be raised therefor; the fiscal

year of the city shall commence on the first day of July in each year. 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 such temporary loans for the city, as the city council may direct, anticipating the revenues for the current year, but such loan shall be subject to the approval of the city council. The recorder shall keep a record of all his acts and doings, which record shall at all times be 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 to be negotiated by the city. He shall receive for his services such sum as the city council shall deem proper.

Sec. 29. The attorney for the city shall perform all provisional duties incident to his office, and when required shall furnish written opinions upon any subject submitted to him by the council or its committees.

Sec. 30. The treasurer shall receive all monies belonging to the city, and keep an accurate and detailed account thereof in such manner as the city council shall from time to time direct. The treasurer shall exhibit to the city council within at least twenty days after the annual election or sooner if required by them, a full and detailed account of all receipts and expenditures after the date of the last annual report, and also the state of the treasury, which accounts shall be filed with the recorder.

Sec. 31. The marshal shall execute such orders as are made, and perform such other duties as are prescribed by the city council for the collection of tolls, license money and fines for the preservation of the public peace, for the good order, cleanliness and government of the city, and for all other purposes.

He shall possess the powers of a constable at common law and under the statutes of this state, and receive like fees. He shall receive no other compensation for his services than constables' fees and a per cent. on all monies collected to be allowed by the city council, except as may be hereinafter provided.

Sec. 32. The street commissioner shall, under the direction of the city council, superintend the grading and improving the streets, alleys and the building and repairing of sidewalks, and the expenditures of taxes levied and collected for such purposes, and shall have the same supervision over the highways in the city and discharge the same duties as are by law required of overseers of highways generally.

Sec. 33. The city council shall have power to require from time to time other and further duties to be performed by any officer whose duties are herein prescribed, and to appoint such other officers as may be necessary to carry into effect the provisions of this act, and to prescribe their duties and compensation. Such compensation shall be fixed at the time such office is created, or at the commencement of the year, and shall not be increased or diminished during the time such officer shall remain in office.

Sec. 34. - The city council at their first meeting in each year, or as soon thereafter as may be, shall designate one newspaper printed in the city, in which shall be published all ordinances and other proceedings and matters required by this act, or that may be required by the laws and ordinances of the city council to be published in a public newspaper. The city printer, immediately after publication of any notice or resolution or other matters which by this act is, or by city ordinance shall be, required to be published, shall file with the recorder a copy of such publication, with his affidavit or the affidavit of his foreman, of the length of time the same has been published; and such affidavit shall be conclusive evidence of the publication of such notice, ordinance, resolution or other matter.

Sec. 35. Any person having been an officer in said city, shall, within ten days after notification and request, deliver to his successor in office all property, books, papers and effects of every description in his possession belonging to said city, or pertaining to the office he may have held. If he fail to do so after such notification and request, he shall be deemed guilty of a misdemeanor, and on conviction thereof before any justice of the peace of said city, be fined in any sum not exceeding over one hundred dollars; and such successor may recover possession of such books, papers and effects in the manner prescribed by the laws of this state in cases of unlawful detention of property.

Sec. 36. No member of the city council shall be a party to, or interested in any job or contract with the city, and any contract in which any member of the city council may be so interested, shall be null and void.

Sec. 37. The mayor, sheriff of Winona county, and each and every alderman, justice of the peace, marshal, recorder and constables of said city, shall be officers of the peace, and may command the peace and suppress in a summary manner all rioting and disorderly behavior within the limits of the city, and for such purpose may command the assistance of all by-standers, and if any person so commanded shall refuse to aid in maintaining the peace, every such person shall pay a fine of not more than twenty-five dollars, nor less than five dollars. The justices shall possess all the authority, power, and rights of justices of the peace of this state, and shall have exclusive jurisdiction to hear all complaints and conduct all examinations and trials in criminal cases within the city, cognizable before a justice of the peace. The said justices shall have exclusive jurisdiction in all cases cognizable before a justice of the peace in which the city is a party, and shall have cognizance and exclusive jurisdiction of all suits, prosecutions or proceedings for the recovering of any fine, forfeiture or penalty under any law, ordinance or regulation of said city, and in all cases of offence committed against the same or its charter, all prosecutions for assaults, batteries and affrays not indictable, committed within the city and for a breach or violation of any such by-law, ordinance, or regulation, shall be commenced in the name of the city of Saint Charles, and the same proceedings shall be had in civil and criminal suits before said justice, where not otherwise herein directed, as are established and required to be had in civil and criminal actions by the laws of this

