

CHAPTER 43.

[H. F. No. 1058.]

AN ACT TO CREATE AND ESTABLISH THE OFFICE OF WEIGHER OF COAL AND INSPECTOR OF WOOD FOR THE CITY OF ST. PAUL, AND TO PROVIDE FOR THE APPOINTMENT OF SUCH WEIGHER AND INSPECTOR.

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

SECTION 1. That in addition to the offices now existing under the provisions of the city charter of the city of St. Paul there is hereby created the office of weigher and inspector of coal and wood of the city of St. Paul, who shall hold the office for two (2) years, and until a successor shall be appointed. Said inspector shall receive a salary of twelve hundred (1200) dollars per annum, payable monthly.

The duties of said weigher and inspector of coal and wood shall be such as may be fixed and established by the common council of the city of St. Paul.

SEC. 2. The mayor of the city of St. Paul shall appoint a weigher and inspector of coal and wood immediately after the passage of this act, for the term of two (2) years, and until his successor shall be appointed, and hereafter and on the first (1st) day of April in each alternate two (2) years the mayor shall appoint a weigher and inspector of coal and wood as herein provided.

SEC. 3. This act shall take effect and be in force from and after its passage.

Approved April 20, 1891.

CHAPTER 44.

[S. F. No. 515.]

AN ACT TO INCORPORATE THE CITY OF WARREN.

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

CHAPTER 1.

SECTION 1. *Creation of Corporation.*—All that part of the county of Marshall, in the state of Minnesota, contained within the limits and boundaries hereinafter described shall be a city, and all the people now inhabiting, and those who shall hereafter inhabit, the same district, shall be and form a municipal corporation under the name of the city of Warren.

The said corporation shall have the power generally possessed by municipal corporations at common law, and in addition thereto shall possess the powers hereinafter specially granted, and the authorities thereof shall have perpetual succession, and it shall be capable of con-

tracting and being contracted with, of suing and being sued, and of pleading and being impleaded in all courts of law or equity; and it shall have a corporate seal which it may alter at pleasure, and it may purchase, lease, take and hold such real, personal and mixed property as may be required for city uses or purposes within or without the limits of the city, and may lease or sell and convey the same.

SEC. 2. *City Boundaries.*—The territory included within the following boundaries and limits shall constitute the city of Warren, viz.:

All of section thirty-six (36) except the north one-half ($\frac{1}{2}$) of the northwest quarter ($\frac{1}{4}$) in township one hundred and fifty-five (155) north, of range forty-eight (48) west, and all of section one (1) in township one hundred and fifty-four (154) north, of range forty-eight (48) west, all in Marshall county, State of Minnesota.

SEC. 3. *Platted Additions—How Annexed.*—Whenever any territory abutting upon the city of Warren, or upon any addition thereto, shall have been platted by the owner thereof into streets, alleys, blocks and lots, in a proper shape for record, and conforming to and corresponding with the adjacent city, streets, alleys, blocks and lots, and a plat thereof made showing also the adjoining blocks and lots in the city and connecting streets and alleys of the city, accompanied by a properly certified abstract of title to the said territory, showing the title to be in the party or parties represented to be the owners of the land which it is desired to annex to the city, the city council shall, upon the petition of the owners of not less than one-half ($\frac{1}{2}$) of the property of said platted territory, by ordinance, declare the same to be an addition to the city of Warren, and as soon as a proper plat of said addition, together with the petition and a certified copy of such ordinance shall have been duly recorded in the office of the register of deeds of the county in which said city is situated, such territory shall become and be a part of said city and within the jurisdiction thereof as effectually as if the laws had been annexed by an act of the legislature, and the said city council may, by ordinance, divide the same into wards or annex the same to any ward or wards in the city.

CHAPTER II.

SECTION 1. *Election Officers.*—The elective officers of said city shall be a mayor recorder, three (3) aldermen, treasurer, two (2) justices of the peace, and constable; *Provided*, that if at any time the city council shall divide said city into wards, as provided for in this act, thereafter the elective officers of said city shall be a mayor, recorder, one (1) alderman at large, two (2) justices of the peace, treasurer, and constable. Each ward shall elect two (2) aldermen.

SEC. 2. *Election District—Officers—Qualification and Term of Office.*—Said city, until the same is divided into wards, as provided for in this act, and each ward, after such division has been made, shall constitute an elective district or precinct for the holding of all elections provided for under the General Laws of this state, and also for the election of all officers provided for in this act.

All officers shall be qualified electors of the district in which they shall be elected or appointed, and all elective officers shall hold their offices (except as hereinafter specially provided) for the term of one (1) year and until their successors are elected and qualified.

SEC. 3. *Annual Elections.*—General elections after the first (1st) shall be held on the third (3d) Tuesday in March of each year. At least twelve (12) days before any general or special election after the first (1st), the city council shall designate three (3) persons to act as judges or inspectors at such election and two (2) persons who shall act as clerks at such election. All elections shall be held and conducted in the same manner and under the same penalties as required by the general laws of the state regarding elections, and like notice shall be given. When any election shall be closed the judges or inspectors shall make return thereof to the city recorder within twenty-four (24) hours after such election, in the same manner as provided by law for the return of state and county officers to the county auditor, and within one (1) day thereafter the city council shall meet and canvass the returns thereof and declare the result as it appears from such returns, and the city recorder shall forthwith give notice to the persons elected of their respective elections.

SEC. 4. *First Election—How Held.*—The first general election of said city shall be held on the fourth (4th) Tuesday in April in the year eighteen hundred and ninety-one (1891). The village council of the present village of Warren shall, at least ten (10) days before said first general election, designate three (3) persons who are qualified electors to act as judges at said election and two (2) persons to act as clerks at such election. Such election shall be held at such place within the limits of said city as said village council shall designate.

The recorder of said village of Warren shall give at least ten (10) days' notice of the time and place of holding said first city election. When said first election shall be closed, the judges thereof shall make returns thereof to the recorder of the present village of Warren within twenty-four (24) hours after such election, in the same manner as provided by law for the return of state and county officers to the county auditor, and within one (1) day thereafter the council of the present village of Warren shall meet and canvass the returns thereof, and declare the result as appears therefrom, and the recorder of the village of Warren shall forthwith give notice to the persons elected of their respective elections.

SEC. 5. *Special Elections.*—Special elections in and for said city may be held at any time for any proper purpose upon the order of the city council. At least ten (10) days' notice of any such special elections shall be given as provided by law, and such notice shall state the object of such election.

SEC. 6. *Elections; How Conducted—The Elections—Qualifications of Voters—Vacancy; How Filled—Officers not to be Interested in Contracts—Officers' Oaths and Bonds.*—The elections shall be held and conducted in the same manner and under the same penalties as provided by the General Laws of this state regarding elections, and all elections by the people shall be by ballot, and each ballot shall contain the names of the persons voted for, with a proper designation of the office written or printed thereon, and a plurality of the votes shall constitute an election.

When two (2) or more candidates for an election [elective] office shall receive an equal number of votes for the same office, the election shall be determined by the casting of lots in the presence of the city council, at such time and in such manner as the city council shall direct.

All persons entitled to vote for state or county officers, and who shall have resided in said city or any election district thereof for ten (10) days next preceding any general or special election shall be entitled to vote thereat.

Any person removing from the city or any ward thereof for which he was elected or appointed, or any person who shall refuse, for ten (10) days after notice of his election or appointment, to qualify and enter upon the duties of his office, shall be deemed to have vacated the office, and any officer having entered upon the duties of his office may resign by giving notice thereof to or with the consent of the city council; and it shall be the duty of such council to declare the office vacant and to provide that the same shall be filled as hereinafter provided. Whenever a vacancy shall occur in any elective office (except justices) by removal, resignation or otherwise, the city council shall have power, and it shall be their duty, to declare the office vacant by resolution entered upon the minutes; such vacancy shall be filled by the city council or the remaining members thereof.

Every person appointed to fill a vacancy shall hold his office and discharge the duties thereof for the unexpired term of his predecessor, and with the same rights and subject to the same liabilities as the person whose office he may be appointed to fill.

No person shall be eligible to, nor shall be elected or appointed to, any office in the city who is in any manner, either directly or indirectly, interested in any contract of the city, regardless as to whether said contract was made with the city council or any officer or board, or committee of such city, for the benefit of such city; and all contracts made by the said city council, or any officer or board of said city, for the benefit of said city, with any officer, either directly or indirectly, shall be wholly void.

Every person elected or appointed to any office under the provisions of this act shall, before he enters upon the duties of his office, take and subscribe an oath of office, and file the same with the city recorder; and the treasurer, and recorder and such other officers as the city council shall require, shall severally, before they enter upon the duties of their respective offices, execute to the city of Warren bonds in such amounts and with such sureties and conditions as the city council shall prescribe and approve.

SEC. 7. *Failure to Elect.*—Should there be a failure by the people to elect any persons herein required to be elected, on the day designated, the city council may order a new election to be held, ten (10) days' notice of time and place being given.

CHAPTER III.

THE DUTIES OF OFFICERS.

SECTION 1. *Power and Duties of Mayor—Alderman to Act in His Absence.*—The mayor shall be chief executive officer of the city and *ex-officio* president of the city council. He shall take care that the laws of the state and the ordinances of the city are duly observed and enforced and that all other officers of the city shall discharge their respective duties. He shall designate one (1) of the aldermen of said city, who, in case of the absence of the mayor from the city, or his inability from any reason to discharge the duties of his office, shall be

acting mayor, and all acts performed by him while acting in the capacity of mayor shall have the the same force and validity as if performed by the mayor.

SEC. 2. *City Recorder — Power and Salary of — Deputy Recorder.*— There shall be a recorder of the city, styled the city recorder, who shall keep his office at the place of meeting of the city council, or at such other place convenient thereto as the city council may determine. He shall keep the corporate seal and all papers and records of the city, and keep a record of the proceedings of the city council. Copies of all papers filed in his office and transcripts from all records of the council certified by him under the corporate seal shall be evidence in all courts as if the originals were produced. He shall draw and countersign all orders upon the city 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.

