

SEC. 9. All acts and parts of acts inconsistent with this act are hereby repealed; but all ordinances, resolutions and by-laws heretofore made and established by the trustees of the village and not inconsistent with this act shall remain in force until amended, altered and repealed by them, and the board of trustees may, from time to time, provide for the compilation and publication of the ordinances of the village and such resolutions as they may designate.

SEC. 10. When any suit or action shall be commenced against the village, service thereof may be made by leaving with the president of the board a copy of the process by the proper officer, and it shall be the duty of the president to forthwith notify the board and the village attorney (if there be one appointed) thereof, and to take such further proceeding as the board may direct by ordinance or resolution.

SEC. 11. Notwithstanding the supersedure or repeal by this act of the act incorporating the village of Reads and acts amendatory thereof, it is not intended that any rights vested shall be lost hereby, but in all cases affecting past taxes not yet collected, liens for the same, rules of evidence, claims against the village, right of eminent domain, mode of levying, assessing and collecting taxes, mode of procedure in actions brought to recover any penalty or damages, the time of opening and closing the polls at elections, the laying out, opening, widening, extending, repairing, grading and improving streets, and all rights of every kind inchoate or perfected, the provisions of such acts as are hereby suspended or repealed, and of all ordinances heretofore passed by the trustees of said village shall be deemed to continue in force unless specifically altered or repealed by this act.

SEC. 12. This village charter shall be a public act, and need not be pleaded in any case or action or proceeding in any of the courts of this state.

SEC. 13. This act shall take effect and be in force from and after its passage.

Approved January 29, 1891.

CHAPTER 52.

[H. F. No. 796.]

AN ACT TO AMEND, CONTINUE AND CONSOLIDATE INTO ONE ACT THE CHARTER OF THE CITY OF WASECA AND CHAPTER ONE HUNDRED AND SEVENTEEN (117) OF THE SPECIAL LAWS OF THE STATE OF MINNESOTA FOR THE YEAR ONE THOUSAND EIGHT HUNDRED AND EIGHTY-FIVE (1885), ESTABLISHING A MUNICIPAL COURT IN THE CITY OF WASECA, AND ACTS AMENDATORY THEREOF AND OF EACH THEREOF.

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

SECTION 1. That the act entitled "An act to incorporate the city of Waseca," being Chapter forty-seven (47) of the Special Laws of the State of Minnesota, for the year one thousand eight hundred and

eighty-one (1881), and the act entitled "An act to be entitled 'an act to establish a municipal court in the city of Waseca,'" being Chapter one hundred seventeen (117) of the Special Laws of the State of Minnesota, for the year one thousand eight hundred and eighty-five (1885), and the subsequent acts of the legislature amending the same, and each thereof, are hereby consolidated, amended and continued so that the same shall constitute the charter of the said city of Waseca and be and read as follows:

CHAPTER I.

CITY BOUNDARIES.

SECTION 1. All that part of the county of Waseca, in the state of Minnesota within the limits and boundaries hereinafter described, shall be a city, and, with the people now and hereafter inhabiting such territory, shall be a municipal corporation known and called "The City of Waseca," and shall have the general powers possessed by municipal corporations at common law, and in addition thereto shall possess the powers hereinafter specially provided; shall be capable of contracting and being contracted with, of suing and being sued in all courts; may have a common seal and may alter and change the same at pleasure; may take, hold, purchase, lease and convey such real, personal or mixed estate as the purposes of the corporation may require.

SEC. 2. The following described territory shall constitute the city of Waseca:

The south one-half ($\frac{1}{2}$) of sections seven (7) and eight (8), and the north half ($\frac{1}{2}$) and the north half ($\frac{1}{2}$) of the southwest quarter ($\frac{1}{4}$) of section seventeen (17), and the northeast quarter ($\frac{1}{4}$) and the east one-half ($\frac{1}{2}$) of the northwest quarter ($\frac{1}{4}$) and the northeast quarter ($\frac{1}{4}$) of the southeast quarter ($\frac{1}{4}$) of section eighteen (18), all in township one hundred and seven (107) north of range twenty-two (22) west.

SEC. 3. Ward Boundaries.—That the said city shall be divided into three (3) wards, to be called the First (1st), Second (2d) and Third (3d) wards, and be described and bounded as follows:

First Ward—All that part of said city lying north of a line described as follows, to-wit: Commencing at the southwest corner of section seven (7) of township one hundred and seven (107) north of range twenty-two (22) west, thence east on the south line of said section to the main track of the Minneapolis and St. Louis Railway, thence south along the main track of said railway to the centre of Oak street in Trowbridge's addition, thence east along the centre of Oak street through Trowbridge's addition and the original plat of the village (now city) of Waseca to Second street of said original plat, thence north along the centre line of Second street of said original plat to Lake avenue, thence east along the centre line of Lake avenue in the original plat and First and Lakeside additions, shall constitute the First (1st) ward.

Second Ward—All that part of said city lying east of the centre line of Second street and south of the First (1st) ward and north of a line described as follows: Commencing at the intersection of Oak and Second streets of the original plat of the village (now city) of

Waseca, thence east along the centre line of Oak street to First addition of the village (now city) of Waseca, thence south along the centre line of Sixth street to the main track of the Winona and St. Peter Railroad, thence east along the main track of said railroad to the eastern boundary of said city, shall constitute the Second (2d) ward.

Third Ward—All the remainder of the territory within the limits of said city shall constitute the Third (3d) ward.

SEC. 4. *Elections.*—There shall be an annual city election for elective officers held on the first (1st) Tuesday of April of each year, at such place in each ward as the common council may designate. And if in any ward there shall not be a suitable place for holding such election, the common council may designate a place in an adjoining ward; but the same place shall not be designated for more than one (1) ward.

The polls shall be kept open from nine (9) o'clock in the forenoon until five (5) o'clock in the afternoon, and notice shall be given of the time and places of holding such election, in said city, as is or may be required by the general laws of the state of Minnesota, and should there be any failure to hold such election the common council shall immediately order a special election.

SEC. 5. Such city elections shall be held and conducted in the manner provided for holding elections by the general laws of the state of Minnesota, and all laws of the state of Minnesota relating to general elections shall apply to and govern elections of said city so far as the same can be made applicable, and said elections shall be conducted pursuant to the requirements of said laws; *Provided, however,* that no person shall be qualified to act as judge of an election at which he is a candidate for any office.

SEC. 6. When the city election shall be closed the votes for each person voted shall be counted, the judges shall make sealed returns thereof on the day of election to the recorder, stating in such returns the number of votes for each person for each and every office, and the common council shall meet and canvass said returns and declare the result within two (2) days thereafter, and the recorder shall forthwith notify the officers elected of their election.

SEC. 7. Special elections may be ordered by a resolution of the common council, and shall be called and conducted and returns made and the votes canvassed in the same manner as provided in the last three (3) sections; *Provided,* that the common council of said city shall, at any time, upon the written petition of thirty (30) or more legal voters and freeholders of said city, order that a special election be held in said city whereat the proposal to issue any bonds mentioned in this act or any act relating to the city of Waseca may be submitted to the legal voters of said city; *And provided further,* that special elections, called for the purpose of submitting the proposal to issue bonds provided for in this act or any act relating to the city of Waseca, shall be conducted by the common council of the city of Waseca, or a majority thereof, who shall be judges of such election, and notice of such election shall be given by the recorder of said city by posting such notice in three (3) public places in said city at least ten (10) days before such election, and by publication of such notice in the official paper of said city at least ten (10) days before such election. Such notice shall state the fact that such election has been ordered, the object thereof, the polling place for holding such election and the time when such election will be held; and the common coun-

cil shall also determine the manner of voting and conducting and canvassing the ballots cast at such election; and for such election the whole city shall constitute one (1) election district, and no other requirements than as in this section and by said common council designated shall be necessary to constitute a valid election for such purposes, and a majority vote of all the votes cast shall be sufficient to authorize the issuing of any such bonds.

SEC. 8. All elections shall be by ballot, and each ballot shall contain the name of each person voted for, with a proper designation of the office, and a plurality of votes shall constitute an election.

When two (2) or more candidates for an 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 common council, at such time and in such a manner as they shall direct.

SEC. 9. All persons entitled to vote for state or county officers, and who have resided in the ward where they offer to vote for ten (10) days immediately preceding such election, shall be entitled to vote.

SEC. 10. Each ward in said city shall constitute one (1) election district for all general elections, and the mode of conducting, canvassing and returning the results of such elections shall be in the manner provided by the general laws of the state of Minnesota for such elections, and the judges of election for such election districts shall perform such duties both in the conducting of elections and in the registration of persons entitled to vote, as are required by the general laws of the state of Minnesota applicable to general elections.

SEC. 11. Any officer who shall neglect, for one (1) week after his election, to qualify as such officer, or who shall remove from the city, or ward, if an alderman, shall be deemed to have vacated his office, and any vacancy in the office of mayor shall be filled by special election, and any vacancy in any other elective office (except the office of judge of the municipal court) may be filled by the common council, and the person so elected by the common council shall hold his office until the next general city election, and the person then elected to fill the vacancy shall hold his office for the unexpired term.

SEC. 12. *Officers—Their Powers and Duties.*—The elective officers of the city shall be a mayor, judge of the municipal court, an assessor and constable, who shall be qualified electors of said city, and two (2) aldermen from each ward, who shall be qualified electors thereof.

The mayor and assessor shall hold their office for one (1) year and the judge of the municipal court, constable and aldermen shall hold their offices for two (2) years; *Provided*, that the official term of the present officers of said city shall not be changed by the passage of this act; *And provided further*, that the term of all offices, except to fill a vacancy, shall commence on the second (2d) Tuesday of April, and each officer shall hold his office until his successor is elected or appointed and qualified.

SEC. 13. The appointive officers shall be a recorder, treasurer, attorney, surveyor, street commissioner, marshal, and such other police officers as the common council shall designate.

They shall be appointed by the mayor, by and with the advice and consent of the common council, and shall hold their office for one (1) year, unless removed as hereinafter provided.

The recorder, treasurer, attorney, surveyor and street commissioner shall be removable at any time by the mayor, by and with the consent

of the common council, and the marshal, police officers and other appointive officers shall be removable at any time by the mayor.

SEC. 14. Every person elected or appointed to any office shall, before he enters upon the duties of such office, take and subscribe to an oath of office and file the same with the recorder, and the treasurer, judge of the municipal court, constable and street commissioner, and such other officers as the common council may direct, shall severally, before he enters upon the duties of his office, execute a bond to the city, in such reasonable sum as the common council may direct, not exceeding eight thousand dollars (\$8,000), conditioned for the faithful discharge of his duties, which bond shall be approved by the mayor and filed with the recorder.

SEC. 15. *Mayor.*—The mayor shall take care that the laws of the state and the ordinances of the city are duly observed and enforced, and that all the appointive officers discharge their respective duties. He shall, from time to time, give the common council such information and recommend such measures as he may deem advantageous. He shall be chief executive officer and head of the police of the city, and may, from time to time, appoint as many temporary police officers as he may deem necessary, but such temporary appointments shall not continue for more than one (1) week without the consent of the council; he 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 at such places as may be designated in such appointment, but such limited policemen shall not exercise any police authority nor wear any official badge outside of the limits named in such appointment. And in case of a tie vote in the common council upon any measure, when all the aldermen are present and voting, he shall be called in and may vote with the common council upon the question upon which the vote is a tie.

All ordinances and resolutions, before they take effect, shall be presented to the mayor, and, if approved, he shall sign the same, and such as he shall not approve he shall return to the common council with his objections thereto in writing, and if the common council, at their next meeting thereafter, shall pass the same by a vote of five-sixths ($\frac{5}{6}$) of all the aldermen, it shall have the same effect as if approved by the mayor, and in such case the vote shall be by yeas and nays which shall be entered in the records by the recorder.

If any ordinance or resolution shall not be returned by the mayor to the common council within five (5) days after it shall have been presented to him the same shall have the same effect as if approved by him.

SEC. 16. *Recorder.*—The recorder shall keep his office at the place of meeting of the common council, or such other place as the common council shall direct; he shall keep the corporate seal and all the papers and records of the city, and keep a record of the proceedings of the common council, at whose meetings it shall be his duty to attend; he shall draw and countersign all orders on the treasurer authorized by the common council, and keep a full and accurate account thereof; he shall have power to administer oaths and take acknowledgments of deeds and other papers; he shall report the financial condition of the city whenever required by the common council, and shall keep a list of all outstanding bonds.