state, before a justice of the peace. *Provided*, that in case of prosecutions for a breach or violation of an ordinance, by-law, or regulation of said city or its charter, or for any assault, battery, or affray committed within the city limits, no appeal shall be allowed when the judgment, exclusive of costs, is less than fifty dollars, except on questions of law alone. In all cases of conviction for assault, batteries and affrays within said city, and in all cases of conviction under any ordinance of said city for breaches of the peace, disorderly conduct, keeping houses of ill-fame, or frequenting the same, and of keeping and maintaining disorderly and ill-governed houses, the said justices shall have power in addition to the fine or penalty imposed, to compel such offenders to give security for good behavior, and to keep the peace for a period not exceeding six months, and in a sum not exceeding five hundred dollars. In any case of the absence, sickness, or other inability of said justice of the peace, the mayor, by warrant, may authorize and appoint some suitable person, of the qualified electors of said city, to perform the duties of justice of the peace during such inability, and it shall be the duty of the mayor to inform the city attorney and marshal of such appointment. The person so appointed shall for the time being possess all the authority, power and right of a justice of the peace under this charter. Appeals to the district court shall be allowed in the same manner as appeals are allowed in like actions under the statutes of the state of Minnesota, except as herein provided, and in all actions brought in the name of the city of St. Charles, the notice of appeal shall be served on the city attorney or mayor of said city. All actions may be transferred from one justice to another upon the same terms and in the same manner and for the same causes provided for in the general statutes of the state of Minnesota. All fines and penalties imposed for offences committed within the city limits, or for violation of any ordinance, by-law, or regulations of said city shall, when collected, belong to and be a part of the finances of said city.

Sec. 38. The justices shall monthly report to the city council all the proceedings instituted before them in which the city is interested, and shall at the same time account for and pay over to the city treasurer all fines and penalties collected by them belonging to said city, and said justices shall be entitled to receive from the county of Winona such fees in criminal cases (accruing) without the city, as are allowed to other justices in the county for similar services.

Sec. 39. The justices of the peace and constables for said city shall have the same powers, authority and rights as are possessed by other justices and constables of the county of Winona, under the laws of the state.

Sec. 40. The city council shall prescribe the duties of the city surveyor, and fix the compensation for any services performed by him. All surveys, plans or estimates made by him for the city shall be the property of the city, and be carefully preserved in the office of the recorder, open for the inspection of all the parties interested.

Sec. 41. The mayor and alderman shall constitute the city council, and the style of all ordinances shall be, The city council of

the city of St. Charles do ordain. The city council shall have the control and management of the finances and of all the property of the city, and shall likewise have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify, correct and repeal all such ordinances, rules and by-laws for the government and good order of the city and for the suppression of any vice and intemperance, and the prevention of crime as they shall deem expedient, and declare and impose penalties, by fine and imprisonment, or both, and to enforce the same against any person or persons who may violate any of the provisions of such ordinances, rules or by-laws and all such ordinances, rules and by-laws are hereby declared to be and have the full force of the law, and for these purposes, shall have authority by ordinances, resolutions or by-laws; *provided*, They be not repugnant to the constitution and laws of the United States or of this state.

First—To license and regulate the exhibition of common showmen or shows of any kind, or the exhibitions of caravans, circuses, or theatrical performances, billiard tables or bowling saloons or alleys, and to fix the rate of license thereof, and to provide for the abatement and removal of all nuisances under the ordinances, or at common law, or under this act, and to grant licenses to regulate groceries, taverns, victualing houses; *provided*, the city council shall have the exclusive right to license persons vending, dealing in, or disposing of spirituous, vinous, malt or fermented liquors within the limits of said city, and persons so licensed shall not be required to obtain a license from the board of county commissioners, and shall not be prosecuted for selling, bartering or disposing of spirituous, vinous or fermented liquors without first having obtained license therefor, agreeably to the provisions of chapter sixteen of of the general statutes. No such license shall be granted for less than one hundred dollars, and, that previous to the granting of any such license, a bond shall be filed with the recorder with the same conditions and with the same penal sum as required by the general act; *provided*, That apothecaries selling wines and liquors for purely mechanical or medicinal purposes only, may be licensed in the discretion of the council for any sum not less than twenty-five dollars.