The city recorder shall have power to administer oaths and affirmations and take acknowledgments. It shall be his duty to report to the city council the financial condition of the city whenever the city council shall require. He shall make and keep a list of the city bonds, to whom issued, for what purpose, when or where payable and the rate of interest they respectively bear, and recommend such action to the city council as will secure the interest on such bonds; on or about the first (1st) day of September, or before the time of the levy of taxes in each year, to estimate the expenses of the city, and likewise of the revenue to be raised for the current year. He shall make, or cause to be made, estimates of the expenses of any work to be done by the city, and countersign the contracts made in behalf of the city, certificates of work authorized by the city council, or by any city officer; and every contract made in behalf of the city, or to which the city is a party, shall be void unless signed by the recorder.

The city recorder shall keep regular books of account, in which he shall enter all indebtedness of the city, and which shall at all times show the precise financial condition of the city, the amount of bonds, orders or certificates, or evidence of indebtedness of the city, and keep accurate accounts thereof, stating to whom and for what purpose issued, and the amount thereof; to keep accounts of all receipts and disbursements of the officers of the city, showing the amounts they have received from the different sources of revenue and the amount they have disbursed under the direction of the city council.

He shall keep a list of all certificates issued for work or other purposes, and before the levy of the city council of any special tax upon the property of the city, or any part thereof, shall report to the city council a schedule of all lots or parcels of land which may be subject to the proposed special tax or assessment, and also the amount of such special tax or assessments which it may be necessary to levy on such lots or parcels of land, which said schedule shall be certified to by the affidavit of the recorder, and shall be *prima facie* evidence of the facts therein stated; in all cases wherein the validity of such special tax or assessment shall come into question, the city council shall, if from such report they deem such special tax legal and just, cause the same to be levied in pursuance of the provisions of this act.

The recorder shall examine all the reports, books, vouchers and accounts of the city treasurer, and from time to time perform such other

duties as the city council may direct, and shall keep a record of all his acts and doings, and keep a book in which he shall enter all contracts, with an index thereto; such records shall be open to the inspection of all parties interested.

The city council shall, whenever it is deemed necessary, have the power to appoint, upon the nomination of the city recorder, a deputy recorder. Said deputy shall have the same powers and be subject to the same duties and liabilities as the city recorder, and he shall be paid for his services out of the salary of the city recorder, who shall be liable for the acts of his deputy.

The city recorder shall receive a compensation to be fixed by the city council, and they may change, increase or diminish the same during the time for which such officer was elected or appointed.

SEC. 3. *City Attorney—Power of City Constable.*—The city council shall have power to elect an attorney of the city, who shall perform all professional services incident to his office, and when required shall furnish opinions in writing upon any subject submitted to him by the city council or its committees. He shall advise with the council and the officers of the city regarding their official duties, and attend the stated meetings of the city council and of such committees as may require his attendance. He shall hold his office for the term of one (1) year, and his compensation shall be fixed by the city council; *Provided*, the city council shall have the right and authority to employ an attorney to assist the city attorney in the prosecution or defense of any proceeding or action at law in which the city is interested, or to discharge the duties of the city attorney when there is none.

The city constable shall have the powers conferred on constables by the laws of this state, and, in addition thereto, all the powers of police officers of said city.

SEC. 4. *Treasurer—Powers, Duties and Bond of.*—The city treasurer shall receive all moneys belonging to the city, including license money and fines, and keep an accurate and detailed account thereof in such books and in such manner therein provided as the city council shall furnish. The treasurer shall report to the city council annually, on or before the second (2d) Tuesday of March of each year, a detailed statement of the receipts, and a gross statement of the city orders paid during the fiscal year ending on the said date, together with the condition of the treasury at such date, which statement shall be filed with the city recorder, and a copy of the same published in the next issue of the official paper of the city.

The treasurer's books shall be subject at all times to the demand of the city council for inspection, and to its appointed committee therefor, and as otherwise provided for and required in this act. The treasurer shall, before he receives any moneys belonging to said office, give a bond to said city with two (2) or more sufficient sureties to be approved by the city council, for at least one and one-half (1½) times the amount of money that will probably come to his hands during his term of office; said bond shall be kept on file in the office of the city recorder.

It shall be the duty of the city council to inquire diligently and ascertain beyond question that the bondsmen of such treasurer are worth the amount specified as their liability in said bond above all debts and obligations and property exempt from execution.

SEC. 5. *Assessor—Salary, Power and Duties of—Board of Equalization.*—The city council shall, on or before the twentieth (20th) day of April in each year, after the annual charter election, elect an assessor, who shall be styled the city assessor, and who shall perform the duties in relation to the assessing of real and personal property for the purpose of levying city, county, school and state taxes. Upon the completion of the assessment roll, and on or before the fourth (4th) Monday of July, he shall return the same to the city council. The members of the city council and the city assessor shall be a city board of equalization and shall meet on the fourth (4th) Monday in July, at the office of the city recorder, for the purpose of reviewing the assessment, and having each take[n] an oath to fairly and impartially equalize the value of the real and personal property in said city, they may alter, revise and equalize said assessment as they may deem just and proper, which assessment so equalized shall only be subject to review by the state board of equalization. The assessor shall, on or before the second (2d) Monday in August in the year for which the assessment is made, return his assessment books to the county auditor, certified by his affidavit. Said city assessor shall hold his office for one (1) year, and until his successor is elected and qualified.

The assessor shall receive [such] compensation as the city council shall direct.

SEC. 6. *Street Commissioner—Power, Duties and Salary of.*—The city council shall at the first meeting after the annual election, or an adjournment thereof, elect a street commissioner who shall hold his office at the pleasure of the council. It shall be the duty of the street commissioner to conduct, execute or superintend any such work, repairs or improvements upon the streets, alleys, bridges, public grounds or public works of said city as may be committed to him by the city council, and he shall be required to execute a bond with sureties satisfactory to the city council, conditioned for the faithful performance of his duties, and that he will account for and pay over [all] moneys collected or received by him in his official capacity or belonging to the city.

He shall receive such compensation as the city council shall direct.

SEC. 7. *City Surveyor.*—The city council may at their first meeting after the annual election, or as soon thereafter as practicable, elect a city surveyor, who shall be a practical surveyor and engineer. He shall keep his office in some convenient place in said city, and the city council may prescribe his duties and fix the fees and compensation for any services performed by him.

All surveys, profiles, plans or estimates made by him for the city shall be the property of the city, and shall be carefully preserved in the office of the recorder and be open to the inspection of persons interested. He shall hold his office at the pleasure of the council.

SEC. 8. *City Justices.*—The city justices shall possess powers, rights and duties, and receive like compensation as justices of the peace of this state, and have concurrent jurisdiction with the justices of the peace of the county of Marshall, and shall have exclusive jurisdiction to hear all complaints, conduct all examinations and trials for offenses committed within the city cognizable before a justice of the peace for violation of any provision or provisions of this act, and any ordinance, by-law, rule or regulation made or adopted by virtue thereof, and in all cases of offenses committed against the same, and in all cases in which the city is a party, except as hereinafter otherwise provided.

In all cases for assault, batteries and affrays, and all other offenses not indictable, and in all civil suits or proceedings before said city justices, the same forms and proceedings shall be had and used, when 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.

In all cases of conviction for assaults, batteries and affrays within said city, and in all cases of convictions under any ordinances of said city for breaches of the peace, disorderly conduct, keeping or maintaining disorderly or 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 of not exceeding six months, and in a sum of not to exceed five hundred dollars (\$500).

All fines and penalties imposed by said city justices for offenses committed within the limits of said city shall belong to and be a part of the general revenue of said city. The city justice shall also have power in cases under this charter and ordinances of the city, when punishment is imprisonment, or by imprisonment in default of fine, to sentence the offender to hard labor in any work established or designated by the city for that purpose, or in case of male offenders sentence them to work on the street, public works or improvements of the city until such person shall work out the amount of such fines and costs at such a rate per day as the city council may fix upon; and may punish and sentence such offenders by imprisonment.

The city justice shall have authority and may commit any person or persons liable to imprisonment under the charter or ordinance of said city to the city prison or to the county jail of Marshall county, and such person or persons, if committed to the county jail, shall be in charge of such officers as hereinbefore specified, but if committed to the city prison shall be in charge of such police officers as the city council may designate.

In all actions, prosecutions and proceedings of every kind before either of the city justices, such city justice shall take judicial notice of all ordinances of said city, and it shall not be necessary to prove or pledge such ordinance in such court;

And it is further provided, that whenever, in any action or proceedings before either of said city justices, except in prosecutions for violations of the ordinances of said city, the defendant in such action, or proceeding shall apply for a change of venue under the laws of this state, if he, or his attorney at the same time, shall in his affidavit for such change of venue make oath that the other and remaining city justice (naming him) is interested in the result of said action, or is a material witness for said defendant, without whose testimony he cannot safely proceed to trial, or that from prejudice, bias, or other cause, he believes that such other city justice (naming him) will not decide impartially in the matter, then upon the filing of such affidavit with the city justice before whom such action is then pending, such city justice shall transfer such actions, and all papers appertaining to the same, to one of the justices of the peace of the town of Warrenton, in the county of Marshall, who shall become thereupon possessed of jurisdiction, and full power to hear and determine such action, and shall proceed to hear, try and determine the same according to law, whether such action was commenced under the ordinance of said city or the laws of this state.

SEC. 9. *Acting City Justices.*—In absence, sickness or other inability on the part of the city justices, the mayor may by warrant authorize any other justice of the peace of the county of Marshall to act and perform, within said city, the duties of said city justices, who shall possess for the time being all the authority of the city justice without any further act whatever, and in such cases it shall be the duty of the mayor to inform the city attorney and chief of police of such substitution.

SEC. 10. *Attendance of City Justices.*—Said city justices, shall be in attendance at their offices for the transaction of business at such reasonable hours as the city council may prescribe, and complaints may be made to, and writs and process shall on request be issued by, them at all times in court and otherwise.

SEC. 11. *Reports of City Justices.*—Said city justices shall, as often as the city council may by rule prescribe, make reports to that body of all proceedings instituted before them in which the city is interested, and also account for and pay over to the city recorder all fines and penalties collected by them belonging to the city, and said justices shall be entitled to receive from the county of Marshall such fees in criminal as are allowed by statute to justices of the peace for similar services.