He shall report annually to the common council at such times as directed an estimate of the expenses of the city and the revenue necessary to be raised for the current year, and shall countersign all contracts made in behalf of the city. He 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.

He shall receive and file chattel mortgages, and all chattel mortgages executed by residents of or upon property within the city shall be filed with him.

He shall perform such other duties as may be required by this act or the common council, and shall receive such compensation as the common council shall determine, not exceeding one hundred and fifty dollars (\$150).

SEC. 17. The attorney 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 common council or mayor, and shall receive such compensation as shall be determined by the common council.

SEC. 18. The treasurer shall receive all moneys belonging to the city, including license money and fines, and pay out the same only upon orders signed by the mayor and countersigned by the recorder, and shall keep accurate and detailed account of all moneys received and paid out.

He shall make duplicate receipts from books provided for such purpose by the city for all moneys received by him, one of which he shall file with the city recorder and furnish one to the party paying the same. He shall exhibit to the common council, at least ten (10) days before the annual city election, or sooner, if required by them, a full and accurate copy of his accounts, which shall be filed with the recorder, and a copy thereof shall be published, at least four (4) days before the annual city election, in the official paper.

SEC. 19. The marshal and police officers shall perform such duties as shall be prescribed by the common council for the preservation of the public peace and safety of the city, shall be under the direction of the mayor, and may serve all writs and processes whatsoever issued out of the municipal court of said city or by any justice of the peace of said Waseca county, and in addition to their others powers shall have and possess all the powers possessed by constables under the general laws of the state of Minnesota, and shall have power to pursue and arrest any person fleeing from justice in any part of the state, and the city marshal shall be *ex officio* chief of police of said city.

SEC. 20. *Street Commissioner.*—The street commissioner shall render his personal services and perform labor in repairing the streets of the city and, under the direction of the common council and mayor of said city, superintend the grading and improving of the streets and alleys and the building and repairing of sidewalks and the expenditure of taxes levied and collected for such purposes, and shall have the same supervision over the streets and alleys and discharge the same duties as are by law imposed on overseers of highways by the general laws of the state of Minnesota.

SEC. 21. *Assessor.*—The assessor shall have and possess all authority, rights and powers and be governed by the general laws of the state of Minnesota relating to assessors generally, and upon the completion of the assessment roll he shall return the same to the common

council, who may alter, revise and equalize the same as they may deem just and proper, and said assessment so revised and equalized shall be final, subject only to the revision of the state board of equalization.

He shall receive such compensation as is by law provided for the payment of township assessors.

SEC. 22. The judge of the municipal court shall have and possess all authority, rights and power conferred by chapter two (2) of this act, and in addition thereto shall have and possess power, in all criminal actions within his jurisdiction when the punishment is by imprisonment or by imprisonment in default of the payment of fine, to sentence any offender to hard labor in any workhouse established by the city for that purpose, or in case of male offenders to sentence them to hard labor on any public work or improvements in said city in like manner and under like qualifications as hereinafter provided. In cases of offenses against city ordinances and in all prosecutions for criminal offenses, whether against the laws of the state or the ordinances of the city, he shall have power, in addition to the fines and punishments imposed, to compel such offenders to give security to keep the peace or be of good behavior for a period of not exceeding six (6) months in any sum not exceeding five hundred dollars (\$500).

All fines collected for offenses committed within the city shall belong to and be a part of the finances of the city, and as soon as collected shall be paid over to the city treasurer.

All criminal prosecutions for the violation of any city ordinance, by-law or resolution shall be conducted in a summary manner before the judge of the municipal court, in which the "City of Waseca" shall be plaintiff and the accused the defendant, and in all convictions for any such violation the offender may be punished by fine or imprisonment, or both fine and imprisonment, or as otherwise in this charter provided, in the discretion of the said judge, in accordance with the laws and ordinances of said city.

SEC. 23. The constable shall have all the powers, perform all the duties, be subject to the same liabilities and receive the same fees as a constable elected under the general laws of the state of Minnesota; *Provided*, that no person elected to the office of constable shall be appointed as marshal or other police officer.

SEC. 24. The surveyor shall keep his office in some convenient place in said city, and the common council shall prescribe his duties and fix the fees and compensation for any services performed by him.

All surveys, profiles, plans and estimates shall be the property of the city and shall be filed with the city recorder.

SEC. 25. The common council at their first (1st) meeting after each annual city election shall advertise for proposals to do city printing by giving such notice as they shall direct.

The bids received shall be publicly opened and read at such time and place as the common council shall direct, and the person offering to do such printing for the lowest sum in any newspaper published in said city shall be declared to be the city printer for the ensuing year, and all ordinances, resolutions, reports and other proceedings required to be printed shall be printed therein; *Provided*, that if no person shall offer to do such printing for a rate not greater than now provided by statute for legal advertisements, the common council may make such other provision for the city printing as it may see fit.

· SEC. 26. The common council shall, from time to time, prescribe the duties and compensation of any other officer not provided for in this act as it may seem fit, and may prescribe any other duties in addition to those prescribed by this act to be performed by any officer except the mayor.

No officer elected or appointed under the provisions of this act shall be a party to or interested in any contract in which the city is interested while holding such office, and any contract made in violation hereof shall be void.

If any person, having been an officer of said city, shall not, within ten (10) days after notification and request, deliver to his successor in office all property, effects or records in his possession belonging to said city or the office he may have held, he shall be punished by a fine not exceeding one hundred dollars (\$100) upon conviction thereof.

The mayor and aldermen shall not directly or indirectly receive any compensation for their services as such officers; *Provided*, that any judge of election may receive such compensation as is provided by the general statutes.

SEC. 27. The mayor, aldermen, constable, marshal, all police officers and the sheriff and deputy sheriffs of the county of Waseca shall be officers of the peace and in a summary manner suppress all rioting and disorderly behavior within the limits of said city, and may arrest without warrant any person so conducting himself and may command the assistance of the bystanders, and any person resisting any officer of the peace in the discharge of his duties or neglecting or refusing to render assistance when so commanded shall be punished by a fine of not less than five (5) or more than one hundred (100) dollars.

SEC. 28. *The Common Council—Its Powers and Duties.*—The several aldermen shall constitute the common council, and the style of all ordinances shall be: "The common council of the city of Waseca do ordain."

The common council shall meet at such time and place as they shall direct, and four (4) aldermen shall constitute a quorum for the transaction of business, but a less number may adjourn from time to time; *Provided*, that no ordinance shall be passed or amended except by an affirmative vote of at least four (4) aldermen, or in case of a tie vote, of the mayor and three (3) aldermen.

The common council shall be the judge of the election of its own members, and in such cases and in all cases where the interests of the city are involved, shall have the power to compel the attendance of witnesses and the production of papers relating to any subject under consideration, and shall have power to call upon any proper officer of said city to execute such process. It shall determine the rules of its proceedings, and shall have power to compel the attendance of absent members.

The mayor or president of the common council may call special meetings by giving notice in writing to each member, to be delivered personally or left at his usual place of abode.

The common council shall annually, at their first (1st) meeting after the annual election, elect one (1) of their number as president, who shall preside at their meetings, and in case of the absence of the mayor from the city, or inability to act, or vacancy in the office of mayor, he shall perform the duties of mayor, except that he shall not approve of ordinances or have power to veto any ordinance.

SEC. 29. The common council shall have the management and control of the finances and all the property of the city, and also have full power and authority to make, enact, ordain, establish, publish, enforce, alter, 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 the prevention of crime as they shall deem expedient, and they shall have power to establish and maintain a city prison; *Provided*, that it shall be the duty of the sheriff or jailer of Waseca county to take into custody and safely keep in the common jail of Waseca county all persons committed thereto by the municipal court of said city until discharged according to law.

The common council shall have power to impose fines and punishments and to enforce the same against any person or persons who may violate any of the provisions of any ordinance or by-law ordained by them, and all such by-laws, ordinances and rules are hereby declared to have the force of law, and for these purposes said common council shall have authority by ordinance:

First—To license, tax and regulate the exhibition of common showmen and shows of all kinds, and all places of public amusements, and the exhibition of caravans, circuses, concerts and theatrical performances, and also to license, tax and regulate auction and auctioneers, bootblacks, milkmen, hawkers and peddlers, omnibuses, omnibus lines and omnibus drivers, hotels and hotel runners, porters, second-hand stores, junk stores and all persons pursuing like or similar occupations, pawnbrokers, laundrys and laundrymen, billiard tables, pool tables, bagatelle tables, pigeon hole or other tables or implements, shooting galleries, nine or ten pin alleys, bowling saloons, victualing houses and restaurants, and to license, regulate and prohibit the selling or giving away of any intoxicating, malt, vinous, mixed or fermented liquors, and to determine the amounts to be paid for such licenses; *Provided*, that in granting licenses for the sale of such liquors the said common council shall comply with whatever general laws of the state are in force relative to the same; *Provided*, that the recorder's fees for issuing such licenses shall in no case exceed two (2) dollars.

Any license issued by the authority of the city council may be revoked by the mayor at any time, and upon a second (2d) conviction before the municipal court of any person holding a license, for a violation of the provisions of any ordinance relating to the exercise of any right granted by said license, the said court may revoke said license in addition to the penalties provided by law or by ordinance for any such violation.

Second—To restrain and prohibit all description of gambling and fraudulent devices and practices and all playing of cards, dice or other games of chance for the purpose of gambling in said city or amusement in public places in said city, and to authorize and require the destruction of all instruments used for the purposes of gambling in said city, and to suppress and prohibit all games of chance.

Third—To prevent riots and disorderly assemblages in said city; to regulate and suppress bawdy and disorderly houses, houses of ill-fame or assignation, and to punish any person or persons maintaining, visiting or frequenting any disorderly house or house of ill-fame in said city; to suppress gaming and gambling houses, lotteries and all fraudulent devices and practices for the purpose of gaining or ob-

taining money or property, and to prohibit the sale or exhibition of obscene or immoral publications, prints, pictures or illustrations.

Fourth—To prevent horse racing and immoderate riding or driving within the city, to prohibit and prevent the abuse of animals, and to compel persons to fasten their horses or other animals while such animals are standing on the streets.

Fifth—To regulate and prohibit the running at large of horses, cattle, asses, mules, swine, sheep, poultry and geese, and to authorize the distraining, impounding and sale of the same, and to provide for the proceeds of the sale, and to impose penalties upon the owners of the same for a violation of any ordinance in relation thereto; also to regulate the penning, herding and treatment of all animals within said city.

Sixth—To prohibit and prevent the running at large of dogs, and shall have power to license the same and authorize the destruction of the same in a summary manner, when at large contrary to ordinance, and may impose penalties upon the owners of dogs for the violation of any such ordinance.

Seventh—To license and regulate hackmen, draymen, expressmen and all other persons engaged in carrying passengers, baggage or freight, and to regulate their charges therefor; to prescribe standing places or stations within the streets or public places where such hacks, drays and other vehicles, used for such carriage, may stand or remain while waiting for business or orders, and to designate such standing or waiting places in the licenses to such draymen, hackmen or other persons, and to prohibit them from standing or waiting at any other place within such streets and public places, and to regulate and prescribe standing places for all vehicles going to or waiting at any railroad depot or station in said city, and to authorize the mayor, city marshal, or any police officer of said city, to regulate and direct the location of vehicles at such railroad depots or stations.

Eighth—To establish and construct public pounds, pumps and wells, cisterns, reservoirs and hydrants; to erect lamps, and provide for the lighting of the streets, public grounds and public buildings of the city.

Ninth—To establish boards of health and prescribe their duties, and the duties of health officers; to make regulations for controlling contagious diseases; to do all acts and make all regulations which may be necessary and expedient for the preservation of health and the suppression of disease, and to make regulations to prevent the introduction of contagious diseases into the city; and to make quarantine laws, and enforce the same within the city. To provide for the appointment, by the board of health, of sanitary inspectors, who shall have full power to enter any house in the daytime for the purpose of inspecting the sanitary condition of said house.

Tenth—To regulate or prevent the discharging of firearms or firecrackers, and the exhibition of fireworks within the city.

Eleventh—To prevent drunkenness, noises, disorderly conduct, affrays, brawling or obscenity, lewdness and indecency, in the streets, alleys, places of business or places of public resort within the city.