Second—To restrain and prohibit all gaming with cards, and all gaming tables, and to prohibit all gambling devices whatever from being set up or used for gambling purposes, and to restrain and prohibit all descriptions of gaming and fraudulent devices and practices, including gift enterprises and playing of cards, dice or other games of chance for the purpose of gaming in said city, and to restrain and prohibit any person from vending, giving or dealing in spirituous, vinous, fermented, mixed or intoxicating liquors of any kind, and impose such restriction or prohibitions by fine or imprisonment, or by both fine and imprisonment.

Third—To prevent any riots, noises, disturbances and disorderly assemblages, to suppress and restrain any disorderly houses or groceries, and houses of ill-fame, and to authorize the destruction of all instruments used for the purpose of gaming, and of all spirituous, vinous, fermented, mixed or intoxicating liquors of any kind

that may be kept for sale or dealt in contrary to any ordinance of the city.

Fourth—To authorize the arrest, fine and imprisonment in the city prison, or in the jail of Winona county, as vagrants, all persons who, not having any visible means to maintain themselves, are without employment, idly loitering or rambling about, or staying in groceries, drinking saloons, houses of ill-fame or houses of bad repute, gambling houses, taverns or railroad depots, or who shall be found trespassing in the night time upon the private premises of others, or placing themselves in the streets or other public places to beg or receive alms; also keepers, exhibitors or visitors at any gaming table, gambling house, or other place of device, and all persons who go about for the purpose of gaming or watch stuffing, or who shall have in their possession any article or thing used for gaming, or obtaining money under false pretences.

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

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

Seventh—To prevent the encumbering of streets, sidewalks, lanes and alleys, with carriages, carts, wagons, sleighs, boxes, firewood, lumber, or any other material or substance whatever.

Eighth—To prevent horse racing, immoderate riding or driving in the streets, and to regulate the places of bathing and swimming in the water within the limits of the city.

Ninth—To restrain from running at large horses, cattle, mules, swine, sheep, poultry and geese, and to authorize the impounding, distraining and sale of the same, and to impose penalties on the owners of such animals for violation of the ordinance.

Tenth—To prohibit the running at large of dogs, to impose fines upon the owners, and to authorize the destruction of dogs when at large contrary to the ordinance.

Eleventh—To prevent any person from bringing, depositing or having within the city any putrid carcass, or any unwholesome substance, and to require the removal of the same, by any person who shall have the same upon his premises, or from any street, lane or alley, and in default, to authorize the removal thereof by any competent officer, at the expense of the person or persons.

Twelfth—To make and establish public grounds, pumps, wells, cisterns, reservoirs, and to provide for the erection of water works for the supply of water to the inhabitants; to erect lamps, or other means whereby to light the city; to regulate and license hacks, cabs, drays, carts, and charges of hackmen, coachmen, draymen and cartmen of the city.

Thirteenth—To establish and regulate boards of health, provide hospitals, cemetery grounds, and to remove the same when neces-

sary for the public good, to regulate the burial of the dead, and the return of the bills of mortality, and to exempt burial grounds set apart for public use, from taxation.

Fourteenth—To regulate the assize and weight of bread, and to provide for the seizure and forfeiture of bread baked contrary thereto.

Fifteenth—To prevent any persons riding or driving any ox, cow, horse, mule or other animals on the sidewalks of the city, or in any way doing damage to such sidewalks.

Sixteenth—To prevent the shooting of fire arms, crackers, rockets or other projectiles, and to prevent the exhibition of any fire works in any situation which may be deemed by the council dangerous to the city, or any property therein, or annoying to any citizen thereof.

Seventeenth—To restrain drunkards, immoderate drinking of intoxicating beverages, brawling and obscenity in the streets and public places, and to provide for arresting, removing and punishing any person who may be guilty of the same.

Eighteenth—To restrain and regulate runners and solicitors for stages, public houses, railways and other establishments, and to regulate the police of the city.

Nineteenth—To establish public markets and enforce rules and regulations for the government of the same.

Twentieth—To regulate the place and manner of selling and to provide for the inspection and weight of hay and stone coal, and measuring of charcoal, firewood and other fuel, and to appoint suitable persons to inspect, superintend and conduct the same.

Twenty-first—To compel the owners or occupants of buildings or grounds to remove snow, dirt or rubbish from the sidewalk, streets or alleys opposite thereto, and, in his default, by some officer of the city, at the expense of such owner or occupant.

Twenty-second—To regulate and license public auctions or vendues, hawkers and autioneers.

Twenty-third—To provide by ordinance for a standard of weights and measures, for the appointment of a city sealer, and to provide for punishment for the use of unsealed weights and measures.

Twenty-fourth—To appropriate money and provide for the payment of the expenses of the city.