SEC. 12. *Officers of the Peace.*—The mayor, acting mayor and sheriff of the county of Marshall or his deputy or deputies, coroners, and each alderman, the justice of the peace, police officer, constable and watchman 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 bystanders, and if need be, of all the citizens. If any person shall refuse to aid in maintaining the peace when so required, he shall forfeit and pay a fine not to exceed fifty dollars (\$50.00), and in default of the payment thereof be imprisoned not to exceed thirty (30) days, and in cases where the civil power may be required to suppress riots or disorderly behavior a superior or senior officer present, in the order mentioned in this section, shall direct the proceedings.

SEC. 13. *City Printing—Official Paper—Duty of City Printers—Officers—Must Deliver Papers to his Successors.*—The city council at their first meeting after each annual election, or as soon thereafter as may be, may advertise for proposals to do the city printing, giving public notice of not less than one week in such manner as the council may direct, that sealed bids will be received by the recorder to do said printing. The bid or bids shall be publicly opened and read by the recorder, at such time and place as the council may appoint, and the person or persons offering to do such printing for the lowest sum of money or price, in any newspaper printed in that city, and shall give satisfactory security for the performance of the work, shall be declared the city printer for the ensuing year; *Provided*, that the city council shall have the power to reject any and all bids.

In the newspaper designated in the accepted bid or proposal shall be published all ordinances, by-laws and other proceedings and matter required by this act or by the by-laws or ordinances of the city council to be published in a public newspaper.

The city printer or printers immediately after the publication of any notice, ordinances or resolutions, which is required to be pub-

lished, shall file with the city recorder a copy of such publication with his affidavit or the affidavit of his or their foreman of the length of time the same has been published, and such affidavit shall be *prima facie* evidence of the publication of such notice, ordinance or resolution; *Provided*, If no newspaper shall be designated as the official paper of this city then any or all of the public printing of said city may be done in any newspaper printed [or published] in the county of Marshall, and all publications so made shall have the same force and effect as if made in an official paper.

If any person having been an officer of said city shall not, within ten (10) days after notification and request, deliver to his successor all property, all books, papers and effects of every description in his possession belonging to said city, or pertaining to the office he may have held, his successor may take possession of said books, papers and effects in the manner prescribed by the laws of this state, and such person shall be deemed guilty of a misdemeanor, and shall be punished by a fine not exceeding one hundred dollars (\$100) or by imprisonment not more than ninety days, or both.

SEC. 14. *Council's Authority to Prescribe Further Duties of Officers—Term of Office Limited—Compensation of Officers—Interest in contract.*—The city council shall have power at any time to require other and further duties to be performed by any officers whose duties are herein described and not inconsistent with this act, and to appoint such other officers as may be necessary to carry into effect the provisions of this act and to prescribe their duties, unless otherwise provided for; but no officer elected or appointed by the council, or appointed by the mayor, as hereinbefore provided, shall be appointed for a longer term than one (1) year and until his successor is elected or appointed and duly qualified.

The city council shall have the power, unless otherwise provided, to fix the compensation of all officers elected or appointed under this act, and such compensation shall be fixed by resolution, and in regard to all offices created by this charter the compensation shall be fixed within three (3) months from the first organization or meeting of the city council, and the compensation so fixed shall not be changed, increased or diminished during the term for which such officers were elected or appointed, except that of the city recorder. No officer elected or appointed to office under the provisions of this charter shall be a party to or interested in any contract in which the city is interested, made while such officer is holding office; *Provided*, that the mayor and aldermen shall receive no compensation for their services as such officers in excess of ten dollars (\$10) in any one year.

CHAPTER IV.

OF THE POLICE.

SECTION 1. *Mayor Chief Executive Officer.*—The police force of the city shall consist of the mayor (who shall be the chief executive officer of the city, and who shall at all times have control and supervision of the police of the city) and such other policemen and watchmen as he shall, by and with the consent of the city council, appoint. He shall have the power to remove, suspend or discharge any police of-

ficer summarily whenever in his opinion the well being of the city may demand it, either for the appointment of another officer in their places, or the reduction of the police force.

SEC. 2. *Mayor May Appoint Special Policemen for Special Places.*—The mayor may likewise, at the request of any person, firm, society or organization, appoint policemen or watchmen, who shall serve without expense to the city, and have police powers to preserve the peace and protect the property within such limits and places as may be designated in such appointments; but such limited policemen shall not exercise any police authority, nor wear any official badge, outside the limits named in such appointment.

SEC. 3. *Special Policemen in Cases of Riots, Etc.*—The mayor shall, in case of riot or large public gatherings or disturbance, or when in his judgment the case requires, appoint such number of special policemen or temporary police officers as he may deem necessary, but such temporary appointments shall not continue for more than one week without the consent of the council.

SEC. 4. *Mayor to Designate Chief of Police.*—The mayor shall in his appointments designate one officer to be chief of police, and such other officers for special duties, and with such control over other officers or watchmen as he may deem necessary, and may designate the rank of such police officers by such proper title as he may select.

SEC. 5. *Powers of Police Officers—Fees and Rewards.*—All police officers and watchmen of the city shall possess the powers of constables at common law under the laws of this state, and in addition thereto shall have power, and it shall be their duty to serve and execute all warrants, processes, commitments and any writ whatsoever, issued by any justice of the peace, and they shall have power, with the consent of or by the directions of the mayor, to pursue and arrest any person fleeing from justice in any part of the state. When they pursue criminals out of the city and such criminals are charged with offenses against the state law, they shall be entitled to receive for their own use all fees for such pursuits and all rewards offered for the apprehension of such criminal.

SEC. 6. *Regulation of Police Force.*—The mayor shall, with the consent and approval of the city council, from time to time make such regulations for the control of the police force, and the powers and duties of the several officers thereof, as he may deem necessary. Such regulations may designate uniforms, badges, arms, discipline and drill exercises of the police force, as well as the conduct of the officers and men when on and off duty, and all other matters deemed necessary to promote the efficiency of the force.

SEC. 7. *Penalty for Assuming to Act as Police Officers—Police Officer to Give Bond.*—If any person shall, without authority, assume to act as a policeman, or pretend to have such powers, or wear a badge of a policeman in the city, he shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not exceeding one hundred dollars (\$100) or imprisonment not exceeding thirty (30) days.

Before any police officer of said city shall serve any writ or process, civil or criminal, he shall execute to the city of Warren a penal bond, with security to be approved by the city council, to the same amount and conditioned the same as the bond of the constables under the laws of this state; such bond shall be filed in the office of the city recorder for the use of all persons.

CHAPTER V.

THE CITY COUNCIL—ITS GENERAL POWERS AND DUTIES.

SECTION 1. *City Council—Quorum—Style of Ordinance.*—The mayor, recorder and aldermen shall constitute the city council. The style of all ordinances shall be "The city council of the city of Warren do ordain." A majority of the councilmen shall constitute a quorum, but a less number may meet at the time of any stated meeting and adjourn, and all business transacted at such adjourned meeting shall have the same validity as if done at a stated meeting.

SEC. 2. *Regular and Special Meetings of Council.*—The city council shall hold stated meetings which shall be held as prescribed by the resolutions of the council, and the mayor may call special meetings of the council by a notice to each of the members, to be delivered personally, or left at their usual place of abode or business, which said notice shall contain a statement of the business for which said meeting is called; and no other business shall be transacted in such special meeting except such as shall be designated in such special notices.

SEC. 3. *City Council—Judge of Elections of its Members—Rules of Procedure—Record of Proceedings.*—The city council shall be the judge of the election and qualifications of its members, and in such cases shall have the power to send for persons and papers. It shall determine the rules and regulations of its own proceedings and have power to compel the attendance of absent members, and may provide for the punishment of such absent members in addition to the forfeiture provided in this act. It shall keep a journal of its proceedings, and the ayes and nays, when demanded by any member present, shall be entered on the journal.

SEC. 4. *Removal of Officers—Notice—Hearing.*—The city council shall have power to remove from office any officers of said city, whether appointed by the people, but no officer elected by the people shall be removed except for cause, nor unless first furnished with a copy of the charges against him, nor until each person shall have had reasonable opportunity to be heard in his own defense; continued absence from the meetings of the council, in case of the aldermen, and neglect of duty in case of other officers, unless for good reason, or being in any way interested in any contract of the city, shall be good cause for removal. The city council shall fix a time and place for the trial of any officer against whom charges may be preferred, of which not less than ten (10) days' notice shall be given to the accused, and shall have power to send for persons and papers, and shall have power to compel the attendance of witnesses and to hear and determine the case, and if such officer refuses or neglects to appear or to defend himself, the council shall declare the office vacant.

SEC. 5. *Control of Finances and Property—County Jail to be Used as City Prison—Sheriff and Jailer to Receive Prisoners—Power of Council to Enact Ordinances.*—The city council shall have the management and control of the finances and all the property of the city, and shall likewise, in addition to the powers herein invested in them, have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify, amend and repeal all such ordinances, by-laws, rules and regulations for the government and good order of the city, for the suppression of vice and intemperance, and for the prevention of crime, as

they shall deem expedient; they shall have power to establish and maintain a city prison; *Provided*, that until otherwise ordered by the city council, the county jail of the county shall be used as a city prison, and it shall be the duty of the sheriff or jailer of the county to take into custody and safely keep in said jail all persons committed thereto until discharged according to law. The city council shall have full power and authority to declare and impose penalties and punishments, and to enforce the same against any person or persons who may violate any provisions of any ordinance or by-laws passed or ordained by them, and all such ordinances, rules and by-laws are hereby declared to have all the force of law, *Provided*, that they be not repugnant to the constitution and laws of the United States, or of this state, and for these purposes shall have authority by ordinances, resolutions or by-laws:

First—To license and regulate the exhibition of common showmen and shows of all kinds; the exhibition of caravans, circuses, concerts, theatrical performances, and also to license and regulate all auctioneers, billiard tables, bowling alleys, nine or ten pin alleys, butcher shops and butcher stalls and venders of butcher meats, pawnbrokers, insurance offices and insurance agencies, taverns, lager beer saloons, skating rinks, victualing houses, and all places of public amusement, and persons vending or dealing in spirituous, vinous, fermented or malt liquors, and all dealers in second-hand goods, junk dealers, and all keepers of intelligence offices and employment offices; all draymen and hackmen; *Provided*, that the power to regulate above given shall extend to and be construed to include among other powers the power to define who shall be considered pawnbrokers, auctioneers, dealers in second-hand goods and junk dealers.