Twelfth—To establish, construct, regulate and keep in repair bridges, culverts, sewers, sidewalks and crossings, and to prevent and punish any person doing any damage to or obstructing the same; to provide and regulate the erection of hitching posts or rings for fastening horses

or other animals, or prohibit their erection, in any portion of said city, in its discretion; to regulate the opening of hatchways, and may compel proper guards to be placed about the same.

Thirteenth—To remove and abate any nuisance injurious to the public health; to regulate or prohibit the slaughtering of animals within the city, and do all acts and make all regulations with regard to the health and cleanliness of the city, by causing filth to be removed from the streets, lots, alleys or buildings in said city, or, if necessary for purposes of health and cleanliness, to remove the buildings themselves; to control and regulate the construction, maintenance and cleansing of privy vaults within said city, and to prevent the depositing of any kind of filth or offal within the limits of said city, and to provide for the punishment of all persons violating the ordinances in relation thereto.

Fourteenth—To remove and abate every nuisance, obstruction and encroachment upon the streets, alleys, public grounds and highways of said city, and compel the owners or occupants of any lot within the city to remove snow, dirt or rubbish from the sidewalks adjoining the same, and to compel the owners of low grounds where water is liable to collect and become stagnant to fill or drain such low places, and in their default to authorize such filling or draining at the expense of such owner or owners.

Fifteenth—To direct, regulate and encourage the planting and preservation of ornamental trees in the streets, alleys and public grounds of the city, and to provide for the protection of all lamp posts, hydrants, wells, windmills, public buildings and other public or private property in the streets, alleys and public places in said city, and to punish any person or persons guilty of defacing, marring, mutilating or otherwise injuring any such property.

Sixteenth—To restrain and punish vagrants, mendicants, street beggars and tramps.

Seventeenth—To cleanse, alter, repair and fill up any private drains and sinks, privies or other places which tend to breed distemper or disease, and cause the expense thereof to be assessed to the lot on which the same may be.

Eighteenth—To impose punishment for the breach of any ordinance of the city to the extent of a fine not exceeding one hundred (100) dollars, and imprisonment in the city prison or county jail not exceeding ninety (90) days, or both; and may provide that the offender, during such imprisonment or any part thereof, be fed on bread and water, at the discretion of the judge of the municipal court. The city council may also provide by ordinance that any one convicted of any offense before the municipal court, subjecting such offender to imprisonment under the ordinances of said city, may be sentenced to and kept at hard labor in any workhouse established for that purpose, or, in case of a male offender, may be sentenced to and kept at hard labor in such workhouse or upon the public improvements or work of said city, or all of them; and may also provide by ordinance that any one convicted of an offense before said municipal court, and committed upon non-payment of fines and costs imposed, may be kept at hard labor in any workhouse of said city aforesaid, or, in case of a male offender, may be kept at hard labor either in such workhouse or upon the public improvements or work of said city, or all of them, until such person shall work out the amount of such fine and costs, at such

rate of compensation as said common council may prescribe, and for a time not exceeding said commitment; and the city council shall have full power to establish by ordinance all needful rules and regulations for the secure custody of such persons thus employed, and to prevent escape and secure proper discipline, and shall have power to purchase, establish, construct or lease a proper workhouse in said city or within one (1) mile of the limits thereof for the purposes aforesaid, and under such regulations as said city council may prescribe; *Provided*, that said city council is hereby authorized to use the county jail of Waseca county as the workhouse of said city of Waseca as provided for in this act, upon payment by the city to the county of such sum per day or week, for the board of such prisoners and care thereof, as may be agreed upon by and between the said city council and the board of county commissioners of said county, the prisoners of the city to be in the custody of the sheriff of Waseca county when they shall not be under the control of the police force of said city; *And provided further*, that the judge of the municipal court of said city shall have power, for vagrancy, to commit any person convicted thereof to the city prison, workhouse or county jail, and to order any such male person to work on the public improvements or at any work of said city, for a term not exceeding ninety (90) days.

Nineteenth—To provide for the sprinkling of streets of said city, whenever it is deemed necessary for the preservation of health and the promotion of the comfort of the inhabitants thereof.

Twentieth—To provide for the improvement, care and ornamentation of all public parks, boulevards and driveways within the limits of said city.

Twenty-first—To direct the location and regulate the use and construction of breweries, distilleries, creameries, cheese factories, livery stables, blacksmith shops and foundries within the limits of said city, and to regulate and prohibit the keeping of any lumber yard and the placing or piling of any timber, wood or any other combustible material within the fire limits of the city.

Twenty-second—To declare what shall be a nuisance and to abate the same, and to impose fines upon parties who may create, continue or suffer nuisances to exist.

Twenty-third—To provide for the cleansing and purification of waters, water courses, and the draining or filling of ponds on private property, whenever necessary to prevent or abate nuisances.

Twenty-fourth—To regulate the sale of meats, poultry, fish, butter, cheese, lard, vegetables, and all other provisions, and to provide for the place and manner of selling the same in any manner not inconsistent unto the general laws of the state.

To regulate the sale of bread, and prescribe the weight and quality of bread in the loaf.

To provide for and regulate the inspection of meats, poultry, fish, butter, cheese, lard, vegetables, tobacco, flour, meal and other provisions.

To regulate the inspection, weighing and measuring of brick, lumber, firewood, coal, hay and any article of merchandise.

Twenty-fifth—To require railroad companies to keep flagmen at railroad crossings of streets, and provide protection against injury to persons and property in the use of such railroad; to compel such railroads to raise and lower their tracks to conform to any grade which

may, at any time, be established by said city, and where such tracks run lengthwise of any street, alley or highway, in said city, to keep their railroad tracks on a level with the street surface, and so that such tracks may be crossed at any place on said street, alley or highway. To compel and require railroad companies to make and keep open and to keep in repair ditches, drains, sewers and culverts along and under their railroad tracks, so that filthy or stagnant pools of water cannot stand on their grounds or right of way, and so that the natural drainage of adjacent property shall not be impeded.

Twenty-sixth—To regulate and prevent the use of streets, sidewalks and public grounds for signs, sign posts, awning, awning posts, telegraph poles, horse troughs, racks, posting handbills and advertisements, and to prevent the incumbering of streets, alleys, sidewalks, lanes and public grounds with carriages, carts, wagons, sleighs, boxes, lumber, firewood, posts, awnings, or any other materials or substances whatever.

Twenty-seventh—To regulate the numbering of houses and lots; to name and change the name of any street, avenue, alley or other public place.

Twenty-eighth—To provide for and change the location, grade and crossings of any railroad, and may require railroad companies to fence their respective railroads, or any portion of the same, and to construct cattle guards, crossings of streets and public roads, and keep the same in repair within the limits of the corporation. In case any railroad company shall fail to comply with any such ordinance, it shall be liable for all damages the owner of any cattle or horses or other domestic animal may sustain, by reason of injuries thereto while on the track of such railroad, in like manner and extent as under the general laws of this state relative to the fencing of railroads; and actions to recover such damages may be instituted before any justice of the peace or other court of competent jurisdiction.

Twenty-ninth—To regulate or prohibit the whistling of locomotive engines; to regulate and prohibit the unnecessary discharge of steam therefrom, and the causing or permitting of steam to escape therefrom unnecessarily, and to require the use thereon of such safety valves or other practical appliances as it may designate, for the purpose of preventing or lessening the noise from the discharge or the escape of steam, and shall have power to regulate the speed of cars and locomotives within the limits of said city.

Thirtieth—To regulate or prohibit the location and use of such steam boilers in size and construction as it may designate as being dangerous to life and property, and to prohibit the location of any such steam boilers, except when permission therefor is first given by the common council specifying the location and prescribing the regulation for its use.

Thirty-one—The common council may by ordinance confer upon the mayor power and authority to grant and revoke any license in the name of the city, and to do any act which the common council is authorized to do in the premises, except that power shall not be granted to the mayor to grant licenses for the sale of intoxicating liquors.

SEC. 30. All ordinances, resolutions and by-laws shall be passed by an affirmative vote of not less than four (4) of the members of the common council present and voting by yeas and nays (except as provided in section twenty-eight(28) of this chapter), and all ordinances and

by-laws and such resolutions as this act specifically requires shall be published once in the official paper before the same shall be in force, and they, together with all regulations, shall be recorded by the city recorder in books provided for that purpose, and such record shall be *prima facie* evidence of the validity of such ordinance, resolution or by-law without further proof, and shall be notice to all persons interested.

SEC. 31. The power conferred upon the common council to provide for the abatement of nuisances shall not bar or hinder suits, prosecutions or proceedings in the courts according to law.

SEC. 32. The common council shall examine, audit and adjust the accounts of the recorder, treasurer, street commissioner, judge of the municipal court and all other officers and agents of the city at such time as they may deem proper, provided it be done before the time for which the officers of said city were elected or appointed shall expire, and the common council may require each and every officer and agent to exhibit the books, accounts and vouchers for such examination and settlement; and if such officer or agent shall refuse to comply with the order of the council in pursuance of this section, it shall be the duty of the common council to declare the office of such person vacant, and the common council may institute proceedings at law against any officer or agent of said city found delinquent or defaulting in his accounts.

SEC. 33. *Finance and Taxation.*—The common council shall have power to levy upon all property, real and personal, in said city, except such as is by law exempt from taxation, taxes for the support of the city government, to purchase grounds, erect, lease or repair buildings for city purposes, to pay the salaries of the officers of said city and the general incidental expenses of said city; but, the amount raised for the above purposes by taxation in any one year shall not exceed three (3) mills on the dollar of the assessed value of such taxable property; *Provided*, that the common council may, in their discretion, expend any portion of the general fund for the improvement of the streets of said city or upon the highways without and leading into said city, and in addition to the above rate, the common council may levy taxes sufficient to pay the principal or interest of any bonded indebtedness now existing or incurred in pursuance of this act as it may fall due; *Provided*, that nothing herein shall be construed as limiting the levying of special assessments as provided in this act.

SEC. 34. The common council shall cause to be transmitted to the auditor of the county of Waseca, on or before the first (1st) day of October in each year, a statement of all taxes by them levied, and such taxes shall be extended, collected and enforced with and in like manner as state and county taxes are extended, collected and enforced, and the treasurer of said county shall pay such taxes over upon their apportionment to the treasurer of said city, and no taxes shall be invalid by reason of informality in the manner of levying the same.

SEC. 35. No moneys shall be paid out of the city treasury unless such payment be authorized by a vote of the common council, and only upon orders signed by the mayor and recorder and specifying the purpose for which they were drawn, and the treasurer shall immediately, upon payment, cancel and preserve such orders as vouchers for settlement with the city.

SEC. 36. *The City shall Constitute One Road District.*—The common council shall issue a warrant to the street commissioner containing the whole amount of highway labor and taxes assessed and levied within the city, which warrant shall be returned and filed with the city recorder within the time prescribed by the laws of this state, together with a correct and detailed report of all moneys collected on said warrant and of all moneys expended by him.

The general laws of this state shall apply to the levying, warning, working, suing for and collecting highway taxes and returning such delinquent taxes in all respects, except as otherwise herein expressly provided.

SEC. 37. The common council, in addition to taxes herein provided, shall have power to assess and levy highway labor and taxes, and shall be governed and regulated in the amount so levied by the laws applicable to the supervisors of towns in this state in levying highway labor and taxes, and shall have full power to direct the street commissioner when, where and how to expend such labor and tax and to remove him for a willful violation of his duties.

SEC. 38. *Public Improvements.*—The common council may order sidewalks to be constructed in front of and along any one or more lots or parcels of land in said city at the expense of such lot or parcel of land, upon the petition of not less than six (6) legal voters and householders residing within one-half (½) mile of some portion of the sidewalk petitioned for; which petition shall be in writing and describe the lots or parcels of land to be affected thereby. Whenever any such petition shall be received by the common council, the common council shall fix and enter upon the records a time and place when and where such petition will be acted upon, which time shall not be less than ten (10) days nor more than twenty (20) days from the date of the reception of such petition, and shall give notice to all persons owning or claiming an interest in or lien upon such lot or parcel of land, and to all persons interested in the ordering of such sidewalk, of the reception of such petition and of the time and place when and where such petition will be acted upon, by publishing a notice thereof in the official paper of the city two (2) successive times, the last of which publications shall be at least two (2) days before the day of hearing; and in such notice the several lots or parcels of land shall be described with reasonable certainty. Upon such notice being given the common council shall have jurisdiction to order such sidewalk constructed at the expense of each lot or parcel of land upon which such sidewalk is ordered and to enforce the construction thereof as hereinafter provided. The common council shall meet at the time and place so fixed, and shall hear all reasons for or against the ordering of the construction of such sidewalk, and may adjourn from time to time; and after such hearing, if the common council determine that the public convenience will be promoted by the building of such sidewalk, and that the expense is not disproportionate to the benefits conferred, the common council shall order such sidewalk to be constructed at the expense of each lot or parcel of land upon which it is to be constructed, and in such order shall determine the materials of which it shall be constructed, its width and any other necessary specifications for the building of the same, and also the time within which such sidewalk may be constructed by the owner of the lot or parcel of land affected thereby, which time shall not be less than twenty (20) days.