Twenty-fifth—To establish, regulate and support night watches when necessary.

Twenty-sixth—To provide for the erection of all needful buildings for the use of the city.

Twenty-seventh—To provide for the inclosing, improving and regulating of all public grounds belonging to the city, and for the adorning of the streets thereof with shade trees.

Twenty-eighth—To license and regulate porters, and fix the price of portorage.

Twenty-ninth—To provide for and regulate the inspection of tobacco, beef, pork, flour, meal, lard, butter and other provisions.

Thirtieth—To regulate and order parapet walls and partition fences.

Thirty-first—To provide for taking from time to time the enumeration of the inhabitants of the city.

Thirty-second—To do all acts and make all regulations which may be necessary or expedient for the preservation of health and the suppression of disease, and to make regulations to prevent the introduction of contagious diseases into the city, and to make quarantine laws and enforce the same within three miles of the city.

Thirty-third—To restrain and punish vagrants, mendicants, street beggars and prostitutes.

Thirty-fourth—To prescribe the limits within which wooden buildings or buildings of other materials that shall not be deemed fire-proof shall not be erected, placed and repaired, and to direct that all and any buildings within such limits prescribed, shall be made and constructed of fire-proof material, and to prohibit the repairing and rebuilding of wooden buildings within such limits when the same shall be damaged to the extent of fifty per cent. on the value thereof, and to prescribe the manner of ascertaining such value and damages.

Thirty-fifth—To prevent the dangerous construction, placing and condition of chimneys, fire places, hearths, stoves, stove-pipes, ovens, boilers and appurtenances used in and about any building; and to cause the same to be removed or placed in a safe and secure condition when considered dangerous, and to prevent the deposit of ashes in unsafe places, and to regulate and prevent the carrying on of manufactories dangerous in causing or promoting fires within the city limits, and generally to establish such measures for the prevention and extinguishment of fires as prudence may dictate.

Thirty-sixth—To appoint one or more fire wardens, and to prescribe their duties.

Thirty-seventh—The city council shall have power to purchase fire engines and other fire apparatus, and to authorize the formation of fire companies, hook and ladder and hose companies, and to provide for the due support and regulation of the same, and to order such companies to be disbanded and their apparatus to be delivered up. Each company shall consist of not less than twenty-five members, and shall be formed by voluntary enlistment, and each member of every company shall be exempt from poll-tax, from serving on juries, and from military duty, during the continuance of such membership.

Sec. 42. All laws, ordinances, regulations and by-laws shall be passed by the affirmative vote of the majority of the city council, and be signed by the mayor, and shall be published in the official paper of the city before the same shall be in force; and within twenty days thereafter they shall be recorded by the recorder, in books provided for that purpose; but before any of said laws, ordinances, regulations or by-laws shall be recorded, the publication thereof, as aforesaid, shall be proved by the affidavit of the foreman or publisher of such newspaper, and the said affidavit shall be recorded therewith, and at all times shall be deemed and taken as sufficient evidence of such publication.

Sec. 43. All funds in the city treasury shall be under the control of the city council, and shall be drawn out upon the order of the mayor and recorder, duly authorized by vote of the city council, and all orders shall specify the purpose for which they were drawn.

No appropriation shall be made without a majority of a full council voting in favor of it, and the vote shall be taken by calling the roll, and the vote of each member of the council shall be entered upon the journal of the council, and no money shall be appropriated, except such as are authorized by this act.

Sec. 44. The power conferred upon the city council, to provide for the abatement or removal of nuisances, shall not bar or hinder suits, prosecutions or proceedings in the courts according to law. Houses or buildings of any kind, wherein more than fifty pounds of gunpowder are deposited, stored or kept at any time, gambling houses, houses of ill-fame, disorderly taverns, or bar shops, or places where spirituous, vinous, fermented, mixed or intoxicating liquors are sold, given away or dealt in, without license required therefor, within the limits of said city, are hereby declared and deemed public or common nuisances.

Sec. 45. The city council shall examine and adjust the accounts of the treasurer, marshal, recorder and all other officers and agents of the city, at such times as they may deem proper, and at the end of each year, and before the time for which such officers were appointed or elected, shall have expired; and the council shall require each and every such officer or agent to exhibit his books, accounts and vouchers for such examination and settlement, and if such public officer or agent shall refuse to comply with the order of said council in discharge of their duties, in pursuance of this section, the council shall declare the office of such person vacant, and may commence suit or proceedings at law against any such officer or agent who may be found delinquent, or defaulting in his accounts, or in the discharge of his official duties. The council shall make full record of all such settlements and judgments.