Second—To restrain and prohibit all descriptions of gambling and fraudulent devices and practices, and all playing of cards, dice and other games of chance for the purpose of gambling, within the city, and to restrain from vending or dealing in spirituous, vinous, fermented or malt liquors, unless duly licensed by the city council, and no license issued by the city council shall be transferable except by authority of the city council; *Provided*, that nothing contained in these articles of incorporation shall be so construed as to prevent the people of the city of Warren from deciding for themselves whether or not license shall be granted to any person or persons in said city to sell lager beer, spirituous, vinous, malt or fermented liquors; and the city recorder is hereby required, on a petition of ten (10) or more legal voters of said city, at any time not less than ten (10) days before any annual city election, to give notice that the question of license will be submitted at said election, and notice thereof shall be given by said city recorder at the same time and in the same manner that notices of annual city elections are given, and said question of license shall be determined by ballot containing the words: "In favor of license," or, "against license" (as the case may be), which vote shall be canvassed and returned as is by law prescribed for canvassing election returns, and if such returns show a majority of the votes cast at such election to be against license, then in such case the city council shall grant no license to sell lager beer, spirituous, vinous, malt or fermented liquors in said city of Warren until reversed in the same manner at a subsequent general election, except to persons legitimately and *bona fide* engaged in the business or occupation of druggist, and then only for medical and mechanical purposes; *And provided*, that no license

shall be granted to any person to deal in or vend within the city limits any spirituous, fermented or malt liquors for a less sum than five hundred dollars (\$500) as a license for one (1) year or a part of one (1) year, nor a greater sum than one thousand dollars (\$1,000) for the same period of time.

Third—To prevent any fighting, brawling, assault, battery, disorderly noise, riot and disorderly assemblage in said city, and to provide for the arrest and punishment of any person or persons who may be guilty of the same; to suppress disorderly houses and houses of ill-fame and gambling houses, and to provide for the arrest and punishment of the keepers thereof, and to authorize the destruction of all instruments and apparatus used for the purpose of gambling.

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

Fifth—To direct the location and management and location of stock-yards, slaughter houses, markets, breweries, distilleries, soap factories, glue factories, and bone-boiling establishments, and to regulate the storage, keeping and conveyance of gunpowder, dynamite or other explosive or combustible material, and to regulate the use thereof in the city.

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

Seventh—To direct and control the laying out and construction of railroad tracks, bridges, turnouts and switches in the streets and alleys, and the location of depot grounds within the city; to require that the railroad tracks, bridges, turnouts and switches shall be so constructed and laid out as to interfere as little as possible with the ordinary travel and use of the streets and alleys; and that sufficient space shall be left on either side of said track for the safe and convenient passage of teams and persons; to require railroad companies to keep in repair the streets through which their tracks may run, and to construct and keep in repair sidewalks, also suitable crossings at the intersection of streets and alleys, and sewers, ditches and culverts when the council shall deem necessary; to regulate the movement and speed of railroad locomotives and cars; to require the maintenance of flagmen, or the construction and maintenance of gates at the crossings of railroad tracks over such streets and avenues of the city as the city council shall deem to require such precaution; to prevent and punish immoderate driving or riding in the streets; to compel persons to fasten their horses or other animals attached to vehicles or otherwise while standing on the streets, and to require that all persons driving horses or mules at a faster gate than a walk, attached to sleighs, shall have a sufficient number of bells to give notice of their approach; and to regulate places of bathing and swimming in the waters within the city limits.

Eighth—To restrain the running at large of horses, mules, cattle, swine, sheep, poultry and geese, and to authorize the distraining and sale of the same, and to impose penalties for the violation of the ordinance.

Ninth—To prevent the running at large of dogs, and to require a license for keeping the same, and to provide for and authorize the impounding and destruction, in a summary manner, of all dogs when at large contrary to the ordinance.

Tenth—To prevent any person from bringing, depositing or leaving within the city any putrid carcass or other unwholesome substance, and to require the removal of the same by any person who shall have upon his premises such substance, or putrid or unsound beef, pork, fish, hides or skins of any kind, and in default to authorize the removal thereof by some competent officer at the expense of such person or persons, and to provide for the punishment of offender.

Eleventh—To make and establish public pounds, pumps, wells, cisterns, hydrants, reservoirs, and to erect lamp; to provide for the lighting of the city; to contract for the erection of gas works for lighting the streets, public grounds and public buildings, and for the erection and maintenance of any and all systems of electric lights for light purposes; to create, extend and alter lamp districts, or to contract with other parties to furnish gas or electric lighting for such purposes.

Twelfth—To establish and regulate boards of health, provide hospital and hospital grounds, and for the registration of births and deaths and the return of lists of mortality; and to regulate and prevent the burial of dead within the city limits.

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

Fourteenth—To prevent any person from riding or driving any ox, horse, mule, cattle or other animals on the sidewalks of the city, or in any way doing damage to such sidewalk.

Fifteenth—To prevent the shooting of firearms or fire crackers, and to prevent any exhibition of firearms or fireworks in any situation which may be considered by the city council dangerous to the city, or to any property therein, or annoying to any of the citizens thereof.

Sixteenth—To prevent open or notorious drunkenness and obscenity in the streets or public places of said city, and to provide for the arrest and punishment of all persons guilty thereof.

Seventeenth—To license and regulate porters, hackmen, expressmen and all runners, agents, solicitors for stages, cars, public houses or other establishments.

Eighteenth—To establish public markets and other public buildings; to make rules and regulations for the government and management thereof; to appoint suitable officers for the management thereof, and to provide for the enforcement of all rules and regulations in regard to the same.

Nineteenth—To license and regulate butchers' stalls, shops and stands for the sale of game and fish, butter, poultry, butchers' meat and provisions. Also to license and regulate or restrain and suppress all peddlers, canvassers, solicitors of orders for the future delivering of goods in retail quantities, transient traders and persons selling goods at retail by sample.

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

Twenty-first—To compel the owners or occupants of buildings or grounds to remove snow, dirt and rubbish from the sidewalk, street or alley opposite thereto, and to compel such owners or occupants to remove from the lot owned or occupied by him all such substance as the board of health shall direct, and in his default, to authorize the removal or destruction thereof by some officer at the expense of the owners or occupants; also to compel the owners of low ground where water is liable to collect and become stagnant, to fill or drain such low places, and in their default to authorize such fillings or drainings at the expense of such owners, and to provide that such expense shall become a lien upon the lot or property so drained or filled.

Twenty-second—To regulate and prevent the landing of persons from railroad cars or other conveyance infected with contagious or infectious diseases or disorders, and to make such disposition of such persons as may be necessary to preserve the health of the city.

Twenty-third—To regulate the time, manner and place of holding public auction or vendues.

Twenty-fourth—To provide for watchmen and fire wardens and prescribe their number and duties, to regulate the same, and to create and establish the police of said city, and to prescribe the number of police officers and their duties and to regulate the same.

Twenty-fifth—To regulate the inspection of wood, hay, milk, grain, flour, pork, beef, mutton, veal, and all kinds of meat, poultry, game, fish, salt, whisky and other liquors and provisions and to authorize the seizure and destruction of any grossly impure or adulterated articles sold that are dangerous to the public health, and to provide for the punishment of the use of false weights and measurements.

Twenty-sixth—To appoint inspectors, weighers and gaugers, and to regulate the duties and prescribe their compensation.

Twenty-seventh—To purchase or acquire, by gift or device, lands within the city limits, or to take and hold by lease such lands for the purpose of parks or public grounds, and to provide for the improvement of the same; and also to direct and regulate the planting and preservation of ornamental or shade trees in the street, alleys, parks or other public grounds and highways of said city, and to appoint a suitable person to inspect and take charge of the same, and fix the compensation and prescribe his duties.

Twenty-eighth—To remove and abate any nuisance injurious to the public health or morals, and the city council shall have power to define what shall be considered nuisance and to provide for the punishment of all persons who erect and maintain such nuisance.

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

Thirtieth—To do all acts and make all regulations which may be necessary and expedient to preserve the health of the inhabitants of the city, and the suppression of disease; to prevent the introduction of contagious diseases into the city, and to make quarantine laws and enforce the same within the city.

Thirty-first—To authorize the arrest, fine and imprisonment of vagrants, of all persons who not having visible means to maintain themselves, or without employment, idly loitering or rambling about or staying in groceries, drinking saloons, houses of ill-fame or houses of ill repute, gambling houses, railroad depots, or fire engine houses,

or who shall be trespassing in the night time upon the private premises of others, or begging, or placing themselves in the street or other thoroughfares or public places to beg or to receive alms; also keepers, exhibitors at any gambling table or visitors at any gambling table, gambling house, houses of fortune telling, place for cock fighting or other places of device; and all persons who go about for the purpose of gaming or watch stuffing, or who shall have in their possession any articles or things used for obtaining money under false pretences, or who shall disturb any place where public or private schools are held, either on week days or Saturday, or places where religious worship is held.

Thirty-second—To license and regulate draymen, hackmen, expressmen, and other persons engaged in the carrying of passengers, baggage or freight, and to regulate their charges therefor, and to authorize the mayor and chief of police of said city to regulate and direct the location of vehicles standing upon streets and public grounds in said city.

Thirty-third—To regulate the construction of all buildings more than two stories in height, and prescribe fire limits in said city, and to prohibit the erection of wooden buildings, or of placing wooden sidewalks within said limits.

Thirty-fourth—To provide for and regulate the erection of hitching posts or rings for the fastening of horses or other animals, or to prohibit the same in any portion of the city.

Thirty-fifth—To regulate the opening of hatchways and cellarways upon the streets and sidewalks of the city, and to compel proper guards about the same.

Thirty-sixth—To regulate the numbering of houses and lots, and compel owners of houses and other buildings to have such numbers designated thereon.