Such order shall be published once in the official paper of the city of Waseca, at least ten (10) days before the time expires within which such sidewalk may be constructed by the lot owner. If such sidewalk so ordered, or any portion of the same, be not constructed by the owner within the time specified in such order, the common council shall cause the same to be built by and under the direction of the street commissioner. The street commissioner shall keep an accurate account of the cost of building the same upon and over each lot or parcel of land and shall forthwith report the same to the common council. After receiving such report the common council shall assess the cost of such sidewalk over each lot upon each lot separately and may assess the costs of publication of the notice and order hereinbefore mentioned, in equal amounts, upon each lot separately, and the amount so assessed shall thereupon become a lien upon such lot or parcel of land; and at or before the time required by law for reporting to the county auditor of Waseca county the taxes levied for that year, the recorder shall certify the amount of such special assessments and the lots or parcels of land affected thereby to said county auditor, and thereupon it shall be the duty of said auditor to extend such special assessment against such lot or parcel of land in the next annual tax duplicate, and the same shall be collected and paid over in the same manner as other taxes on real property; *Provided, however,* that in all cases the common council may order that a portion of the cost of such sidewalk over any one or more parcels of land shall be paid from the city treasury, and whenever the city council of said city shall deem it necessary that any sidewalk in said city shall be constructed or reconstructed, and for the construction or reconstruction of which no petition has been received, it shall have power by resolution to direct such construction or reconstruction, specifying the width thereof and the materials of which the same is to be constructed, and such resolution shall be published once in the official paper of the city, and notice thereof shall be served by the street commissioner on the owner of the lots or parcels of land along which such sidewalk is to be built, in the same way and manner as provided in section thirty-nine (39) hereof for the giving of notice when sidewalks become out of repair; and when the owner or owners of any such lots shall not be residents of the city notice shall be given by publication, as is provided in said section thirty-nine (39) to construct the same, and unless such owners shall, each along his respective land, construct and fully complete such sidewalks within two (2) weeks after the service of notice of such resolution as aforesaid, the street commissioner shall at once proceed to lay said sidewalk, and after said sidewalk shall have been laid by the street commissioner the city council shall forthwith proceed to assess and levy such expense upon and against each lot and parcel of land upon which such sidewalk shall front.

Such costs shall be returned and such assessments shall be collected in the same way and in all things as is provided for the collection of special assessments under the provisions of this section.

SEC. 39. Any sidewalk heretofore or hereafter constructed, and suffered by the land owner to remain in front of or along any lot or parcel of land in said city, that shall become out of repair and be deemed dangerous by the common council, whether such sidewalk shall have been constructed under the order of the common council or not, the common council shall cause the street commissioner to

notify the owner or occupant of such lot or parcel of land to repair the same, in such manner as the common council may direct, within four (4) days from the date of giving such notice; such notice shall be in writing and be served by copy upon the owner or occupant; and if the lot or parcel of land be unoccupied and the owner be not a resident of the city, then such notice shall be given by publishing the same one (1) time in the official paper of the city. The owner or occupant of such lot or parcel of land may, within two (2) days, petition the common council for a rehearing upon such order by filing a petition therefor with the recorder. If such repairs are not made and if no petition for rehearing has been filed the common council shall, after the times herein limited, order such repairs to be made by the street commissioner; and the costs of such repairs shall be kept and returned by the street commissioner, and a special assessment of such cost shall be made by the common council, and such special assessment shall be certified by the recorder to the county auditor and extended by the county auditor on the tax duplicates, and the amount collected and paid over as provided in section thirty-eight (38) hereof for a new sidewalk.

SEC. 40. Sewers or gutters may be constructed by the city on petition of the majority of the property owners along the line of the proposed sewer or gutter, and the expense thereof shall be apportioned by the common council among the lots or parcels of land along or through which the same may be constructed, in proportion to the benefit of the same to such lots or parcels of land.

When any such petition is received, if the same be accepted by the common council, notice shall be given to all persons interested when and where the common council will meet to hear and determine on such petition, by publication for one (1) week in the official paper, and such notice shall briefly recite the substance of such petition and in general terms give the character of such improvement and a description of the lots or parcels of land along or through which the same is proposed to be constructed, and upon such notice being given the common council shall have jurisdiction to construct said sewer or gutter and to levy special assessments for the same.

SEC. 41. The common council may cause to be established from time to time, under the direction of the city surveyor of said city or county surveyor of Waseca county, the grade of the streets, sidewalks and alleys in said city, and it shall cause accurate profiles thereof to be made and kept in the office of the city recorder, and shall have power to cause all sidewalks to conform to the grade as established; and if the owners or occupants of lots fronting on the same shall not, after notice and within such time as it may direct, cause the same to conform to such established grade, shall order the same to be done by the street commissioner at the expense of the lots fronting on the same.

SEC. 42. The common council of said city shall have the care, supervision and control of all the highways, bridges, streets and alleys and public grounds within the limits of the city, and shall have power to build and keep in repair bridges and the approaches to the same, lay out, open, vacate and alter highways, streets, lanes and alleys, and widen and straighten the same; *Provided*, that any street, alley or highway within said city may be built, altered or vacated in the same manner as a highway in a town, under the laws of the state,

excepting the petition for such building, vacating or altering such street, alley or highway shall be made by not less than six (6) freeholders and residents of said city.

SEC. 43. Whenever the common council shall determine to lay out or open new streets or alleys in said city or to widen, straighten or extend any that now or may hereafter exist, or for the purpose of drainage, construction of bridges or making necessary public improvements, or for the protection or preservation of the health of the people and the improvement of the sanitary condition of the city, shall determine to enter upon any tract of land and raise or lower any lake or other body of water within said city, or maintain any lake or other body of water heretofore raised in the condition it now is, or raise the waters thereof to a greater height, or change the course of or divert the waters of any stream or ditch or drain, or to construct any new drain or sewer within the limits of said city, or shall determine to establish parks or parkways, or whenever they shall determine to take private property or any interest or easement therein for any other public purpose, they shall have power to and may proceed in the manner hereinafter provided.

The common council upon ordering an improvement above mentioned to be made, or ordering that any such improvement heretofore made may be maintained in its present condition, or that any private property shall be taken for public use, shall appoint as many commissioners as there may be wards of said city, selecting one (1) from each ward, who shall be a disinterested freeholder and qualified voter of said city, to view the premises and assess the damages which may be occasioned by the taking of private property or otherwise in making said improvement. Said commissioners shall be notified as soon as practicable, by the city recorder of said city, to attend at his office at a time to be fixed by him for the purpose of qualifying and entering upon their duties; and in case any such commissioner, upon being so notified, shall neglect or refuse to attend as aforesaid he shall forfeit and pay a fine to said city not exceeding fifty (50) dollars, and shall be liable to be prosecuted therefor before the municipal court of said city as in the case of fines imposed for a violation of an ordinance of said city; and the commissioners in attendance shall be authorized to appoint another commissioner, to be selected from the ward not represented and possessing the qualifications aforesaid. In all other cases of vacancy the common council shall fill such vacancy.

The commissioners shall be sworn by the city recorder to fully discharge their duties as commissioners in the matter with impartiality and fidelity and to make due return of their actions and doings to the common council, which commissioners shall receive such compensation as the common council may prescribe, not exceeding four (4) dollars per day.

The said commissioners shall, with all reasonable speed, with the assistance of the city surveyor of said city or the county surveyor of said county of Waseca, cause a survey and plat of the proposed improvement to be made and filed with the city recorder, exhibiting, as far as practicable, the land or parcels of property required to be taken or which may be damaged thereby; and shall thereupon give notice by publication in the official newspaper of said city, for at least ten (10) days, to the effect that such plat has been filed, and that the said commissioners will meet at a place and time designated by them,

and thence proceed to view the premises and assess the damage for property so to be taken or which may be damaged by such improvement.

At the time and place according to said notice, the said commissioners shall view the premises and may hear any evidence or proof offered by the parties interested, and may adjourn from day to day, if necessary, for the purpose aforesaid. When their view and hearing aforesaid shall be concluded, they shall determine and assess the amount of damages to be paid to the owner or owners of each parcel of property proposed to be taken, or which may be damaged by such improvement, and in so doing shall take into consideration the value of the property proposed to be taken, with such other damage as may be incident thereto as well as the advantages which will accrue to such owner or owners in making such improvement.

If there should be any building standing, in whole or in part, upon the land to be taken, the said commissioners shall in each case determine and assess the amount of damages which should be paid the owner or owners thereof, in case such building, or so much thereof as might be necessary, should be taken, and shall also determine and assess the amount of damages to be paid such owner or owners in case he or they should elect to remove such building; and the damages in relation to buildings aforesaid shall be assessed separately from damages in relation to land upon which they are erected.

If the lands and buildings belong to different persons, or if the land be subject to lease, mortgage or judgment, or if there be any estate in it less than an estate in fee, the injury or damage done to such person or interest respectively may be awarded to them by the commissioners, less the benefit resulting to them from the improvement.

The said commissioners, having ascertained and assessed the damage aforesaid, shall make and file with the city recorder a written report to the common council, embracing a schedule of assessment of the damage in each case, with a description of the land and the names of the owners, if known to them, and also a statement of the costs of the proceedings.

Upon such report being filed in the office of the city recorder, said city recorder shall give at least ten (10) days' notice, by publication in the official paper in said city, to the effect that such assessment has been returned, and that the same will be confirmed by the common council at a meeting thereof, to be named in said notice, unless objections are made in writing by persons interested in any lands to be taken. Any persons interested in buildings standing in whole or in part upon any land required to be taken for such purpose shall, on or before the time specified in such notice, notify the common council, in writing, of their election to remove such buildings, according to the award of the commissioners. The common council, upon the day fixed for the consideration of such report, or at such subsequent meeting to which the same may stand over or be referred, shall have power, in their discretion, to confirm, revise or annul the assessment, giving due consideration to any objection interposed by parties interested.

The damages assessed shall be paid out of the general funds of said city, and shall be paid or tendered, or deposited and set apart in the treasury of said city, to and for the use of the parties entitled thereto, within six (6) months from the confirmation of such assessment and

report; and the land or property required to be taken for the purposes aforesaid shall not be appropriated until the damages awarded therefor to the owner thereof shall be paid or tendered to the owner thereof, or his agent or attorney; or deposited and set apart for his use as aforesaid. And in case the city should be unable to determine to whom the damages in any particular case so awarded should be paid, or in case of disputed claims in relation thereto, the damages in such case may be deposited, by order of the common council, in the district court of the county of Waseca, in the same manner as moneys are paid into court, until the parties entitled thereto shall substantiate their claim thereto.

In case any owner or owners of buildings as aforesaid shall have elected in manner aforesaid to remove his or their buildings, he or they shall so remove them within thirty (30) days from the confirmation of said report, or within such further time as the common council may allow for such purpose, and shall thereupon be entitled to payment from said city of the amount of damages awarded in such case, in case of removal. When such person or persons shall not have elected to remove such buildings, or shall have neglected (after having elected to remove) to move the same within the time prescribed, such buildings, or so much thereof as may be necessary, upon the payment or depositing of the damages awarded for such taking, in manner and form aforesaid, may then be taken and appropriated, sold or disposed of, as the common council may direct, and the same or the proceeds thereof shall belong to the city.

When any owner of lands or tenements affected by any proceedings under this act shall be an infant, or labor under legal disability, the judge of the district court of Waseca county, or in his absence the judge of any court of record, may, upon application of said commissioners or of said city, or of such party or his next friend, appoint a suitable guardian for such party, and all notices required by this act shall be served upon such guardian.

