

INCORPORATIONS.

CHAPTER 11.

BISMARCK.

AN ACT to incorporate the city of Bismarck.

Be it enacted by the Legislative Assembly of the Territory of Dakota:

ARTICLE I.

GENERAL PROVISIONS.

SECTION 1. That all of the northwest quarter of section four (4), the west half of the northeast quarter of section four (4), the north half of section five (5), and of that portion of section six (6) which lies east of the Missouri river, in township one hundred and thirty-eight (138), north, of range eighty (80), west, and all of the north half of section thirty-one (31) lying east of the Missouri river, and all of the south half of sections thirty-two (32) and thirty-three (33), of township one hundred and thirty-nine (139), north, of range eighty (80), west, all interested in the county of Burleigh together with the inhabitants residing therein, be and the same is hereby declared to be a corporation, by the name of the city of Bismarck, and the west line of said city shall extend to the middle of the main channel of the Missouri river. Limits of Bismarck defined.

SEC 2. The proprietor or proprietors of any land within the corporate limits of the city of Bismarck, or adjoining and contiguous to the same, may lay out said land into lots, blocks, streets, avenues, alleys and other grounds, under the name of addition to the city of Bismarck, and shall cause an accurate map or plat thereof to be made out, designating explicitly the land so laid out, and particularly describing the lots, blocks, streets, avenues, alleys and other grounds belonging to such addition. The Manner of laying out city property.

Duty of surveyor.

lots must be designated by numbers, and the streets, avenues and other grounds, by names or numbers; and such plat shall be acknowledged before some officer authorized to take the acknowledgment of deeds, and have appended a survey made by some competent surveyor; and said surveyor shall certify that he has accurately surveyed such addition, and that the lots, blocks, streets, avenues, alleys, parks, commons, and other grounds, are well and accurately staked off and marked, and when such map or plat is so made out, acknowledged and certified, and after being approved by the mayor and council, the same shall be filed and recorded in the office of the register of deeds of Burleigh county, and thereupon such plat shall be equivalent to a deed in fee simple from the proprietor or proprietors, of all streets, avenues, alleys, public squares, parks and commons, and such portion of the land as is therein set apart for public and city use, or is dedicated to charitable, religious or educational purposes; and all additions thus laid out within the said corporate limits shall remain a part of such city; and all additions now and hereafter laid out and adjoining and contiguous to the said corporate limits, shall be included within the same, and be and become a part of such city for all purposes whatsoever; and the inhabitants of such addition shall be entitled to all the rights and privileges, and be subject to all the laws, ordinances, rules and regulations of the city to which said land is an addition: *Provided*, The mayor and council shall have control of all such additions, and shall have power, by ordinance, to compel the owners of any such additions to lay out streets, avenues and alleys so as to have the same correspond in width and direction, and be continuations of the streets, avenues and alleys in the city or additions belonging thereto; and no addition shall have any validity, rights or privileges as an addition, unless the terms and conditions of such ordinances are complied with, and the plat thereof shall have been submitted to, and approved by, the mayor and council, and such approval indorsed thereon.

Who to control additions.

What this act not to affect.

SEC. 3. No right or property accrued to said city of Bismarck, or any corporation, or person, under any law heretofore in force, shall be affected by this act.

Power of the city.

SEC. 4. The city of Bismarck, created and governed by the provisions of this act, shall be a body corporate and politic, and shall have power:

- 1st. To sue and be sued;
- 2d. To purchase and hold real and personal property for the use of the city, and real estate sold for taxes;
- 3d. To sell and convey any real or personal estate owned by the city, and make such order respecting the same as may be deemed conducive to the interests of the city;
- 4th. To make all contracts, and do all other acts in relation to the property and concerns of the city necessary to the exercise of its corporate or administrative powers, to have a common seal, and to change and alter the same at pleasure;
- 5th. To exercise such other and further powers as may be conferred by law.

SEC. 5. The powers hereby granted shall be exercised by the mayor and council of the city of Bismarck as hereinafter set forth. Who to exercise powers.

SEC. 6. The city of Bismarck shall be divided into three wards, named respectively, the first, second, and third. Wards, number of

SEC. 7. Each and every process whatever affecting the city of Bismarck shall be served upon the mayor, or in his absence, upon the city clerk, or in the absence of both from the city, then upon the city marshal. Process, upon whom served.

SEC. 8. The council of said city of Bismarck shall consist of six citizens of said city, being two from each ward, who shall be qualified electors of their respective wards, under the organic act and laws of this territory. Council, of whom to consist.

SEC. 9. On the first Monday in April, after the taking effect of this act, and on the same day in each year thereafter, an election shall be held for mayor, *eight* [six] aldermen, clerk, treasurer and marshal, each of whom shall be elected for the term of one year, commencing on the first Monday succeeding the day of their election and shall hold their respective offices until their successors are elected and qualified. Time of holding election.

SEC. 10. At all elections authorized by this act, the polls shall be kept open from nine o'clock A. M. until four o'clock P. M., and no longer. Opening and closing polls.