Thirty-seventh—To require the owner or lessee of any building or structure now or hereafter erected in said city to place thereon such fire escapes and such appliances for the protection against or extinguishment of fires, as it may direct, and to do each and every other act which it may think necessary or advisable to lessen the danger to human life in the case of fire or accident.

Thirty-eighth—To regulate and control the quality and measurement of gas, to prescribe and enforce rules and regulations for the manufacture and sale of gas, to provide for the inspection of gas and water metres, and appoint an inspector and prescribe his duties.

Thirty-ninth—To regulate the location, size and construction of steam boilers, as it may designate as being dangerous to life and property.

Fortieth—To regulate and control or prohibit the placing of poles therefor, or the suspending of electric or other wires along or across any of the streets of said city, and to require any already placed or suspended, either in limited districts or throughout the entire city, to be removed and placed beneath the streets and sidewalks of the city; to compel the proper insulation of all electric light wires and other wires in use within the city.

Forty-first—To regulate the penning, herding and treatment of all animals within the city.

Forty-second—To restrain, regulate and control the cutting of ice within the limits of the city.

Forty-third—The city council is authorized to permit the construction and operation of street railways within the said city, and may designate the street or streets on which the same may be constructed, and may impose such restrictions and limitations on the same as to the council may seem proper; but no such privilege shall be granted to any individual or individuals for a longer period of time than twenty (20) years, and the said council may also provide for the introduction and use of electric lights within said city under such regulations as the council may prescribe.

Forty-fourth—The city council may also provide for the laying out and construction of a system of general sewerage within the said city, and, if authorized thereto by a majority of the electors who shall vote upon the question of the issuing of such sewerage bonds at any general or special election, may issue and negotiate the bonds of said city in any amount not exceeding five thousand dollars (\$5,000) to pay for the same. Such bonds to run for such length of time, and to bear such rate of interest, not exceeding eight (8) per cent, as to the council may seem proper.

Forty-fifth—To divide said city into wards and number the same whenever in the judgment of the city council such division is necessary or proper.

Forty-sixth—To prevent and prohibit all persons, corporations or associations from building, constructing, maintaining or keeping within the said city any barbed wire fence or other fence constructed of such material as to be dangerous to the public.

Forty-seventh—To purchase and hold cemetery grounds within or without the city limits; inclose, lay out and ornament the same; to provide for the protection thereof, and to sell and convey lots therein by deed.

SEC. 6. *Ordinances—How Passed, Published and Recorded.*—All ordinances shall be passed by an affirmative vote of a majority of the members of the city council by ayes and noes, which shall be entered upon the records of the council and published once in the official paper of the city, if there is one, and if not then in one of the newspapers in Marshall county, signed by the mayor and recorder and recorded by the recorder with the affidavits for the publication thereof before they shall take effect. No ordinance shall be passed at the same meeting at which it shall have been presented except by the unanimous consent of the members present, which shall be noted in the records; but this shall not preclude the passage of any ordinance reported by any committee of the council, to whom the subject of such ordinance shall have been referred at any previous meeting.

SEC. 7. *Copy of Record of Ordinance Prima Facie Evidence.*—A copy of the record of any ordinance passed, certified by the city recorder and attested by the seal of the city, and any copy thereof published as aforesaid or compilations of the ordinance made and published under the direction of the city council, shall be *prima facie* evidence of the contents of such ordinance, and of the regularity of all proceedings relative to the adoption and approval thereof, and shall be admitted as evidence in any court of this state without further proof.

SEC. 8. *Appropriations.*—No appropriation shall be made without a vote of a majority of all the members of the city council in its favor, and an appropriation amounting to five hundred dollars (\$500) or

more shall not be made unless by a four-fifths ($\frac{4}{5}$) vote of all the members of the council in its favor.

SEC. 9. *Abatement of Nuisances by Suit not Prevented.*—The powers conferred upon the city council to provide for the abatement or removal of nuisances shall not bar or hinder suits, prosecutions or proceedings according to law.

SEC. 10. *Adjustments of Accounts of City Officers.*—The city council shall audit, examine and adjust the accounts of the treasurer and all other officers of the city at such times as they deem proper, and also at the end of each year, and before their term of office shall expire, and if any officer shall refuse to exhibit his book accounts and vouchers for examination and settlement, or shall refuse to comply with the orders of the city council in the discharge of his duties in pursuance of this section, the city council shall declare such office vacant, and the city council shall order suits and proceedings at law against any officer or agent of the city who may be found delinquent or defaulting in his accounts or the discharge of the official duties, and shall make a full record of all settlements and adjustments.

SEC. 11. *Control of Finances and Property.*—The city council shall have the management and control of the finances and all the property of the city both real and personal, and may provide for the sale of any city property in such manner as it shall consider for the best interests of the city.

SEC. 12. *How City may Acquire Private Property.*—The city council shall have power to acquire by purchase, grant or condemnation such private property, as may be necessary for sites for public buildings for the use of the city or any department thereof, and for all streets, alleys, parks, public squares, public grounds in said city, and to ascertain and determine the value of such private property taken for such uses, and the amount of damages occasioned to any such private property by reason of any public works or structures, and for that purpose may appoint juries as committees to appraise such values or damages, or to acquire information thereof in any other manner deemed advisable by said city council.

SEC. 13. *Licenses—For What Time Granted—Revocation of.*—Any license issued by the authority of the city council may be revoked by the mayor or council at any time, and upon conviction before any court of any person holding a license for the violation of any provision of any ordinance relative to the exercise of any right granted by such license, the court may, and upon second (2d) conviction shall, revoke such license in addition to the penalty provided by law or ordinance for any such violation.

No license shall be granted for a longer period than one (1) year, and any license granted for a longer period than one (1) year shall be void from the beginning.

SEC. 14. *Punishment for Breach of Ordinances.*—The city council may impose punishments for the breach of any ordinance, rule or by-law of the city, to the extent of a fine not exceeding one hundred dollars (\$100), and imprisonment in the city prison or county jail of Marshall county for a period not exceeding ninety (90) days, and offenders against city ordinances may be required to give security to keep the peace and for good behavior for a period, not exceeding five hundred dollars (\$500).

SEC. 15. *Offenders may be Put to Labor.*—The city council may also provide by ordinance that any person convicted of any offense before a city justice of the peace subjecting such offender to imprisonment under the ordinances of said city, may be kept at hard labor in any workhouse established for that purpose, or in any case a male offender may be kept at hard labor during his term of punishment in such workhouse or upon public improvements or otherwise of said city or both, and may also provide by ordinance that any one convicted of an offense before one of the city justices of the peace, and committed for non-payment of fine imposed, may be kept at hard labor either in such workhouse or upon public improvements or otherwise, or both, until such person shall work out the amount of such fine at such rate of compensation as said council may prescribe, not exceeding the time of such commitment, and the council shall have full power to establish by ordinance all needful regulations for the security of such person thus employed, and to prevent escape and secure proper discipline, and shall have power to establish a workhouse in said city for the purpose aforesaid, and under such regulations as the city council may prescribe.

CHAPTER VI.

FIRE DEPARTMENT.

SECTION 1. The city council shall have power to establish a fire department, and provide for the proper support of the same, and shall have supervision of the officers and members thereof, and prescribe and regulate their duties; to provide protection from fire by the purchase of fire engines, and all necessary apparatus for the extinguishment of fires, and by the erection or construction of pumps, water mains, reservoirs or other water works; to erect engine houses; to compel the inhabitants of the city and all others present to aid in the extinguishment of fires, and to pull down and raze such buildings in the vicinity of fire as shall be directed by them, or any two of them who may be at the fire, for the purpose of preventing its communication to other buildings; to establish fire limits or the limits within which wooden or other combustible buildings shall not be erected; to require the owners or occupants of buildings to provide and keep suitable ladders and fire buckets, which shall be appurtenances to the realty and exempt from seizure and forced sale; and after reasonable notice to such owner or occupant and refusal or neglect by him, to procure and deliver the same to him, and in default of payment therefor, to levy the cost thereof as a special tax upon such real estate to be assessed and collected as other taxes in such city; to regulate the storage of gunpowder and other dangerous materials; to require the construction for safe places for the deposit of ashes; to regulate the manner of putting up stovepipes, and the construction and cleaning of chimneys; to prevent bonfires and the use of fireworks and fire-arms in the city, or any part thereof; to authorize fire wardens at all reasonable times to enter into and examine all dwelling houses, lots, yards, inclosures and buildings of every description, in order to discover whether any of them are in a dangerous condition, and to cause such as may be dangerous to be put in safe condition; and generally to establish such measures for the prevention or extinguishment of fires as may be necessary and proper.

CHAPTER VII.

TAXATION AND BONDS.

SECTION 1. *But One Fund.*—There shall be but one fund in said city, and that shall be known and designated as the general fund; and all moneys due or belonging to said city shall go into said fund, and all moneys appropriated or paid out, for whatever purpose, shall be paid from said fund.

SEC. 2. *Levy of Tax.*—The city council shall have power to levy an annual tax upon all property in said city, taxable under the laws of this state, but no such tax shall exceed two (2) per cent of the assessed valuation of such property. All taxes as levied and collected shall be paid into the city treasury and become a part of the general fund.

SEC. 3. *Tax, How Levied—Not Invalid for Informality.*—Taxes may be levied by resolution of the city council to be entered on the record, and no tax shall be invalid by reason of any informality in the manner of levying the same, nor because the amount levied shall exceed the amount required to be raised.

SEC. 4. *Statement of Taxes Levied to County Auditors.*—The city council shall cause to be transmitted to the county auditor of Marshall county on or before the first (1st) day of October of each year, or at such time as required by the general laws of the state, a statement of all taxes as levied by them, and such taxes shall be entered and collected and payment thereof enforced with the state and county taxes, and in the same manner in which they are collected and enforced, and the county treasurer of said Marshall county shall pay over to the treasurer of said city any and all taxes and moneys collected by him or received by him for said city as provided by general law.