Any person feeling himself aggrieved by such assessment may, by notice in writing served upon the mayor of said city, a copy whereof, with proof of service, shall be filed in the office of the clerk of the district court of Waseca county within twenty (20) days from the time of confirmation of said report or assessment, appeal from such assessment to the district court aforesaid, when such appeal shall be tried by the court and jury as in ordinary cases; but no pleadings shall be required; and the party appealing shall specify in the notice of appeal the grounds of objection to such assessment, and shall not be entitled to have any other objection than those specified considered; and a transcript of such report, certified by the city recorder, or the original thereof, shall be *prima facie* evidence of the facts therein stated, and that such assessment was regular and just and made in conformity to law. The judgment of such court therein shall be final. Such appeal shall be entered and brought on for trial and be governed by the same rules and in all respects as appeals from the municipal court of said city of Waseca in civil actions; *Provided*, that nothing herein contained shall be construed as limiting the powers of the common council to lay out, alter, vacate or widen any street or highway within the corporate limits of said city in the way and manner mentioned in section forty-two (42) hereof; *Provided further*, that the damages sustained by reason of laying out, opening or altering any

road, street or alley may be agreed on in the same manner as in a town under the general laws of the state of Minnesota, and the state laws shall apply in all respects in relation to appeals, the release of damages and fixing and assessing thereof by the common council, except the recorder is substituted for the town clerk and the common council for the supervisors, and all such damage and repairs shall be paid out of the general fund of the city.

SEC. 44. *Fire Department.*—The common council for the purpose of guarding against fire shall have power to prescribe the limits within which wooden buildings, or other buildings, the material or construction of which shall be regarded as dangerous to surrounding property, or wooden sidewalks, shall not hereafter be erected or constructed, placed or repaired, and direct that all or any such buildings and sidewalks within the limits prescribed shall hereafter be built and constructed in such manner and of such material as in the judgment of the council shall not be dangerous to surrounding property, and to prohibit the repairing or rebuilding of wooden buildings within the fire limits, when the same shall have been damaged by fire or otherwise to the extent of fifty (50) per cent of the value thereof, and to prescribe the manner of ascertaining such damage, and shall have power to prescribe in what manner and of what material chimneys shall be constructed, and to prevent the dangerous construction and condition of chimneys, fireplaces, hearths, stoves, stovepipes, ovens, boilers, and apparatus used in and about any building, and to cause the same to be removed or placed in secure condition when considered dangerous; also, to compel owners of buildings to have scuttles in roofs and stores, and ladders to the same, and to compel the owners of buildings of three (3) or more stories in height to maintain ladders or fire escapes, and to regulate the construction, number and location thereof; to regulate the location and construction of smoke houses, and to prohibit them where they shall be deemed dangerous to other buildings, and to make any other provisions to guard against fire or to prevent the spreading of fire which the common council may deem proper.

The common council shall have power by resolution to order any building, structure or materials therefor, hereafter erected or in process of erection, of which the construction or materials may be dangerous to surrounding property, to be taken down or removed beyond the fire limits of said city, and shall have power to prescribe the notice to be given to the owner or agent to remove such building, and in case the same is not removed in pursuance of such notice given, to order the same taken down and removed by the police or in such manner as the common council may see fit; and the common council may prescribe penalties for the violation of any of the provisions of this section, or any ordinance made or enacted to carry out the provisions thereof, not exceeding one hundred (100) dollars, which may be imposed by the judge of the municipal court upon complaint of any citizen.

SEC. 45. The common council shall have power to prohibit the deposit of ashes or any inflammable, combustible or explosive material in unsafe places, and the throwing of ashes or any such combustible or inflammable material into the streets or alleys; to regulate the carrying on of manufacturing dangerous in causing fire, and the storage of burning oils, gunpowder, dynamite and other explosive or inflammable

materials; to authorize the mayor, aldermen, fire wardens and other officers of the city to keep away from the vicinity of any fire all idle and suspected persons, and to compel all bystanders to aid in the extinguishment of fires and the protection of property exposed to danger thereat, and generally to establish such regulations for the extinguishment of fires as the common council may deem expedient.

SEC. 46. The common council shall have power to form fire engine, hook and ladder and hose companies, and to provide for their proper support and the regulation of the same, and to order such companies to be disbanded, their public meetings to be prohibited and the apparatus given up.

Every member of such company which may be authorized to be formed shall be exempt from highway work or poll tax, from service on juries and military duty during the continuance of such membership.

SEC. 46a. The mayor, by and with the consent of the common council, shall have power to appoint the chief of the fire department, and also one (1) fire warden in each ward, and to authorize such wardens to enter any place for the purpose of inspection.

SEC. 47. Whenever any person shall refuse to obey any lawful order of the chief of the fire department or the foreman of any company of the same, fire warden, mayor or alderman at any fire, it shall be lawful for those officers giving such orders to arrest or direct orally any constable, police officer or any citizen to arrest such person and confine him temporarily in any safe place until such fire be extinguished, and in the same manner such officer or any of them may arrest or direct the arrest of and confinement of any person at such fire who shall be intoxicated or disorderly; and any person who shall refuse to obey any such lawful order, or who shall refuse to arrest or aid in arresting any person so refusing to obey, shall be liable to be punished therefor by a fine of not more than one hundred (100) dollars or by imprisonment not exceeding ninety (90) days.

SEC. 48. *Bonds for Electric Lights and Water Works.*—Said city is authorized to issue its bonds, in any sum not exceeding thirty (30) thousand dollars in the aggregate, bearing interest not to exceed six (6) per cent per annum, with interest coupons attached, payable annually or semi-annually, said bonds to be made payable not exceeding twenty (20) years from date thereof, for the following purposes, or either or both of them, viz.: 1st—For constructing and putting in operation water works for the use of said city and for the private use of the inhabitants thereof; 2d—For constructing and putting in operation a system of electric lighting for said city and for the private use of the inhabitants upon such terms and conditions and upon payment of such sums for such private use thereof as may be prescribed by the common council of said city; *Provided*, that no such bonds shall be issued by the authorities of said city except when duly authorized by a resolution of the common council adopted by a majority vote polled at any city election called for that purpose, or whereat the question has been duly submitted to the legal voters of said city. And the common council shall have power to call special elections for such purpose.

Said bonds when issued shall be prepared under the direction of the common council, who shall determine the number and amounts thereof.

They shall be signed by the mayor and attested by the city recorder of said city, who shall affix the seal of said city thereto.

The common council shall have power to purchase fire engine and all other apparatus which may be required for the extinguishment of fires, and may construct reservoirs and cause water mains and pipes to be laid in any and in all streets, alleys, highways or public grounds of said city, with a view to the extinguishment of fires and for the purpose of furnishing or supplying water for the use of the inhabitants of said city. Said common council may also, when authorized by a vote of said city, as aforesaid, purchase or erect or lease such buildings, machines and apparatus within said city as may be necessary and proper for the production and transmission of electricity for the purpose of lighting, heating and furnishing power for the use of said city and for the private use of the inhabitants thereof, and may place the necessary poles, wires and operating fixtures within the streets, alleys, avenues and public grounds of said city for the purpose of constructing and transmitting said electric light, power and heating. And the said city council shall have the power to make and adopt all needful or proper ordinances, rules and regulations for the construction, management, furnishing, leasing and protection of said water works or electric light plant works, and for the collection of fees or rents for the use thereof. And whenever the common council shall determine to extend any water works and lay any water mains in addition to those originally laid they may, if they so determine, assess the costs of constructing and laying said water mains by special assessment upon abutting property, and such special assessments when made shall be returned to the county auditor and collected in the same way and manner as other special assessments under the provisions of this act.

SEC. 49. Whenever, in the construction, enlargement or extension of water works, it shall, in the judgment of the city council, be necessary to take private property, consisting of lands, buildings, water power or other private property, the city council shall have power to acquire the same by purchase or condemnation in the manner provided in section forty-three (43) of this charter, and in such cases of condemnation as well as purchase, a full title in fee simple for the property shall vest in said city. *Provided, however,* that in case of a purchase or condemnation of private property for laying water mains where the said city council may deem it best only to obtain the right to lay and maintain said water mains over, across or through private property, said city council may either purchase or condemn the right simply to lay, construct or maintain said water mains and necessary appendages thereto across, over or through any private property, giving the owner thereof the right to the use of the surface of said land except at such times or places as the common council may find necessary to enter upon, dig or disturb said surface for the purpose of laying or relaying, constructing, or reconstructing or repairing, any such water mains, and the deed of purchase in such case, or the judgment of the court in case of condemnation, shall define the rights of said city or the common council thereof as well as the land owner therein.

SEC. 50. *Intoxicating Liquors.*—The sale of intoxicating, vinous, spirituous, malt or fermented liquors within the limits of said city is and shall be under the exclusive control of the common council, and

license money and all fines imposed by any court for a violation of any ordinance or any provision of this act regulating such traffic shall be paid into the treasury of the city for the use thereof.

SEC. 51. All licenses for the sale of such liquors shall expire on the thirtieth (30th) day of June in each year, and no license for the sale of such liquors shall be given for a shorter time than from the date of application to the first (1st) day of July following.

SEC. 52. Any person desiring a license for the sale of liquors within said city shall apply therefor to the common council and at the same time present his bond with two (2) or more sureties, in such sum and conditioned as the common council may by ordinance direct, and if said person be deemed a suitable person and said bond is approved by them the common council shall order such license to be issued by the recorder.

The recorder shall not issue such license until the person so applying shall produce the receipt of the city treasurer showing the payment to him by the person so applying of the amount fixed by the common council to be paid for such license.

The common council may by ordinance make any regulations necessary and proper for the carrying out of this section and punishment of the persons violating the same; *Provided*, that they be not repugnant to the general laws of this state.

SEC. 53. The qualified voters of said city may decide for themselves whether license shall be granted to any person for the sale of such liquors.

The recorder is hereby required, on petition of ten (10) or more legal voters of said city, at any time not less than fifteen (15) days before any annual city election, to give notice that the question of license will be submitted at said election.

Notice thereof shall be given by the recorder at the time and in the manner that notice of said election is given, and said question of license shall be determined by ballots containing the words "In favor of license," or "Against license," as the case may be.

The vote shall be canvassed and returned as is by law provided for canvassing the returns of such city elections, and if such returns show that a majority of the votes cast at such election shall be against license, then the common council shall not grant any license for the sale of such liquors in said city during the ensuing year.

In case the legal voters of said city determine, as provided in the last section, that no license for the sale of such liquors shall be granted, any person who shall thereafter sell, barter or dispose of any such liquors within said city, during the ensuing year, shall, upon conviction thereof, be punished by a fine of not less than twenty-five (25) nor more than one hundred (100) dollars for each offense.

SEC. 54. *Miscellaneous Provisions.*—No vote of the common council shall be reconsidered or rescinded at a subsequent meeting unless there be present as many aldermen as were present when the vote was taken.

SEC. 55. No fine or judgment recovered by the city shall be remitted or discharged except by a vote of the common council and with the approval of the mayor.

SEC. 56. Fines and punishments ordained by the common council for the breach of any ordinance, by-law or resolution may extend to a fine not exceeding one hundred (100) dollars, or imprisonment in the

county jail of Waseca county or city prison of said city, or commitment to the workhouse or to labor on any public work or improvement in said city, as provided in section twenty-nine (29) hereof, not exceeding ninety (90) days, or both fine and imprisonment, in the discretion of the judge of the municipal court; and in all cases of the imposition of any fine by the judge of the municipal court, for the punishment of any offense committed within the limits of said city, the offender shall be forthwith committed to the city prison, workhouse or the county jail, as the judge of the municipal court may direct, and be there imprisoned or set to work for a time fixed by the said judge of the municipal court, not exceeding ninety (90) days, unless such fine be sooner paid, and from the time of arrest until the time of trial the person arrested may be imprisoned in the city prison or county jail. The county jail referred to in this act in all cases refers to the county jail of Waseca county.

SEC. 57. No action shall be maintained against the city of Waseca on account of any injuries received by means of any defect in the condition of any bridge, street, sidewalk or thoroughfare, or to recover for damage or injuries arising in any other manner, unless such action shall be commenced within six (6) months 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 attorney thereof, within thirty (30) days after the occurrence of such injury or damage, stating the place where and the time when such injury was received and that the person so injured will claim damages of the city for such injury. But the notice shall not be required when the person injured shall, in consequence thereof, be bereft of reason. Nor shall any action be maintained for any defect in any street until the same shall be graded, nor for any insufficiency of the ground where sidewalks are usually constructed when no sidewalk is built. And whenever any action shall be commenced against the city, service of the summons shall be made upon the mayor or acting mayor personally, who shall forthwith inform the common council of the same.