Sec. 46. All funds in the treasury, except state and county funds, shall be under the control of the city council, and be drawn out upon the order of the mayor, and countersigned by the recorder, duly authorized by a vote of the city council, and all orders, drawn upon the treasurer, shall specify the purpose for which they were drawn, and may be payable generally out of any fund in the treasury belonging to the city, or payable only out of funds raised for that specific purpose, as the council may direct. And all such orders shall be received in payment only of the tax or assessments levied for that specific purpose by the authority of the city or its council. All orders shall be payable to the order of the person in whose favor they may be drawn, and may be transferred by endorsement.

Sec. 47. The said council shall have power to annually levy a tax upon all the property in said city, subject to taxation, not exceeding, in the aggregate, three hundred dollars per annum, to defray the current expenses of the city. Every male inhabitant between the ages of twenty-one and fifty in said city, shall annually pay a capitation tax of two days' work upon the highways, streets, alleys or bridges within the city, under the direction of the street commissioners. All persons liable to pay such capitation or poll-tax may, in lieu of work, pay to the street commissioner one dollar per day, and the street commissioner shall expend all money

so received, on the streets, highways, alleys or bridges, under the direction of the city council.

Sec. 48. The city council shall have the exclusive care, supervision, and control of all public highways, bridges, the building and repairing of the same on all roads within the city, and shall have the control and cause to be kept open and in repair, and free from nuisances, all alleys, streets or highways, within the city. No street or alley which shall hereafter be dedicated to public use by the proprietor or proprietors of grounds within said city, shall be recognized as a public street or alley of said city, unless the city council shall first approve the plat thereof, or accept such dedication, or afterwards confirm the same by an ordinance especially passed for such purpose.

Sec. 49. Said council shall have power to levy a tax on the real estate of the city for road and street purposes, to an amount not exceeding twenty-five cents on one hundred dollars of the assessed value of such property to be expended for road and street purposes.

Sec. 50. Said council shall have power to lay out, open and discontinue highways, streets and alleys in the manner prescribed by law for township supervisors. They may lay out streets and alleys of such width as they may determine.

Sec. 51. The city council of said city shall have power to ordain and contract for making, grading, repairing, cleansing, improving, and adorning of the streets, alleys, highways, public grounds, reservoirs, gutters and sewers within said city, and to direct and control the persons employed therein, and all such improvements shall be superintended by a street commissioner.

Sec. 52. Whenever the city council may deem it necessary to construct or repair any sidewalk within the city, they shall require the street commissioner to notify, in writing, the owner or occupant of any lot adjoining such sidewalk, to make or repair the same at his own proper cost and charge, and in such manner and within such time as may be specified in the notification. If such work is not done in the manner and within the time prescribed, the city council shall order the same to be done at the expense of the lots adjoining such sidewalks, and the expense thereof shall be assessed upon such lots so chargeable, by the street commissioner, and returned to the city council and collected in the same manner and under the same regulations as assessments for street improvements and shall bear a like rate of interest after confirmation. All street crossings shall be graded and all crosswalks built at the expense of said city.

Sec. 53. The cost and expense of surveying streets, alleys, sidewalks, sewers, and estimating work thereon, and of repairing and cleansing streets and alleys, and of constructing and of repairing reservoirs, shall be chargeable to and payable out of the funds of the city. Grading, planking or paving streets and alleys to the center thereof, shall be chargeable to and payable by the lots fronting on such street or alley within the line of improvements, and the whole expense thereof shall be assessed upon such lots in proportion to their assessed value, less the valuation of the building improvements thereon. Sewers and drains, communicating with main

sewers, may be built by order of the city council, through any street or alley, for the purpose of draining the lots fronting such street or alley, and, in such case, the expense thereof shall be assessed upon the lots so drained and benefitted. *Provided*, That in all cases where improvements or work of any sewers are chargeable, by virtue of this section, upon lots benefitted, all such improvements across streets, alleys and public grounds, shall be made and paid for out of the funds of the city, in proportion to the streets, alleys or public grounds.