SEC. 5. *City Bonds—How Issued.*—The city council shall have power, when so authorized by a majority of the legal voters present and voting at any general or special city election of which due notice as to time, place and object of election has been given, to issue the bonds of said city running not more than twenty (20) years, and bearing not more than eight (8) per cent interest per annum, principal and interest payable at such times and places as may be fixed by the resolutions of the council. Such bonds shall be signed by the mayor, sealed with the seal of the city, and attested by the recorder. Such bonds shall be sold at not less than par, and the proceeds from the sale of such bonds shall go into and become a part of the general fund of the city. The bonded indebtedness of said city shall not at any time be more than ten thousand dollars (\$10,000.)

SEC. 6. *Poll Tax—Levy and Collection.*—Every male inhabitant of said city between the ages of twenty-one (21) and fifty (50) years, excepting such as are exempt by law, who may reside within the limits of said city at any time between the first (1st) day of May and the first (1st) day of November of each year, and have not worked out or paid poll tax in any other place, shall be liable to a capitation or poll tax; and it shall be lawful for the city council at any time to levy the same, but such poll tax shall not in any one year exceed two (2) days' work on each person liable therefor; which may be commuted by any party so taxed by the payment to the street commissioner of the sum of one dollar and fifty cents (\$1.50) per day, and the street commis-

sioner shall expend all moneys so received on the streets, alleys and highways under the direction of the city council. The laws of this state shall apply to warning, working, suing for and enforcing the collection of such poll tax, except as herein otherwise expressly provided.

CHAPTER VIII.

CONDEMNATION OF PRIVATE PROPERTY TO PUBLIC USE.

SECTION 1. *Proceedings—Notice, How Served.*—Whenever the city council shall intend to lay out and open, change, widen or extend any highway, street, lane, alley, public grounds, square or other place, or to construct and open, alter, enlarge or extend drains, canals or sewers, or alter, widen or straighten watercourses therein, and it shall be necessary to take private property therefor, they shall cause an accurate survey and plat thereof to be made and filed with the recorder, and they may purchase or take by donation such grounds as shall be needed by agreement with the owners, and take from them conveyances thereof to the city for such use or in fee; but otherwise they shall by resolution declare their purpose to take the same and therein describe by metes and bounds the location of the proposed improvements, and the land proposed to be taken therefor, defining separately each parcel and the amount thereof owned by each district owner, mentioning the names of the owners or occupants so far as known, and therein fix a day, hour and place, when and where they will apply to a justice of the peace of the city for a jury to condemn and appraise the same. They shall thereupon cause to be made by the recorder, a notice of the adoption of such resolution, embracing a copy thereof and notifying all parties interested, that the council will, at the time and place named, apply to a city justice of the peace for the appointment of a jury to condemn and appraise such land. A copy of such notice shall be served on the owner of each such parcel of land to be taken, if known and resident within the county; such service to be made in the manner prescribed for serving a summons in justice court, and the return on the summons shall be conclusive evidence of the fact stated therein. If the notice cannot be so given as to all the parcels then the same shall be also published once in each week for three (3) successive weeks, in a newspaper published in such city or county; and the affidavit of the printer or foreman of such newspaper shall be conclusive evidence of such publication. Such notice shall be served, and such publication made for three (3) weeks, complete at least one (1) week before the time fixed therein for such application. If any person so served with notice shall be a minor, or of unsound mind, the justice, before proceeding, shall on the day fixed for hearing such application, appoint for him a guardian for the purpose of such proceeding, who shall give security to the satisfaction of the magistrate, and act for such ward.

SEC. 2. *Jury—Hearing.*—At the time and place fixed for such hearing the application, accompanied by a copy of such resolution and such survey, and by proof of the service of the notice, as provided in the last section, shall be filed with the justice, who shall thereupon make a list of twenty-four (24) competent jurors not interested, but residents of the village shall not be disqualified by reason of such

residence. He shall hear and decide any challenges for cause or favor made to any one, and, if sustained, shall replace his name with an unobjectionable juror, until the list shall be perfected. Thereupon, under the direction of such magistrate, each party, the city council by its representative on the one side, and the owners of the land or their agents present, or if none be present, or they disagree, a disinterested person appointed by the city justice, on the other, shall challenge six (6) names, one at a time, alternately, the city council beginning. To the twelve jurors remaining the justice shall issue a venire, requiring them at an hour on a day named, not more than ten (10) nor less than three (3) days thereafter, to appear before him to be sworn and serve as a jury to view lands and appraise damages, and, at the same time, shall publicly adjourn the proceedings to the time and place so named; such venire shall be served by any constable or police officer at least one (1) day before such appointed time, by reading the same to each such juror, or by leaving a copy at his usual place of abode in the presence of a member of his family of suitable age and discretion. The jurors summoned shall appear at the time and place named, and if any be excused by the justice, or fail to attend, he shall direct other disinterested persons to be forthwith summoned in their stead until twelve (12) be obtained. The magistrate shall then administer to them an oath that they shall well and truly inquire into and determine the necessity for taking the lands mentioned in the resolution, and if found necessary, the damages occasioned thereby, and faithfully discharge their duties as jurors according to law.

SEC. 3. *Jury to Assess Damages.*—Under the direction of such magistrate the jury shall view the lands to be taken, and shall then sit before him, to hear such competent evidence as shall be produced by any party; and for such purposes such magistrate shall possess the same powers as a court in session with a jury, and if there be necessity, may adjourn the sitting from day to day. The jury shall render a separate verdict in writing, signed by them, in which they shall find whether it be necessary to take such lands or any part thereof for such purposes, describing such as they find necessary to be taken; and if any be found necessary to be taken, then a verdict or appraisement for damages, specifying therein the damages of each owner, and separately the value of the land taken from each, and the damage otherwise sustained by each by reason of the taking thereof, in estimating which they shall deduct therefrom any special benefit, if any, to be enjoyed by each from such improvements; and a majority of such jury may render such verdict or appraisement of damages and shall sign the same. Any technical error in such verdict may be immediately corrected, with the assent of the jury, and they shall be thereupon discharged, and their verdict filed by the magistrate. In case the jury shall fail to find a verdict, another jury shall be selected, summoned, sworn and proceed in the same manner.

SEC. 4. *Appeal—How Taken.*—Within ten (10) days after verdict any land owner whose land has been found necessary to be taken, may appeal from the award of damages to him in such verdict to the district court, and the city may likewise appeal from the award of damages to any owner by filing with such justice a notice of appeal, specifying whether the appeal is from the whole award to him or a part, and if a part, what part, and therewith a bond with two (2) suf-

ficient sureties, to be approved by the justice, to pay all cost that may be awarded against such appellant on the appeal and paying the justice for the return thereof. Any party not so appealing shall be forever concluded by such verdict or appraisement. Upon an appeal being taken, the justice shall transmit to the clerk of the district court, within ten (10) days, the notice of the appeal and bond, and thereto annex a copy of all papers and proceedings before him with his certificate thereof. He shall, after the time for appealing is expired, file with the city recorder, annexed together, all the original papers, including the verdict, with a certificate by him thereof, and that no appeal has been taken from such verdict, except as the facts are, which he shall briefly specify; and the clerk shall record all such proceedings. Upon filing such transcript in the district court, the appeal shall be considered an action pending in such court, and be so entered, the land owner as plaintiff, the city as defendant, and be subject to trial and appeal to the supreme court. The case shall be tried by a jury, unless waived, and costs shall be awarded against the appellant, if a more favorable verdict be not obtained; otherwise against the respondent. Upon entry of judgment, the clerk of the district court shall transmit a certified copy thereof to the city recorder.

SEC. 5. *Proceedings Upon Verdict.*—If the verdict of the jury first called find it necessary to take such land, or any part thereof, the city council may, upon return thereof to the recorder, enact an act in accordance therewith, for laying out, changing, widening or extending and opening any such street, lane, alley, public ground, square or other public place, or constructing and opening, altering, enlarging or extending any such drains, canals or sewers, or altering, widening or straightening any such watercourse, but shall not enter upon any such land therefor until the owner be paid in full or the damage be set apart for him in the hands of the treasurer, and an order therefor lawfully executed to him be deposited with the recorder to permanently remain subject to his order. In case there shall be any doubt as to who is entitled to such compensation or damages, or any part of the same, the amount so awarded shall be set apart in the city treasury for whoever shall be entitled thereto, and paid over to the person or persons who shall show a clear right to receive the same. At any time before causing any such land to be actually taken or put to public use, and before the rendition of a judgment in the district court for damages, the city council may discontinue all proceedings therefore taken, and the city shall in such event be liable for the cost only. All the cost of every such proceeding shall be paid by the city, except when it recover costs in the district court or supreme court. Fees and costs shall be the same as in civil action.

SEC. 6. *Taxes for the Expenses and Damages—How Levied.*—For the purpose of payment of the expenses, including all damages and costs incurred for the taking of private property, and of making any improvement mentioned in last preceding section, the city council may, by resolution, levy and assess the whole, or any part not less than one-half ($\frac{1}{2}$) of such expenses as a tax upon such property as they shall determine is especially benefited thereby, making therein a list thereof in which shall be described every lot or parcel of land so assessed, with the name of the owner thereof, if known, and the amount levied thereon set opposite.

Such resolution, signed by the mayor and recorder, shall be published once in each week for two (2) weeks in a newspaper printed regularly in such city, or if there be no such newspaper, three (3) copies thereof shall be posted by the recorder in three (3) of the most public places in such city, and a notice therewith that at a certain time therein stated the said council will meet at their usual place of meeting and hear all objections which may be made to such assessment, or to any part thereof. At the time so fixed, the said council shall meet and hear all such objections, and for that purpose may adjourn from day to day not more than three (3) days, and may, by resolution, modify such assessment in whole or in part. At any time before the first (1st) day of September thereafter any party liable may pay any such tax to the city treasurer. On such first (1st) day of September, if any tax remains unpaid, the recorder shall certify a copy of such resolution to the county auditor, showing that taxes thereby levied remain unpaid; and the county auditor shall put the same upon the tax roll, in addition to and as a part of all other city taxes therein levied on such land, to be collected therewith.

CHAPTER IX.

STREETS, SIDEWALKS, BRIDGES AND SPECIAL ASSESSMENTS.