SEC. 58. The city of Waseca is hereby declared to be the legal successor of the village of Waseca, and shall own and possess all public property of every name and nature within the limits of said city (except such as is owned by said Waseca county), and any rights vested in or property belonging to the former village of Waseca shall vest in and belong to the said city of Waseca.

SEC. 59. The common council may, from time to time, provide for the compilation and publication by said city of the city charter, ordinances and such resolutions as they may designate, and for the distribution and sale of copies of such compilation in its discretion, and may also provide for the exchange of such compilation for similar publications of other cities; but all such compilations shall be made under the supervision and control of the city attorney of said city.

SEC. 60. No law of this state shall be construed as repealing, amending or modifying this act unless such purpose be expressly set forth in such law.

SEC. 61. The city shall constitute (1) one commissioner district for the county of Waseca, and the county commissioner so elected shall hold his office under the same terms, conditions and duties as the other members of the board of county commissioners of said county, but in all respects not otherwise provided in this act the territory and inhab-

itants of said city shall be and remain a part of the county of Waseca, and be subject to the same rights and liabilities as if this act had not been passed.

SEC. 62. The city shall constitute one (1) school district under the general laws of this state relating to independent school districts, and the government and management of said school district shall be as provided by such law.

The board of education of such district shall, among other things, have full power to prescribe courses of study and the text books to be used therein; and the treasurer of Waseca county shall, immediately after every apportionment, pay over on demand of the treasurer of said district all funds belonging to said district; *Provided*, that the annual school meeting shall be held on the first Tuesday in August of each year, at such time and place as the board of education may direct; *Provided*, that such elections shall be conducted by the board of education, shall be held from seven (7) till nine (9) o'clock in the afternoon, shall be by ballot, and the clerk of the board of education shall record the name of each voter as his or her name is deposited.

Any member of the board of education, upon challenge of any person offering to vote, administer to such person the oath required by Section twenty-six (26) of Chapter four (4) of the General Laws of the State of Minnesota for the year one thousand eight hundred and eighty-seven (1887), and examine such person as to his or her qualifications as a voter, and any person so sworn who shall make answer falsely shall be guilty of perjury.

SEC. 63. The common council may annually appropriate such sum as they see fit, not exceeding the amount appropriated that year by the town of Woodville, for the improvement and care of the cemetery of said town, and any of the directors of said cemetery may reside in said city.

Provided, that such appropriation and all appropriations of money by the common council, or all acts of the council requiring the expenditures of money for other than current expenses, the purchase of all ordinary and necessary supplies, the making of immediately necessary repairs upon the streets, sidewalks, sewers, public buildings or other public property, shall be made by resolutions passed by said common council, and which resolution, before it shall take effect, shall be approved by the mayor, as provided in section fourteen (14) of this charter, or passed over his veto as therein provided.

SEC. 64. All that portion of township one hundred and seven (107), range twenty-two (22) of Waseca county, and not embraced within the limits of said city, shall be and remain the town of Woodville, and the inhabitants of said city shall not be qualified voters in said town, and said town shall have no power or authority over said city; *Provided*, that any resident and voter of said city may hold any town office to which he may be elected by said town, and in such case he may hold his office in said city, and the town supervisors may hold their meetings in said city, and the town meetings and annual elections of said town may be held in said city.

SEC. 65. The auditor of said county shall annually, at the time when other taxes are extended, extend upon all taxable property of said city and town of Woodville a tax sufficient to pay the interest or the principal of any bonds heretofore issued by said town of Woodville which may fall due in the then current year; and it shall be the

duty of the town clerk of said town and the recorder of said city, on or before the first (1st) day of October of each and every year, to conjointly certify to the auditor of said county of Waseca the amount of any such principal or interest to so become due, and the amount of the tax so raised shall be paid by the treasurer of said county to the treasurer of said town, and shall not be applied by said town for any other purpose than that for which it was levied, and any officer of said town who shall authorize any part of said sum to be diverted, or shall in any way assist in diverting said sum, or any part of said sum, from the purpose for which it is levied, shall be punished by a fine of not less than one hundred (100) dollars nor more than five hundred (500) dollars, and the said town shall be liable to the said city for any misappropriation of such fund, and any surplus of such fund shall be paid *pro rata* to said city on demand of the mayor.

SEC. 66. All ordinances and regulations heretofore made by the common council of the city of Waseca, not inconsistent with the provisions of this act shall be and remain in full force until altered, modified or repealed by the common council of said city after this act shall have gone into effect.

SEC. 67. This charter is a public act, and, with the ordinances and by-laws passed by virtue thereof, need not be pleaded or proven in any court in this state.

CHAPTER II.

SECTION 1. There is hereby established in the city of Waseca, Minnesota, a court of record to be called the "Municipal Court," for the transaction of all business which may come before it.

SEC. 2. Said court shall have a seal and may have a clerk, and shall have all the jurisdiction and powers now conferred by Chapter forty-seven (47) of Special Laws of Minnesota for one thousand eight hundred and eighty-one (1881) upon either of the justices of said city, and in addition thereto shall have cognizance of and jurisdiction to hear, try and determine all civil actions or proceedings where the amount in controversy does not exceed three hundred dollars (\$300), or where, in case the action is for the recovery of personal property, the value of such property does not exceed the sum of three hundred dollars (\$300); *Provided, however*, that such cognizance and jurisdiction shall only extend to such actions of the same nature and character, save as to amount, now cognizable before said justices, or hereafter cognizable before a justice of the peace; *And, provided further*, that when a counter claim of more than three hundred dollars (\$300) in excess of plaintiff's claim, or where any equitable defense or ground for equitable relief of a nature not cognizable before a justice of the peace is interposed, or where it appears that the title to real estate is involved, the said court shall immediately cause an entry of such facts to be made of record and cease all further proceedings in the same, and certify and return the same to the district court of said county, with a transcript of all entries relating to such cause, together with all process and other papers relating to such suit, in the same manner and within the same time as upon an appeal from a justice's court; and thereupon the said district court shall proceed in the cause as if the said suit had been originally commenced in the said district

court, and the costs shall abide the events of the suit, except that the plaintiff shall advance the costs of the said municipal court.

SEC. 3. The judge of said court shall be known and called "Judge of the Municipal Court," and shall be elected by the electors of said city at the general city election to be held in April in the year one thousand eight hundred and ninety-two (1892), and each second (2d) year thereafter, save as the time of such election may be varied by the provisions herein contained as to filling vacancies, and the present incumbent of said office shall be and remain the judge of said court and exercise the duties thereof until the said city election in one thousand eight hundred and ninety-two (1892), and until his successor is elected and qualified. And in case of any vacancy in the office of municipal judge, the governor of the state of Minnesota shall appoint some qualified person to said office until the next annual election, when a judge shall be elected for a full term of two (2) years.

SEC. 4. Any person elected to the office of judge of said municipal court shall, before entering upon the duties of said office, file in the office of the recorder of said city his bond, signed by two (2) or more sureties, in any sum not exceeding three thousand (3,000) dollars, to be fixed by the common council of said city, conditioned for the faithful performance of his official duties and for the payment of all moneys which may come into his hands or the hands of the clerk of said court to the officers, parties or persons entitled thereto; and shall, also, at the same time, take, subscribe and file an oath as prescribed by the general laws of this state for judicial officers, with said city recorder.

SEC. 5. The judge of the said municipal court shall have the general powers of judges of courts of record, and may administer oaths, take and certify acknowledgments, and, as conservator of the peace, shall have all the authority and powers which by law are vested in justices of the peace of said state or city, or any other judicial officer, including sole and exclusive jurisdiction of all violations of the ordinances of the city of Waseca and prosecution thereunder.

SEC. 6. Said municipal court may have a clerk who may be appointed or removed, at the pleasure of said judge, by an order in the minutes of said court. Said clerk, before entering upon the duties of his office, shall take an oath to support the constitution of the United States and the state of Minnesota and to faithfully discharge and perform all the duties of his office, and shall execute to said city a penal bond, in such a sum and with such sureties as the common council of said city shall direct and approve, conditioned that he will at all times pay over to all persons on demand all moneys to which they may be entitled which may come into his hands by virtue of his office. Such oath and bond shall be filed in the office of the city recorder of said city. And in case of sickness or pressure of business such clerk may appoint, subject to the approval of said judge, a deputy clerk with the like powers of the clerk, but acting under the authority of said clerk, who shall be liable on his said bond for all the official acts of such deputy, and for all moneys coming into his hands. The salary or compensation of said clerk shall be such as the judge of said court shall determine, and shall be paid by said judge.

SEC. 7. Said municipal court shall have full power and authority to issue all process, civil and criminal, necessary or proper to carry

into effect the jurisdiction given to it by law and its judgments and other determinations. And it shall have and possess all the powers usually possessed by courts at common law, subject to the modifications of the statutes of this state applicable to courts of record, except that it shall not have jurisdiction to issue writs of *habeas corpus*, *quo warranto*, *ne exeat*, *mandamus* or injunction. It shall have all the powers and jurisdiction conferred on justices of the peace by Chapter eight-four (84) of General Statutes, one thousand eight hundred and seventy-eight (1878). All process shall be attested in the name of the judge and issued under the seal of the court, and signed by the clerk (who shall be styled clerk of the municipal court), or by the judge. And the forms of process may be prescribed by the court, by rule or otherwise, and any form so prescribed shall be valid and sufficient; and any such forms may be changed by the court from time to time. In the absence of prescribed forms, the forms of process in use either in the courts of record in the state or by justices of the peace may be changed and adapted to the style of the court and used at the discretion of the court or clerk. Process may be directed for service to the marshal or the constable of the city of Waseca, or to the sheriff or any constable of Waseca county, and may be served in the same manner as a summons issued by a justice of the peace, except as this is modified by section fifteen (15) of this act, and service by publication may be ordered and made as in justices' courts.

SEC. 8. Said municipal court shall be held in the city hall of said city of Waseca, or in some other suitable place to be provided by the common council of said city, which said hall or place shall be provided with fuel, lights and suitable furniture for the business of said court. The judge of said municipal court shall be chief magistrate of said city, and shall see that the criminal laws of the state are observed and executed within the county of Waseca, and that the ordinances, laws and regulations of the said city of Waseca be duly executed; and shall, for such purposes, open said court every morning (all legal holidays and Sundays excepted) and proceed to hear, try and dispose of, in a summary manner, all causes which shall be brought before him by the police officers of the said city, with or without process or otherwise, for violation of any of the laws, ordinances or regulations of the said city of Waseca, and also hear, try and dispose of all criminal causes brought before him, in accordance with the laws of this state, of which he may have jurisdiction; *Provided*, that in all cases for the violation of any criminal law of this state the county of Waseca shall be held for and shall pay to the judge of said court all fees and costs which are not collected from the defendant, and that in all cases for the violation of any ordinance, law, regulation or by-law of said city, said city shall be held for and shall pay to the judge of said court all fees and costs not collected from the defendant. A record of all proceedings in said court shall be kept, and all commitments and executions, as well as all other process, shall be issued by the judge or clerk of said court, and all orders, judgments and sentences shall be entered under the supervision of the judge. And in all criminal causes prosecuted in said court, where the costs of prosecution shall not be paid by the defendant, it shall be the duty of the judge or clerk of said court to file with the auditor of Waseca county or with the city recorder of the city of Waseca, as the case may be, a certified statement of the fees of the witnesses for the prosecution, and

of the jurors who sat in the trial of the cause, within fifteen (15) days after any such trial or examination, which certificate shall be *prima facie* evidence of the facts stated therein.

SEC. 9. The clerk of the municipal court (if there be such clerk) shall have the care and custody of all the books, papers and records of said court. He shall be present, by himself or his deputy, at all trials and at all terms of said court, unless absent from sickness or by consent of the judge, and when necessary the judge may appoint, from day to day, some person to act temporarily as clerk. He may swear all witnesses or jurors and administer all oaths and affidavits; and when so appointed by the court, he shall act as referee in any civil action pending in said court without compensation. He shall keep minutes of all proceedings and may enter judgments and make up and keep the records of the court under the direction of the judge, and, when the judge is not present, adjourn the court from day to day; *Provided*, that the judge of said court shall have full power to do any act which said clerk is authorized to do.