Sec. 54. All grading of streets or alleys to be done at the expense of the lots fronting such street, alley or sewer, the expense of which is to be charged to the lots drained or benefitted, as before provided, shall be ordered by the city council on the passage of a resolution to that effect, and shall require the street commissioner of the city, with the assistance of the city surveyor, to examine the premises and report a grade in case of a street or alley, and an estimate of the whole expense thereof, and the lots chargeable, with the expense and the owners names if known, and the proportion of expense to be assessed upon each, which report the city council may adopt, revise or remand with instructions. Upon such report being adopted, the council shall require the street commissioner to notify in writing the owners of any lots fronting such streets, and embrace in such notice the whole expense thereof, and the lots chargeable with the same, and the proportion of the expense to be assessed upon each, and the manner and time within which the same shall be done. Such notice shall require the said owner to make improvements in such manner and within such time as is specified in the notification. If such work is not done in the manner and in the time prescribed, the city council shall thereupon order the said work to be placed under contract upon such terms and under such regulations as they may deem advisable.

Sec. 55. When the work provided for in the preceding section shall be placed under contract, the street commissioner shall give notice by publication in the official newspaper of said city for ten days, that the expense thereof, in case of streets and alleys, will be assessed upon the lots fronting such streets or alleys within the line of such improvements, according to their assessed value; and in case of sewers chargeable to the lots as hereinbefore provided, that the lots in the blocks fronting such improvements, drained or benefitted thereby, which lots shall be designated in the notice, will be assessed according to their value. Such assessments, when completed, shall be returned to the city council, and the said city council shall thereon fix a time for confirming the same, of which notice shall be given in the official newspaper of the city. Upon confirmation thereof, the same shall be returned to the auditor of the county of Winona, and shall be levied and collected as other city taxes and assessments.

Sec. 56. No error or informality in the proceedings shall vitiate the assessment made by virtue of this chapter, when the notices hereinbefore provided shall have been given; and all assessments for work or expenses chargeable to lots, as hereinbefore provided, shall be payable from the time of the confirmation thereof by the

city council, and shall bear interest ten days thereafter at the rate of twelve per cent. per annum until levied. The city council may at any time, for the purpose of anticipating the collection of such assessments, and of meeting the demands against the city for such improvements, by vote of two-thirds of all legal voters present and voting, issue the bonds of said city in such form, amounts, and under such regulations as they may prescribe, for a time not exceeding two years and bearing interest not exceeding ten per cent. per annum, and the proceeds thereof shall be applied to the purposes aforesaid. And the collections from such assessments in anticipation whereof they were issued, shall stand appropriated and pledged for the payment of the principal and interest of the same; *Provided*, That the amounts shall not at any time exceed one per cent. of the assessed value of the property in the city, according to the last assessment; such bonds not to be negotiated at less than par.

Sec. 57. All property, real and personal, within the city, except such as may be exempt by the laws of this state, shall be subject to taxation for the support of the city government, and for the payment of its debts and liabilities, and shall be assessed in the manner provided by the laws of the state. The assessor elected under this act shall have and possess the same powers that are or may be conferred upon township assessors in said county, and shall be subject to the same penalties and obligations, and make his returns to the county auditor in like manner.

Sec. 58. All taxes and assessments, general or special, levied under this act, shall be and remain a lien upon the lands and tenements upon which they may be assessed, from the time the levy is made, and upon all personal property of any person or body politic, for personal taxes until such taxes shall be paid, and no sale or transfer of such real or personal estate shall effect the lien. Any personal property belonging to the person assessed and taxed, may be taken and sold for the payment of taxes on personal property.

Sec. 59. It shall be the duty of the city council of the city of Saint Charles, to determine on or about the first day of August in each year, the amount of taxes and assessments, both general and special, to be raised for city purposes for the ensuing fiscal year. And it shall be the duty of the [city] recorder to transmit to the auditor of Winona county, on or before the first day of September in each year, a certified statement of the amount of taxes, general and special, so determined to be raised for the city purposes, and the same shall by said auditor be levied and entered upon the tax duplicate for the ensuing year, against all property, real and personal, within said city of Saint Charles, subject to such taxation, in the same manner that township taxes are now assessed and levied.

Sec. 60. Such taxes for city purposes shall be assessed, levied and collected by the same officer and in the same manner as county, state or township taxes are now or may hereafter be assessed, levied and collected, and when so collected, shall be accounted for and paid over to the city treasurer by the proper collecting officer, in the same manner as township taxes are accounted for and paid over

to township treasurers, according to the general tax law of this state.

Sec. 61. The assessor of the city of St. Charles shall qualify and shall perform the duties pertaining to his office in accordance with the general statutes of this state in regard to township assessors. He shall be subject to all the liabilities and perform all the duties of a township assessor, and receive such compensation as the council may direct. No assessment of property within the city of Saint Charles shall be made by any other than the city assessor, except as herein specially provided.