SECTION 1. *Power Over Streets, Public Grounds, Etc.*—The city council shall have the care, supervision and control of all highways, bridges, streets, alleys, lanes, public parks, public squares and public grounds within the limits of the city, and shall have power to build and keep in repairs bridges and alleys, and lay out, open and alter public squares, parks, lanes, public grounds, streets, highways and alleys, and to extend, narrow, widen or straighten the same, and to purchase, hold and convey lands in fee simple, and to take grounds for the sites of public buildings and public parks, subject to the assessments of damages hereinbefore provided.

SEC. 2. *Road Districts—Duties of Street Commissioners.*—Said city shall constitute one (1) road district, and the streets and highways shall be under the exclusive care and supervision of the city council, and the powers and duties of the street commissioner shall be the same as those of road overseers under the laws of this state, except as herein otherwise provided.

SEC. 3. *Grades of Streets.*—The city council shall have power to establish the grade of any street when such grade has not been established, and may, by vote of four-fifths ($\frac{4}{5}$) of the members of the council change the grade of any street after such grade has been established. It shall cause accurate profiles of the grades of all streets to be made and kept in the office of the city recorder.

SEC. 4. *Work Done Under Contract—When.*—All work done pursuant to the provisions of this chapter calling for an expenditure of one hundred (100) dollars or more, shall be done under contract. A public notice shall be given and proposals invited for doing the same in such manner as the council shall direct.

SEC. 5. *Expense of Grading Streets, Etc.*—The expense of filling, grading, planking and macadamizing streets, highways and alleys, and of constructing and repairing sewers, gutters and ditches, shall be chargeable to the lots or parcels of land abutting upon such streets,

highways, alleys, sewers, gutters and ditches in proportion to the frontage, without reference to the value of the land.

SEC. 6. *Proceedings Under Petition.*—Whenever a petition of the owners of more than one-half ($\frac{1}{2}$) of the land abutting on any street, highway or alley, or any part thereof, or of the owners of more than one-half ($\frac{1}{2}$) of the land abutting on any street, highway or alley, or any part thereof, in or under which it is proposed to construct or repair any sewer, gutter or ditch, shall be presented to the city council, requesting that they shall fill, grade, plank, or macadamize any such street, highway, alley, or any part thereof, or construct or repair such sewer, gutter or ditch, at the next meeting thereafter, or as soon as may be, such council shall pass a resolution ordering that such street, highway, alley, sewer, gutter or ditch shall be filled, graded, planked, paved, macadamized, constructed or repaired as requested in said petition, and shall file such order in the office of the city recorder. Both said petitions and said order shall be recorded in the records of the city. The city council shall thereupon cause plans and specifications of the work to be done to be made and filed in the office of the city recorder for the use of all persons interested, and thereupon the recorder shall give public notice that at a time stated the city council will meet at its usual place of meeting, and receive sealed bids for the performance of such work. Such sealed bids shall be left with the city recorder. At the time stated in the notice the city recorder shall open all bids in the presence of the council, and the city council shall consider the same, but shall have the right reject any or all bids. In case a bid is accepted the city council shall enter into a contract in writing with the person or persons whose bid is so accepted for the performance of such work, and the council may require a bond for the performance of the contract. The city council shall, as soon thereafter as may be, by resolution, levy a special tax or assessment sufficient to cover the contract price of the work, upon all the land abutting upon the work to be done, and upon each piece or parcel thereof, in proportion to the frontage. The city recorder shall thereupon cause a notice to be published in the official paper of the city, if there is one, and if not, then in any newspaper in the county. Such notice shall state the fact of the levy of such special tax or assessment, the amount levied upon each lot or parcel of land, and the names of the owners, if known. The notice shall be published three (3) times; and shall further state that the persons liable to such tax or assessment may pay the same at any time within six (6) weeks from the date of said notice to the city treasurer. At the time of publishing such notice the city recorder shall deliver the assessment roll to the city treasurer. At the end of six (6) weeks the treasurer shall return the assessment roll to the city recorder, showing what taxes have been paid and what remain unpaid. The city recorder shall, before the first (1st) day of October following, or at such time as may be required by the laws of this state, certify to the county auditor the description of lots or parcels of land upon which such special tax has not been paid, the amount of tax due on each, and the names of the respective owners, if known. The city recorder shall add a penalty of ten (10) per cent on all such taxes so certified to the county auditor. Such taxes so certified shall be entered and collected in the same manner that state and county taxes are collected, and when collected shall be paid over to the city treasurer.

SEC. 7. *Proceedings Without Petition.*—The city council may, by an affirmative vote of four-fifths ($\frac{4}{5}$) of all the members elected, by resolution, order that any street, highway or alley, or any part thereof, shall be filled, graded, paved, macadamized, or otherwise improved, or that any sewer, gutter or ditch shall be built or repaired without petition. When any such order has been made by the city council and recorded, all subsequent proceedings in the matter shall be the same as in case where a petition of owners of more than one-half ($\frac{1}{2}$) of the abutting property is presented to the council.

SEC. 8. *Railroad Company not to Obstruct Streets.*—No railway company or street railway company shall have any right, in clearing their tracks through any part of said city or otherwise, to pile up snow or other material and leave the same piled upon any traveled portion of any street in said city. And any such company shall be liable to any person, who shall be injured by means of any such obstruction caused by such company or its servants, for all damages sustained; and in case any damages shall be recovered against the city for injuries caused by such obstructions, the city shall have the right to recover the same from the company by whom the obstruction was caused.

SEC. 9. *No Liability for Insufficiency of Streets—When.*—The acceptance of plats of additions of any grounds or subdivisions thereof, either within or without the limits of said city, shall not make the city liable to grade the streets therein designated, nor responsible for any insufficiency of such streets until the city council shall direct the same to be graded and open for travel.

SEC. 10. *Vacating Streets—Exclusive Power of Council.*—The city council of said city shall have the sole and exclusive power to vacate or discontinue public grounds, streets, alleys and highways within said city. No such vacation or discontinuance shall be granted or ordered by the city council except upon the petition of one or more residents and freeholders in said city; such petition shall set forth the facts and reasons for such vacation, accompanied by the plat of such public grounds, streets, alleys or highways, proposed to be vacated, and it shall be verified by oath of the petitioners. The city council shall thereupon, if they deem it expedient that the matter shall be proceeded with, order the petition to be filed of record with the city recorder, who shall give notice by publication in the official paper of the city for four (4) successive weeks at least once a week, to the effect that such petition has been filed as aforesaid, and stating in brief its object and that said petition will be heard and considered by the city council, or a committee appointed by them, on a certain day and place therein specified, not less than ten (10) days from the expiration of said publication. The city council or such committee as may be appointed by them for the purpose, at the time and place appointed, shall investigate and consider the said matter, and shall hear the testimony and evidence on the part of the parties interested. The city council shall thereupon after hearing the same, or upon the report of such committee in favor of granting such petition, may, by an order passed by a four-fifths ($\frac{4}{5}$) vote of all the council members elect, declare such public grounds, streets, alleys or highways, vacated, which said order, after the same shall go into effect, shall be published as in case of ordinances, and thereupon a transcript of such order, duly certified by the city recorder, shall be filed for record and duly recorded in the office of the register of deeds of the county of Marshall.

SEC. 11. *Appeal Vacating Street.*—Any person feeling aggrieved by such vacation or discontinuance may, within twenty (20) days after the publication thereof, by notice in writing served on the mayor of said city, a copy whereof, with proof of service thereof, shall be filed in the office of the clerk of the district court of the county of Marshall, appeal to said court from such vacation or discontinuance, where such appeal shall be tried by the court and jury as in ordinary cases, and the judgment of which court shall be final. It shall be the duty of the city recorder, as soon as such appeal is taken, to transmit to the proper court a certified copy of the record of all proceedings in the case at the expense of the appellant. Such appeal shall be entered and brought on for trial and be governed by the same rules in all other respects as appeals from justices of the peace in civil suits, except that no pleadings shall be required.

SEC. 12. *Plat of Vacated Streets Filed with the Register of Deeds.*—Whenever any highway, street, alley or public ground is laid out, widened, narrowed or enlarged, or any of the same are vacated or discontinued under the provisions of this act, the city council shall cause an accurate survey and plat thereof to be made and filed in the office of the register of deeds of Marshall county.

SEC. 13. *Right of Way Over Streets.*—The city council shall have the power and authority by a vote of four-fifths ($\frac{4}{5}$) of all the members of the city council, to grant the right of way upon, over and through any of the [public] streets, highways, alleys and public grounds of said city to any railway company or other corporation, upon such limitations and conditions as they may prescribe by ordinance.

SEC. 14. *Sidewalks—Grades of.*—The city council may cause to be established, from time to time, and as rapidly as the convenience of the inhabitants may require, the grade of all sidewalks in said city, and it shall cause accurate profiles thereof to be made and kept in the office of the city recorder.

SEC. 15. *Right to Order Built—Repaired—Notice to Owner.*—Whenever the city council shall deem it necessary to construct, relay or repair any sidewalk in said city, they shall require the street commissioner to notify all owners and occupants of any lot or lots or parcels of land adjoining such sidewalk, to construct or repair the same at his or their own proper expense and charge, within a time designated by the city council in a written notice to be served upon said owner if he be a resident of said city, personally, or by leaving a copy thereof at his usual place of abode in said city with some person of suitable age and discretion; and, if the said owner be not a resident of said city, or if the owner of any such lot or lots or parcels of land be unknown, then such notice shall be served by publication thereof in the official paper of [said] city for not less than two (2) successive weeks, every such notice to set forth what work is to be done, and the character thereof, by each owner or occupant. Said written notice shall be signed by the mayor and city recorder.

SEC. 16. *Sidewalk—How Built when Owner Fails to do so.*—If such work is not done and said sidewalk not built or repaired in the manner and within the time specified, the city council may order the same to be done by the street commissioner at the expense of the lots and parcels of land adjoining said sidewalks. The street commissioner shall keep accurate account of all the work and expenditures, and make a verified and itemized and separate report thereof for each lot

and parcel of land to which the sidewalk so constructed, relaid or repaired adjoins, and within a reasonable time after the said work is completed, file and report with the city recorder. Said expense shall be assessed upon such lots and parcels of land so chargeable, by the city council, in such manner that each lot and parcel shall be charged with the whole expense of the sidewalk adjoining thereto, and said assessment so made shall become a lien upon said lots and parcels of land, as in case of city, county, and state taxes.