SEC. 10. Said municipal court shall hold regular terms for the transaction of civil business and trial of civil actions on each and every Tuesday, which terms shall continue from day to day, with such adjournments as the court shall deem proper, until the business of such term shall be finished; and all civil actions shall be commenced by summons issued from said court by its judge or clerk; and all proceedings under the provisions of Chapter eighty-four (84) of General Statutes and all civil process shall be made returnable at ten (10) o'clock in the forenoon of the first (1st) day of one of said terms. The form of summons may be as follows, save in actions under Chapter eighty-four (84) of the General Statutes:

STATE OF MINNESOTA,)	CITY OF WASECA,
County of Waseca.)	Municipal Court.
} ss.	
<i>The State of Minnesota to the Marshal or Constable of said City of Waseca,</i>	
<i>or to the Sheriff or any Constable of said County:</i>	
You are hereby commanded to summon.....	
if.....shall be found within the said county of Waseca, to be and	
appear before the municipal court of the city of Waseca, at a term	
thereof to be begun and holden on Tuesday, the.....day of	
.....A. D. 18.....at ten (10) o'clock in the forenoon, and	
then and there answer to.....whose complaint	
is on file in said court, in a civil action, and have you then and there	
this writ.	
Witness the honorable.....	
	Judge of the Municipal Court.
This.....day of.....A. D. 18.....	
.....of the Municipal Court.	

Or the summons may be in any other form which said court may by rule prescribe, and shall be served upon the defendant at least six (6) days before the time the same is made returnable. No summons shall issue in any action until the complaint in such action shall be filed in said court. All complaints and other pleadings of every kind shall be in writing and subscribed by the attorney of the party, or the party, and shall be verified by the party, or, if the party is absent from the place of trial, by his attorney, as in district courts of this

state. If the defendant fails to appear by eleven (11) o'clock in the forenoon of the day on which said summons is made returnable, he shall be declared in default, and the plaintiff shall thereupon have such judgment as he shall show himself entitled to. If the defendant shall so appear, he shall immediately, or within such time as the court shall direct, file his answer or demurrer to the complaint, and the plaintiff may reply thereto forthwith or within such time as the court may designate. Either party may demur to any pleading of his adversary for the same reasons and in the same form as in the district court; but all pleadings shall be construed liberally, and merely technical objections shall be disregarded. And the court may, for good cause shown, in its discretion, and on such terms as it may deem equitable, open any default within ten (10) days after such default. And the opposing party shall have two (2) days' notice in writing, of any motion to open any default, and may appear to oppose the same. The court shall disregard variances arising between the allegations of a pleading and the evidence, unless satisfied that the adverse party is prejudiced thereby. Either party shall be entitled to a continuance of any civil action, excepting cases under the provisions of Chapter eighty-four (84), General Statutes, until the next term of the court following the term at which the summons shall be returnable; and further continuance may be granted upon sufficient cause shown and on such terms as may be just. Said court shall have authority to provide by rule that the plaintiff in any civil action shall, before any summons shall issue in the action, or at any other time, give security for costs by bond, recognizance or deposit of money, in such sum as the court may designate. And in all civil actions tried in this court without a jury, the judge shall, when requested, at any time prior to the order for judgment, make and file separate findings of facts and conclusions of law; and on appeals from a judgment in actions tried with a jury on questions of law only. Such judgment may be revised if the findings of facts do not justify the conclusions of law. When the complaint is verified and the defendant fails to appear and file in court an answer thereto, the plaintiff shall be entitled to have judgment rendered and entered as in similar causes in actions brought in district court. Said municipal judge may practice as an attorney in any of the courts of this state, except in causes brought before him in said municipal court. And said municipal judge shall not sit in the trial of any cause in which he is interested, either directly or indirectly, or in which he would be excluded from sitting as a juror; *Provided, however*, that no such interest or excluding cause shall disqualify or prevent him from issuing any process therein, or making return to any appeal from any judgment docketed in said court. And said municipal judge, in case of sickness, absence, interest or other legal cause, shall, by an order entered of record, call in the probate judge, the court commissioner or some justice of the peace of said Waseca county to act as judge of said municipal court in the trial of any such cause, or in the holding of a term or terms of said court, and such judge of probate, court commissioner or justice of the peace so called in, shall serve as such judge and shall have and exercise all the powers of every kind possessed by said municipal judge in the trial of any such cause or the holding of any such terms of court as the case may be, and shall receive the same fees for his services as the said municipal judge is entitled to receive.

SEC. 11. All of chapter sixty-six (66) of General Statutes of one thousand eight hundred and seventy-eight (1878) of this state, from section ninety (90) inclusive to section one hundred thirty-one (131) inclusive, with the amendments thereof, and all other sections of said chapter, and all laws whatsoever of a general nature, shall apply to said municipal court, so far as the same can be made applicable, and so far as they are not inconsistent with the provisions of this act; *Provided*, that in cases not herein otherwise provided the practice and method of proceeding shall be as in justices' courts.

SEC. 12. All necessary disbursements paid or incurred shall be allowed the prevailing party as in district court, and costs shall be allowed the prevailing party as follows:

First—To the plaintiff, upon a judgment in his favor of one hundred (100) dollars or more, or in actions of replevin when the value of the property replevied is one hundred (100) dollars or more, ten (10) dollars, if issue has been joined, and five (5) dollars if no issue has been joined.

Second—To the plaintiff, upon a judgment of less than one hundred (100) dollars, and for fifty (50) dollars or more, or when in an action of replevin the value of the property replevied is less than one hundred (100) dollars, and is fifty (50) dollars or more, five (5) dollars, if an issue has been joined, and three (3) dollars, if issue has not been joined.

Third—To the plaintiff, upon any judgment not herein provided for, three (3) dollars.

Fourth—To the defendant, when the amount claimed in the complaint or the value of the property sought to be replevied is one hundred (100) dollars or over, five (5) dollars, if the judgment is upon discontinuance or dismissal, and ten (10) dollars, if the judgment is rendered in his favor on the merits.

Fifth—To the defendant, when the amount claimed in the complaint or the value of the property sought to be replevied is less than one hundred (100) dollars, and is fifty (50) dollars or over, three (3) dollars, if the judgment be upon continuance or dismissal, and five (5) dollars, if the judgment is rendered in his favor on the merits.

Sixth—To the defendant, upon any judgment in his favor not hereinbefore provided for, three (3) dollars; *Provided*, that in every case where a demurrer has been interposed by either party and overruled, and the party demurring shall not afterwards answer or reply, as the case may be, it shall be considered the same as an issue joined, or a decision on the merits; *And provided further*, that costs may be allowed the prevailing party on a contested motion or demurrer, in the discretion of the judge, not exceeding the sum of five (5) dollars, when the amount or value of the property in dispute exceed one hundred (100) dollars, and three (3) dollars, when the amount or value of the property in dispute is one hundred (100) dollars or less; *And provided further*, that no party shall recover any costs as herein provided, unless he has appeared of record in such action by an attorney admitted to practice in district courts of this state.

SEC. 13. Costs and disbursements may be taxed by the clerk or the judge upon two (2) days' notice by either party, and may be inserted in the entry of the judgment. The disbursements shall be stated in detail as in district court, and verified by affidavit filed with the court, and all objections to any item shall be in writing, and shall

specify the grounds thereof. When such costs or disbursements are taxed by the clerk either party may appeal to the judge in the same manner as in district court; and sections four (4), six (6), seven (7), eight (8), nine (9), ten (10), eleven (11), twelve (12), thirteen (13), and fifteen (15) of Chapter sixty-seven (67) of General Statutes of one thousand eight hundred seventy-eight (1878) shall apply to this court to as far as not inconsistent with this act.

And in case neither party to any action or proceeding in said court shall, within ten (10) days after order of judgment, cause the costs and disbursements therein to be taxed and judgment entered, the clerk or the judge of said court may, at any time thereafter, upon two (2) days' notice to the losing party or his attorney of record, proceed to tax the costs, fees and disbursements in any such action or proceeding, and insert the same in the judgment to be thereupon entered of record in such cause.

SEC. 14. Writs of attachment may be issued on behalf of a plaintiff in any action in said court in the same manner and in like cases as in the district courts of this state; and title nine (9) of Chapter sixty-six (66) of General Statutes of one thousand eight hundred seventy-eight (1878) shall apply to this court and govern all proceedings therein as to attachments, except that the causes for an attachment and the form and affidavit therefor shall be the same as in justices' courts, and except as the provisions thereof may be inconsistent with the provisions of this act; *Provided, nevertheless*, that no real estate shall be attached on a writ issued from said municipal court, unless the amount of plaintiff's claim, as appears by the affidavit, shall be fifty (50) dollars or more, and that no writ of attachment shall issue unless the amount of plaintiff's demand exceeds the sum of five (5) dollars; *And provided further*, that the bond shall be approved and the writ issued by the judge of said court, and that no order therefor from any court commissioner shall be necessary; *Provided, however*, that in all cases where the summons has been served on the defendant, and the court has gained jurisdiction of the defendant, judgment may be entered without regard to whether the writ of attachment has been levied on any property or not.

SEC. 15. The form of such writ of attachment may be as follows, except that the words "and real estate" shall be omitted, unless the amount of plaintiff's claim as shown by the affidavit shall be fifty (50) dollars or more:

STATE OF MINNESOTA, } County of Waseca. } ss.	}	CITY OF WASECA, Municipal Court.
..... Plaintiff,	}	
vs.		
..... Defendant.	}	
STATE OF MINNESOTA, } County of Waseca. } ss.	}	

The State of Minnesota to the Marshal or Constable of said City of Waseca, or to the Sheriff or to any Constable of said County:

WHEREAS, in the above entitled action, an application has been duly made to this court for a writ of attachment against the property of

.....defendant therein, setting forth by affidavit that a cause of action exists against such defendant, and specifying the amount of claim and the ground thereof, and that the affiant has good reason to believe (*here state the ground for the attachment*).....

.....and,

WHEREAS, the bond required by law has been duly executed, approved and filed in this court;

Therefore, you are hereby commanded and required to attach and safely keep all the personal property and real estate of said..... within your county and not exempt from execution, or as much thereof as may be sufficient to satisfy the said plaintiff's demand, which amounts to the sum of..... as appears from the complaint and affidavit in said action, together with costs and expenses, and that you proceed herein in the manner required of you by law.

Witness the honorable.....

Judge of the Municipal Court of the city of Waseca, Minnesota.

This.....day of.....A. D. 18...

And no such writ containing the words "and real estate" shall run to or be served by any officer except the sheriff, nor shall it contain the words "marshal or constable of said city of Waseca, or to the," nor the words "or any constable."

SEC. 16. When the object of an action is to recover the possession of personal property, the plaintiff may, at the time of the filing the complaint and issuing of the summons and notification, file an affidavit as required in the justice court and in a like action, and also a bond, executed with sureties to be approved by the judge and conditioned similar and in the same amounts as bonds in like actions in justice courts; and a writ shall thereupon issue which shall be returnable on the return day of the summons in such action, and it may be signed by the clerk or judge, and under seal of the court, and in form as follows:

STATE OF MINNESOTA, }
County of Waseca. } ss.

CITY OF WASECA,
Municipal Court.

The State of Minnesota to the Marshal or Constable of the City of Waseca, or to the Sheriff or any Constable of said County:

WHEREAS,.....complains that.....has become possessed of and unjustly detains from the said.....the following described goods and chattels, that is to say (*describing the articles with reasonable certainty and stating their alleged value*);

Therefore, you are hereby commanded that you cause the same goods and chattels to be replevied without delay and delivered to said.....and to summon the said.....if to be found within the said county, to be and appear before the municipal court of the city of Waseca, at a term thereof to be holden on.....the.....day of.....A. D. 18....., at ten (10) o'clock in the forenoon, and answer to.....

.....whose complaint is on file in said court, in a civil action; and have you then and there this writ.

Witness the honorable.....
Judge of the Municipal Court.

This.....day of.....A. D. 18.....

.....
*of the Municipal Court.*

Or the writ may be in any other form that the court may by rule prescribe. The writ shall be served, and all proceedings thereunder had, in the same manner (except as to times and forms of pleadings and trials and except as hereinafter provided) as upon similar proceedings in a justice court; *Provided*, that all proceedings after the seizure of such property by the officer, respecting the possession of such property, shall be governed by sections one hundred thirty-five, (135), one hundred thirty-six (136), one hundred thirty-seven (137), one hundred thirty-nine (139), one hundred forty (140), one hundred forty-one (141) of Chapter sixty-six (66) of the General Statutes of one thousand eight hundred seventy-eight (1878).