Sec. 62. The treasurer of the county of Winona shall execute to the city of Saint Charles a bond, to be approved by the city council, with such sureties and in such reasonable sum as the city council may direct, for all moneys belonging to said city, to be collected by him. Said treasurer shall report quarterly to said council a statement of the amounts received by him for said city and transferred to the city treasurer, which transfer he shall make at the end of every month regularly, and take the city treasurer's receipt therefor, to be his voucher upon settlement with any committee of said city council for that purpose appointed; and for any failure or refusal to comply with any provision of this section, such county treasurer shall forfeit a penalty of fifty dollars, to be recovered by said city in a civil action in any court of competent jurisdiction.

Sec. 63. The general laws of this state in regard to the assessment and collection of taxes shall apply to the assessment and collection of city taxes in all cases not otherwise provided for in this act.

Sec. 64. All work for the city, exceeding fifty dollars, shall be let by contract to the lowest responsible bidder; due notice shall be given of the time and place of letting such contract, and every contract so made shall be commenced within one week of the acceptance of the proposal, unless the city council shall determine otherwise. *Provided*, They shall have power to reject all unreasonable bids.

Sec. 65. No moneys shall be appropriated to any purpose whatever except such as are expressly authorized by this act, and no vote of the city council shall be reconsidered or rescinded at a special meeting, unless at such special meeting there be present as large a number of aldermen as were present when such vote was taken.

Sec. 66. No penalty or judgment recovered in favor of the city, shall be remitted or discharged, except by a vote of two-thirds of the aldermen elect.

Sec. 67. All action brought to recover any penalty or forfeiture under this act, or the ordinances, by-laws, or police or health regulations made in pursuance thereof, shall be brought in the corporate name of the city.

Sec. 68. In all prosecutions for any violations of this act, or of any by-law or ordinance of the city of Saint Charles, the first process shall be by a warrant. *Provided*, that no warrant shall be necessary in any case of arrest of any person or persons while in

the act of violating any law of the state of Minnesota, or ordinance of the city of Saint Charles, the person or persons so arrested, may be proceeded against, tried, convicted and punished or discharged in the same manner as if the arrest had been by warrant. All warrants, process or writs issued by any justice of the peace for violation of any ordinance or by-law of said city, shall run in the name of the city of Saint Charles, and shall be directed to the marshal or any police officer of said city.

Sec. 69. Whenever it shall be lawful to imprison any person, for any violation of this act, or for the violation of any ordinance or by-law of the city of Saint Charles, the offender shall be committed to the city prison of the city of Saint Charles, or to the common jail of Winona county, and be there imprisoned for a term not exceeding three months in the discretion of the court.

Sec. 70. No person, by reason of his being an inhabitant of said city, shall be an incompetent judge, justice, juror or witness, in any proceeding or action in which the city shall be a party in interest.

Sec. 71. If any election by the people or city council shall, for any cause, not be held at the time or in the manner herein prescribed, it shall not be considered reason for arresting, suspending or absolving said corporation, but such election or organization may be had on any subsequent day, by order of the city council, and if any of the duties enjoined by this act, or the ordinances, or by-laws of the city to be done by any officer at any specified time, and the same are not so done or performed, the city council may appoint another time, at which the said acts may be done and performed.

Sec. 72. When any suit or action shall be commenced against said city, the services thereof may be made by leaving a copy of the process by the proper officer with the mayor, and it shall be the duty of the mayor forthwith to inform the city council thereof, or to take such other proceedings as by the ordinances or resolutions of said council may be in such case provided.

Sec. 73. The following property now or at any time hereafter belonging to said city, shall be exempt from levy and sale under or by virtue of any execution: Engine houses, hook and ladder houses, together with the grounds and lots upon which they are situated, and all fire engines, carriages, hooks, ladders, buckets, hose or any other fire apparatus, used by any company, created or authorized by the city council of said city, market houses and the furniture thereof, city hall and furniture of city council and office room. *Provided*, That nothing herein contained shall exempt any of the aforesaid real or personal property from levy and sale by virtue of any execution issued on judgments rendered in favor of any person or persons who may have furnished or sold any of such fire apparatus to or on the credit of said city. Nor shall any real or personal property of any inhabitant of said city or of any individual or corporation be levied on and sold by virtue of any execution issued to satisfy or collect any debt, obligation or contract of said city.