SEC. 17. *Statement of Taxes Levied—Transmitted to Auditor.*—If said assessment with interest be not paid to the city recorder on or before the twentieth (20th) day of September in any year, the city council shall cause a statement of the same to be transmitted, with the city taxes levied for that year, to the auditor of the county, on or before the first (1st) day of October in each year, and the said auditor shall insert the same with [the] other taxes in the duplicate statement of taxes annually transmitted by him to the county treasurer for collection, and payment thereof shall be enforced with and in like manner as city, county and state taxes are collected, and payment thereof enforced.

SEC. 18. *Prescribe Width of Sidewalk—Material.*—The city council shall prescribe the width of sidewalks, and may establish different widths in different localities, and determine the kind, dimensions and quality of the material of which they shall be constructed, having regard to the business and [the] amount of travel in the vicinity of each.

SEC. 19. *Expense—What to Include.*—The expense of constructing or repairing sidewalks in said city shall include all stone work, blocks, support, excavation or filling, to make the same upon established grades.

SEC. 20. *If Owner Builds—Subject to Approval.*—All sidewalks constructed or repaired by the owner or occupant of any lot or parcel of land in pursuance of notice under this act, or without such notice, shall be subject to the approval of the city council.

SEC. 21. *Sidewalks—How Maintained.*—It is hereby made the duty of all owners of lands adjoining any highway, street, lane or alley in said city to maintain in good order and repair such sidewalks along the side of the street, lane, alley or highway next to and adjoining the land of such owners respectively as may have been heretofore constructed, or as shall hereafter be constructed; but if the said owners fail to do so, then the city council may proceed to repair such sidewalks in the manner hereinbefore set forth.

SEC. 22. *Liability for Insufficient Sidewalks.*—It shall not only be the duty of all the owners of land within said city to keep in good order and repair all sidewalks constructed or existing, or that shall hereafter be constructed or exist along or abutting upon their respective lots or parcels of land, but such owners are hereby declared to be liable for all damages, to whomsoever resulting, arising from their fault or evident neglect in not keeping any such sidewalk in good repair and in a safe passable condition; and no action shall be commenced or maintained against the city of Warren by any person injured through or by means of any defect in any sidewalk, unless the owner of the land along which such sidewalk is so defective is joined in said suit as a party defendant; and in case of judgment against the defendant in such action, execution shall at first issue only against the defendant owning such land, and the city shall not be required to take steps to pay such judgment until such execution

shall be returned unsatisfied; and if said city shall pay such judgment it shall become the owner of the same and may enforce payment thereof from the other defendant, and shall be entitled to execution therein against him, and to take such other proceedings as judgment creditors are entitled to.

SEC. 23. *Liabilities for Obstructions and Excavations in Streets.*—All persons who shall by means of any excavations or any obstruction upon any street or alley of said city, not authorized by law or the ordinances of said city, render such streets or alleys unsafe for travel, or who shall by negligence in the management of any such excavation or obstruction as shall be authorized, or by failure to maintain proper guards or lights thereat, render such street insufficient or unsafe for travel, shall be liable for all damages not caused by the negligence of the party injured, to whomsoever resulting by reason of such obstruction or negligence, and no action shall be maintained against said city for such damages, unless such person or persons shall be joined as party defendant; and in case of judgment against the defendants in such action, execution shall at first issue only against the defendant causing such insufficiency, and the city shall not be required to take steps to pay such judgment until the execution shall be returned unsatisfied, and if the city shall pay such judgment it shall become the owner thereof, and may enforce payment of the same from the other defendant or defendants, and shall be entitled to execution therein, against him or them, and to take such other proceedings as judgment creditors are entitled to take.

SEC. 24. *Service Upon Absent Defendant.*—Whenever any party is joined with said city as codefendant in any action for the insufficiency of any sidewalk, street or alley, and such party is not a resident of and cannot be found within the state, service of the summons in such action may be made upon such defendant upon like evidence and in the same manner as is prescribed by general law for service by publication in other actions.

SEC. 25. *Limitation of Actions.*—No action shall be maintained against the city of Warren on account of any injuries received by means of any defect in the condition of any bridge, street, alley, sidewalk or thoroughfare unless such action shall be commenced within one (1) year from the happening of the injury, nor unless notice shall have first been given in writing to the mayor of said city or the city recorder thereof, within ninety (90) days of the occurrence of such injury or damage, stating the place where, and time when, such injury was received, and the person so injured will claim damage of the city for such injury; but the notice shall not be required when the person injured shall in consequence thereof be left of reason. Nor shall any such action be maintained for any defect in any street or alley until the same shall have been graded and open for travel, nor for any insufficiency of the ground where sidewalks are usually constructed when no sidewalk is built.

SEC. 26. *Assessments Not Set Aside for Irregularity, Etc.*—No assessment in this chapter provided for shall be set aside or held invalid by reason of any informality or irregularity in the proceedings prior to the entry thereof on the tax lists of the auditor of said county as herein required, unless it shall appear that by reason of any such irregularity or informality, an injustice has been done to the parties or party claimed to be aggrieved.

SEC. 27. *City May Bear Part of the Expenses.*—In any case the city council shall deem that a part of the expenses of doing any work provided for in this chapter should be borne by the city at large, they may by resolution order that a part of the expenses shall be paid out of the city treasury, but no such appropriation amounting to five hundred (500) dollars or more shall be made unless by a four-fifths ($\frac{4}{5}$) vote of all the members of the council in its favor, which vote shall be taken by ayes and noes, and entered among the proceedings of the council.

CHAPTER X.

MISCELLANEOUS PROVISIONS.

SECTION 1. *City of Warren Successor to Village of Warren.*—The city of Warren is hereby declared to be the legal successor of the village of Warren, a municipal corporation heretofore existing under the general laws of this state. All of the property of the said village of Warren shall hereafter belong to and be the property of said city of Warren, and the rights of the creditors of such village of Warren shall not be prejudiced by anything contained herein, but the same are preserved to them and they shall have the same rights and remedies against said city as they would have had against said village of Warren, if this act had not been passed.

SEC. 2. *This Act not to Affect Prior Instruments, Etc.*—All recognizances, obligations, and all other instruments entered into or executed to the village of Warren before this act goes into effect, and all fines, taxes, penalties and forfeitures due or owing to the said village of Warren, and all writs, prosecutions, actions and causes of action, except as herein otherwise provided, shall continue and remain unaffected by this act going into operation.

SEC. 3. *Ordinances of Village to Remain in Force.*—All ordinances in force in the village of Warren at the time this act goes into effect, and not inconsistent herewith, shall remain in full force and effect until altered or repealed by the city council of the city of Warren, and all rights, actions, prosecutions, and all contracts of the village of Warren shall continue the same as if this act had not been passed.

SEC. 4. *Warren to Pay Its Share of the Bonded Indebtedness of Warrenton.*—The village of Warren being a part of the town of Warrenton, the bonded indebtedness of the town of Warrenton, at the time of this act shall take effect, shall be borne by said village of Warren and the said town of Warrenton in proportion to the value of taxable real property of said village of Warren and the said town of Warrenton respectively, as shown by the last general assessment of said Marshall county for purpose of taxation, and the proportion of such indebtedness belonging to the city of Warren to pay shall be paid to the treasurer of said town of Warrenton on or before the said bonded indebtedness becomes due, with interest to date of payment, to be by him applied on the payment of the said bonded indebtedness.

SEC. 5. *Warren Authorized to Issue Bonds to Pay Share of Bonded Indebtedness of Warrenton.*—For the purpose of meeting its proportion of the indebtedness of said town of Warrenton, as aforesaid, and of funding its floating debts, the said city of Warren is hereby authorized to issue its bonds, bearing seven (7) per cent interest, and pay-

able in ten (10) years in a sum not exceeding two thousand dollars (\$2,000).

SEC. 6. *Public Act.*—This act is hereby declared to be a public act and may be read in evidence in all the courts within this state without proof.

SEC. 7. *Plats, Papers, Etc., to be Filed in Recorder's Office.*—All papers, files, plats, and other public records to be kept, preserved and filed, unless otherwise provided for in this act, shall be placed on file and preserved in the office of the city recorder; except this shall not apply to plats now on record in the register of deeds office for said county.

SEC. 8. *Laws Not to Affect this Act.*—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 clearly set forth in such law.

SEC. 9. *Process—How Served Against City.*—When any suit or action shall be commenced against said city, service of process therein shall be made by leaving a copy thereof, by the proper officer, with the mayor or recorder, and it shall be the duty of the mayor or recorder forthwith to inform the city council thereof, and to take such other proceedings as by the ordinances or resolutions of the city council may have been in such case provided.

SEC. 10. *Actions to be in Name of City.*—All actions 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. 11. *City Not Liable for Board of Prisoners in State Cases.*—The city of Warren shall not be liable in any case for the jail fees of any person committed to the common jail of Marshall county by any officer of the city or a magistrate of said city for offenses punishable under the general laws of the state.

SEC. 12. *City Property Exempt.*—The public property of said city shall be exempt from seizure or sale on execution and from taxation.

SEC. 13. *Inhabitants not Incompetent as Jurors, Etc.*—No person shall be an incompetent judge, justice of the peace, witness or juror by reason of his being an inhabitant of said city in any proceeding or action in which the city shall be a party in interest.

SEC. 14. *City of Warren Separated From Town of Warrenton.*—The city of Warren shall be entirely separated from the said town of Warrenton, whose organization shall, upon the passage of this, cease to exist within the limits of said city of Warren.

SEC. 15. *Prosecutions—How Instituted.*—In all prosecutions for any violation of this act, the first process shall be by warrant on complaint being made; *Provided*, that no warrant shall be necessary in any case of the arrest of any person or persons while in the act of violating any law of the State of Minnesota, ordinance or by-law of said city; may be directed to the chief of police or any police officer of said city, or as generally directed under the laws of this state, but may be served by any person authorized by law to serve process in the county of Marshall.

SEC. 16. All acts or parts of acts inconsistent with this act are hereby repealed.

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

Approved April 3, 1891.