SEC. 17. Prior to each term of said municipal court for the trial of civil actions, a calendar may be made up of the causes which will come up for trial or for any disposition before the court at such term, and the judge may adopt the order of arrangement, and may, at each term, direct the order of the trial and other disposition of the causes as in district courts.

SEC. 18. Trial by jury may be had in the municipal court as in justices' courts, and the jury may be selected in the same manner as in justices' courts, and venires issue therefor and talesmen be selected in the usual manner. Three (3) peremptory challenges of talesmen may be made by either party. The jury shall take the same oath prescribed for jurors in the district court, and the respective functions of judge and jury, upon the trial of cases, shall be the same as in district court, and exceptions to the ruling and decisions of the judge and his charge and refusals to charge may be taken as upon trials in the district court. When no other provisions are otherwise made in this act, said municipal court is vested with all the powers which are possessed by the district courts in this state, and all laws of a general nature apply to the said municipal court so far as the same can be made applicable and are not inconsistent with the provisions of this act. Jurors in said municipal court shall be entitled to like fees as jurors in the justices' courts, to be collected and paid in same manner, but to be advanced by the party demanding a jury before such jury is drawn and at the time of demanding the same; and jurors in criminal causes shall be entitled to like fees as jurors in civil actions, which said fees shall be taxed as a part of the costs in the cause.

SEC. 19. Title eighteen (18) of Chapter sixty-six (66) of General Statutes, relative to trials by referees, title nineteen (19) of the same chapter, relative to exceptions, title twenty (20) of the same chapter, relative to new trials, section four (4) of Chapter twenty-seven (27) of the General Statutes, and Chapter eighty-four (84) of said statutes shall all apply to said municipal court and its judge; *Provided*, that all motions for a new trial shall be made within ten (10) days after order of judgment therein. In all cases the judge in causes tried

without a jury may take five (5) days in which to decide any action, motion or demurrer.

SEC. 20. Appeals shall lie from said municipal court to the district court of Waseca county in all actions, both civil and criminal, and in actions under Chapter eighty-four (84) of the General Statutes of this state, as follows: In criminal actions and in actions under Chapter eighty-four (84) of General Statutes, appeals may be taken in all cases and in the same manner and upon like proceedings and with like effect as they may now be taken from justices' courts of this state. In civil actions not under Chapter eighty-four (84) of General Statutes, appeals may be taken in all cases, and in the same manner and within the same time and with the same effect as can be now taken from justices' courts; and title eleven (11) of Chapter sixty-five (65) of General Statutes, relating to appeals, shall apply to appeals from this court; *Excepting and providing*, that an appeal may be taken from any judgment, or from an order granting or refusing a new trial, or from an order sustaining or overruling a demurrer, and in no other cases; *And provided further*, that in case of an appeal from a judgment on questions of law only, or from an order granting or refusing a new trial, or from an order sustaining or overruling a demurrer, such district court shall certify under its seal its decision thereon and remand such cause to said municipal court, in the same manner and with same effect as causes are remanded from the supreme court to the district court, unless otherwise ordered by the judge of said district court; *And provided further*, that no appeal from any order of said municipal court shall be allowed unless the same is taken within ten (10) days from the filing of such order, unless further time is granted, on application made within such space of ten (10) days, in which to prepare a bill of exceptions or case, and in which to perfect such appeal; *And provided further*, that in all cases of appeal of civil actions in said court, the party taking the appeal shall pay all the fees of said court and of the officers serving any process therein, which shall have accrued in said action, before any such appeal shall be allowed or entered of record. And upon appeal to the district court from an order granting or refusing a new trial, or sustaining or overruling a demurrer, the successful party shall recover therein, if allowed by the judge of the district court, any sum so allowed, not exceeding ten (10) dollars costs, besides disbursements, to be taxed and judgment entered therefor in district court; or in case the cause is remanded, then such judgment for costs so allowed to be entered in said municipal court.

SEC. 21. No judgment rendered in said municipal court shall be a lien upon real estate until a transcript thereof shall be filed in the district court, as hereinafter provided; but writs of execution on all judgments in civil actions may issue, upon entry of judgment after time for appeal has elapsed, against the goods and chattels of the judgment debtor, returnable within thirty (30) days. Judgments may be stayed in this court the same as in justices' courts. Every person in whose favor a judgment is rendered in said municipal court for an amount exceeding ten (10) dollars, besides costs, may, upon paying the fee therefor and all unpaid fees payable to the judge of said court in such action, demand, and shall receive from such court, a transcript of such judgment, duly certified, and file the same in the office of the clerk of the district court of the county of Waseca, who shall file and docket the same as in case of transcripts of judgment

from justices' courts; and every such judgment shall become a lien upon the real estate of the debtor from the filing of such transcript to the same extent as a judgment of the said district court, and shall thereafter, so far as relates to the enforcement of the same, be exclusively under the control of the said district court; *Provided*, that the transcript of a judgment in any action in municipal court in which a writ of attachment has been issued and levied on real estate shall become a lien, on being filed in such district court in the county where such land is, on all real estate so attached, and such lien shall date back to the date of such attachment. Said municipal court shall not issue such transcript while a writ of execution is in the hands of an officer and not returned or lost, and shall note on the record of such judgment the fact that such transcript has been given, and shall not thereafter issue any writ of execution on the same judgment, but may at any time give to the same party or his representatives a new transcript of such judgment in the case of the loss of the transcript first given.

SEC. 22. Proceedings against garnishees may be instituted in the same manner as in justices' courts, but the garnishee summons may be served either by any officer or by any indifferent person at any place within the state of Minnesota, and the summons may be made returnable at any term of said municipal court which may be named therein, not less than six (6) days, and the notice required to be served on the defendant in the action may be signed either by the clerk of said court or the person who served the garnishee summons, or by the plaintiff or his attorney. The disclosure of the garnishee may be taken and all further proceedings had in the same manner as if the proceedings were in the district court.

SEC. 23. Complaints in criminal cases, where the defendant is not in custody, may be made to the court while in session, or to the judge or clerk when not in session, and shall be made in writing by the judge or clerk, and sworn to by the complainant, whether the offense charged be a violation of the criminal laws of the state, or of the ordinances, regulations or by-laws of said city, except that the judge may require the city attorney of said city to draw the same when violations of any ordinance, regulation or by-law of said city, or the county attorney of said county to draw the same when for any violation of any law of this state, and may so notify such city attorney or county attorney. And the clerk of said court, as well as said judge, is hereby made a conservator of the peace and vested with the same authority, discretion and power to act on receiving complaints and issuing the warrants of said court in criminal cases. Any complaints, warrants, and other process in criminal cases may follow substantially the same forms heretofore in use by the justices of the peace, with such alterations as may seem convenient to adapt the same to the style of said municipal court, or may be in such other form as the court may prescribe, sanction or approve. In cases where alleged offenders shall be in custody and brought before the court or clerk without process, the judge or clerk shall enter upon the records of the court a brief statement of the offense with which the defendant is charged, which shall stand in the place of a complaint unless the court shall direct a formal complaint to be made. The plea of the defendant shall be guilty or not guilty; and in case of failure to plead, the judge or clerk shall enter a plea of not guilty, and a formal acquittal or conviction

for the same offense may be proved under that plea, the same as if formally pleaded; and in the examination of offenders charged with indictable offenses the judge or clerk shall keep such minutes of the examination as the court may direct, and shall make the proper return to the proper court before which the party charged with the offense may be bound to appear. The city attorney of Waseca shall have charge of all criminal cases before said municipal court for offenses against any ordinance, regulation or by-law of said city, and the county attorney of Waseca county shall act in the prosecution of all offenders charged with the violation of any law of this state.

SEC. 24. In all civil proceedings had in said municipal court, when the amount claimed in the complaint filed therein does not exceed thirty (30) dollars, like fees or costs shall be charged and collected by the judge, or the clerk for the judge, which are allowed by law to justices of the peace in proceedings and upon trials before them, or for similar services, and in all other civil proceedings like fees or costs shall be charged and collected by the judge, or the clerk for the judge, as are allowed by law to such justices of the peace for like or similar services, except as hereinafter provided; *Provided*, that except in the cases where the amount claimed in the complaint is thirty (30) dollars or less, the fees shall be one (1) dollar for issuing each and every summons, which fees shall be paid in advance by the plaintiff prior to the issuing of such summons, and that the fees for issuing each writ of attachment, which can be levied on real estate, there shall be a fee of twenty-five (25) cents in addition to the other fees allowed in justices' court; *And provided also*, that for hearing and deciding every motion for a new trial or for removing a default there shall be a court fee to go to the judge of one (1) dollar, and for hearing and deciding every demurrer, a fee of fifty (50) cents, in addition to the usual fees in justices' court; and that for allowing or settling any bill of exceptions or case, a fee of fifty (50) cents shall be allowed to the judge, and that for certifying any return to the district court on an appeal, ten (10) cents per folio, unless such return and all necessary copies be made by the appealing party; *Provided further*, that in all actions before said municipal court, and in all examinations held by or before said court to inquire into offenses of which said court shall not have final jurisdiction, the same fees shall be taxed as costs of said court as are now allowed to justices of the peace for similar services, and twenty-five (25) per cent additional thereto; *And provided*, that all such fees and costs mentioned in this section shall go to the judge of said court as his compensation, in lieu of a salary.

SEC. 25. The municipal court shall be furnished from time to time with all necessary records and judgment books and dockets, and also with a seal of court, by and at the expense of the city of Waseca. And all actions, motions, proceedings and causes, civil and criminal, now pending in said municipal court, shall proceed in said court as though this act had not been passed; and all dockets, records, files and papers of all justice jurisdiction of the village of Waseca, and of all city justices of said city of Waseca, and of all previous municipal court judges of said city, and all judgments existing on such dockets, shall be judgments of said municipal court and of the same legal effect as other judgments of said municipal court.

SEC. 26. That section three (3) of Chapter sixty-nine (69) of the Special Laws of the state of Minnesota of the year one thousand eight

hundred eighty-nine (1889), and all acts and parts of acts relating to the city of Waseca inconsistent with the provisions of this act, are hereby repealed.

SEC. 27. This act shall take effect and be in force from and after its passage.

Approved April 6, 1891.

CHAPTER 53.

[H. F. No. 1081.]

AN ACT TO CONFIRM AND CONTINUE THE PRESENT MUNICIPAL COURT OF THE CITY OF DULUTH, IN THE COUNTY OF ST. LOUIS, IN THE STATE OF MINNESOTA, TO ENLARGE THE JURISDICTION OF SUCH COURT AND TO REGULATE THE PRACTICE AND PROCEDURE THEREOF.

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

SECTION 1. *Court Established—Jurisdiction.*—The municipal court now existing in the city of Duluth, in the county of St. Louis and state of Minnesota, is hereby confirmed, continued and established as a court for the transaction of all judicial business which may lawfully come before it. The said court shall be located and its sessions shall be held in the city of Duluth, at some suitable place to be provided therefor by the common council of said city.

Said court shall be a court of record, and shall have a clerk and a seal, and the jurisdiction of said court shall be coextensive with the limits of the counties of St. Louis, Lake and Cook, except as hereinafter provided.

Civil Jurisdiction.—Said court shall have jurisdiction to hear, try and determine civil actions and proceedings as follows:

First—Of an action arising on contract for the recovery of money only, if the sum claimed does not exceed five hundred (500) dollars.

Second—Of an action for damages for an injury to the person, or to real property, or for taking, detaining or injuring personal property, if the damages claimed, or, in replevin, the value of the property in controversy, does not exceed five hundred (500) dollars.

Third—Of an action for a penalty given by statute not exceeding five hundred (500) dollars.

Fourth—Of an action upon a bond, conditioned for the payment of money, not exceeding five hundred (500) dollars, though the penalty exceeds that sum, the judgment to be given for the sum actually due. When the payments are to be made by installments, an action may be brought for each installment as it becomes due.

Fifth—Of an action upon an official bond, or bond taken in said court, if the penalty does not exceed five hundred (500) dollars.

Sixth—To take and enter judgment on the confession of a defendant, when the amount does not exceed five hundred (500) dollars.

Seventh—To hear and to determine all questions that may arise in actions before it, brought under Chapter eighty-four (84) of the General Statutes of one thousand eight hundred and seventy-eight (1878) and the