Sec. 74. The city council, as fast as they deem necessary, shall cause to be established, under the direction of the city surveyor, the grade of all streets, sidewalks and alleys in said city, and

shall cause accurate profiles thereof to be made, one of which shall be filed in the office of register of deeds of Winona county; and should the grade so established be at any time thereafter altered, all damages, costs and charges arising therefrom, shall be paid by the city to the owner of any lot or parcel of land or tenement which may be affected or injured in consequence of the alteration of such grade.

Sec. 75. The said city may lease, purchase and hold real and personal estate sufficient for the convenience of the inhabitants thereof, and may sell and convey the same, and the same shall be free from taxation.

Sec. 76. No law of this state contravening the provisions of this act, shall be considered as repealing, amending or modifying the same, unless such purpose be expressly set forth in such law.

Sec. 77. The city of Saint Charles shall not be liable in any case for the board or jail fees of any person who may be committed by any officer of the city or any magistrate, to the jail of Winona county, for any offence punishable under the state laws.

Sec. 78. Said city shall be allowed the use of the jail of Winona county for the imprisonment of any person or persons who may be liable to imprisonment under the ordinances or by-laws of said city, and such person shall be under the charge of the sheriff of said county, as in other cases.

Sec. 79. The city council may constitute road districts, and require the street commissioner thereof to collect the capitation or poll tax. Such street commissioner shall have all the powers of road supervisors or overseers, as provided in the revised statutes of this state, and shall report to the city council when required. *Provided*, That the street commissioner shall receive his compensation as such supervisor or overseer out of the moneys collected on such poll tax; in no case shall any money be drawn from the city funds for the compensation of street commissioners for any work performed by them or under their supervision.

Sec. 80. No sale under execution or other proceedings upon a judgment, decree, foreclosure or lien, and, no transfer or mortgage shall divest or affect the lien of any assessment for any tax or any improvements, work or benefits chargeable to or assessed against property under this act, although the assessment may be subsequent to the lien of such judgment, decree or other lien, or to such transfer or mortgage.

Sec. 81. In addition to the remedies herein provided for the collection of taxes and assessments, suit may be instituted by said city in the district court in and for Winona county, or before any justice of the peace residing in said city, to recover any tax or assessment for work or improvements or benefits chargeable to lots under this act, against the parties liable therefor or owners of such property so taxed or assessed, in the same manner as other suits are instituted under the laws of this state, and in case the parties defendant cannot be found within the county of Winona, publication in the official newspaper of said city for six weeks, once in each week, shall be deemed and be equivalent to actual service, and it shall be sufficient to state as the cause of action in the complaint

that the city of Saint Charles by virtue of its corporate powers on a certain day, made and confirmed a certain assessment on certain property of the defendant or defendants, specifying the amount, the property assessed, and the nature and purpose of the assessment, and a transcript of such assessment for taxes, improvements or benefits duly certified to by the city recorder, shall be prima facie evidence of the facts therein set forth, and that such assessment was regular, and legally and duly made, and a judgment thereon entered, shall bear interest at the rate of twelve per cent. per annum.

Sec. 82. The city council shall have power to fix the compensation of all officers created by this act; *provided*, That the mayor and aldermen shall not be entitled to receive any compensation for any services rendered under this act.

Sec. 83. The city council may levy a tax for the purchase of a fire engine and other necessary fire apparatus, and the erection of necessary buildings therefor, and the construction of reservoirs, the building of bridges, or for the purchase of real estate necessary for the city, to an amount not exceeding one-half of one per cent. on the valuation, including the amount hereinbefore authorized in any one year. But such levy shall not be made until the question of making the same shall have been submitted to a vote of the tax-paying voters, not including capitation or poll tax in said city. On such submission at a special election ordered therefor by the city council, of which ten day's notice shall be given, if two-thirds of the voters voting at such election shall vote for such levy, it shall be made. But if less than two-thirds vote therefor, it shall not be made, nor the same question be again submitted to the voters of the city, till after the expiration of six months. Whenever any such tax may be levied it shall be included in the list for the year, and collected at the time and in the manner of collecting other taxes.

Sec. 84. All ordinances, by-laws and regulations heretofore enacted, published and recorded by the city council, not inconsistent with this act, shall be and remain in force under this act, until altered, modified or repealed by said city council.

Sec. 85. All acts or parts of acts amending or purporting to amend or modify in any manner the act of which this act is amendatory are hereby repealed.

Sec. 86. This act is hereby declared to be a public act and may be read in evidence in all courts of law without proof.

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

Approved February 17, 1879.