SEC. 11. Each ward shall constitute an election district, and polls shall be opened at such place therein as may be designated by the mayor, or fixed by ordinance or resolution of the council: *Provided*, That when any ward shall contain over three hundred legal voters, the mayor and council may, by Election districts. Power of council. Proviso.

ordinance, re-district said city, and increase the number of wards to six; and when so re-districted, each of said wards shall be entitled to two aldermen: *And provided further*, That every legal voter of the territory, who shall have been a resident of the city thirty days next preceding a city election, is declared a citizen of said city, and is entitled to vote at all elections thereof: *Provided*, That such citizen has paid all poll tax that may be due from him to the city at the time of offering to vote, and in case any person so offering to vote shall be challenged at said polls, he shall, in addition to the oath now required by law, make oath that he has paid such tax, or, in case he refuses to make such oath, his vote shall be rejected. And no person shall be eligible to any elective office mentioned in this act, unless he be a legal voter of the city, and has been a resident thereof one year next preceding his election: *And provided further*, That every person shall vote in the ward where he resides, and not elsewhere.

Who may
vote.

ARTICLE II.

POWERS OF OFFICERS.

Power of
Mayor and
Council.

SEC. 12. The mayor and council of the city of Bismarck shall have the care, management and control of the city, and its property and finances, and shall have power to enact and ordain any and all ordinances not repugnant to the organic act, and the laws of this territory, and such ordinances to alter, modify or repeal; and shall have power:

To levy and
collect taxes.

1st. To levy and collect taxes for general purposes, not exceeding four mills on the dollar in any one year, on all the property within the limits of the city, taxable according to the laws of the territory, the valuation of such property to be taken from the assessment roll of Burleigh county; and it shall be the duty of the county clerk of said Burleigh county, to permit the city clerk to make out, from the assessment rolls of the county, an assessment roll for the city, of all the property liable to taxation as above specified: *Provided*, That the authorities of the said city of Bismarck, shall not, in any year, issue warrants or orders to an amount greater than ninety per cent. of the amount of taxes levied for such year, and the amount actually received from other sources; and said city authorities shall not contract or incur any in-

debtedness in addition to the amount for which they are authorized to issue warrants, orders, or bonds;

2d. To provide for the sale of real estate for the non-payment of taxes due thereon, and for the time and manner of redemption of the same, and conveyance thereof: *Provided*, That the owner may redeem the same within two years after the day of sale, or at any time thereafter, until the tax deed is issued, by the payment of the full amount of tax, and all taxes subsequently paid thereon by the purchaser, and all costs, penalties and charges thereon, together with interest at the rate of forty per cent. per annum;

To sell real estate.

3d. To provide for the sale of personal property for any taxes due from the owner thereof, or assessed upon the property to be sold;

To sell personal estate.

4th. To levy and collect a license tax on runners, hawkers, peddlers, liquor sellers, pawn brokers, taverns, dram shops, saloon keepers of any kind, brokers, shows and exhibitions for pay, billiard tables, ball and ten pin alleys, without regard to the number of pins used; hacks, drays, wagons, or other vehicles used for pay, within the city; theater and theatrical exhibitions for pay, and to adopt all such measures as they may deem necessary for the accommodation and protection of strangers and the traveling public in person or property;

To license liquor sellers, etc.

5th. To restrain, prohibit and suppress tippling shops, billiard tables, ten pin alleys, ball alleys, houses of prostitution and other disorderly houses and practices, games and gambling houses, desecrating the Sabbath (commonly called Sunday,) and all kinds of indecencies;

To suppress tippling shops, etc.

6th. To make regulations to prevent the introduction of contagious diseases into the city; to make quarantine laws for that purpose, and to enforce the same within the limits of the city;

To prevent contagious diseases.

7th. To erect, establish and regulate hospitals, work houses, houses of correction and jails, and provide for the government and support of the same;

To erect hospitals.

8th. To make regulations to secure the general health of the city, and to prevent and remove nuisances, and to make and prescribe regulations for the cleaning and keeping in order all slaughter houses, stock yards, warehouses, stables or

To remove nuisances.

other places where offensive matter is kept or liable to accumulate;

To regulate police.

9th. To establish, regulate and support night watch and police, and define the duties thereof;

To light streets.

10th. To provide for the lighting of streets, laying down of gas pipes, and erection of lamp posts, and to regulate the sale of gas and the rent of gas metres within the city;

To establish market houses.

11th. To erect and establish market houses and make market places, and to regulate and govern the same, and to provide for the erection of all other useful and necessary buildings for the use of the city, and for the protection and safety of all property owned by the city, and to provide for the safety and protection of private property when damages are likely to accrue by the action of the elements, or through the carelessness or negligence of any servant or officer of the city, and to establish, alter and change the channels of streams and water-courses, and bridge the same: *Provided*, That any such improvement mentioned in this subdivision, costing in the aggregate a sum greater than two thousand dollars, shall not be authorized until the ordinance providing therefor shall be first submitted to and ratified by a majority of the legal voters of said city, voting at said election;

To change channels of streams.

When to submit question to vote.

To take census.

12th. To provide for and cause to be taken, an enumeration of the inhabitants of the city;

To provide for elections.

13th. To provide by ordinance for the election of city officers and prescribe the manner of conducting the same, and the return thereof, and for deciding contested elections;

To remove officers.

14th. To provide for removing officers of the city for misconduct; to appoint a city attorney, street commissioner and city engineer, and to prescribe the duties and compensation of such officers, and to create any office, or employ any agent they may deem necessary for the good government and interests of the city;

To impose penalties.

15th. To regulate the police of the city, and impose fines, forfeitures and penalties for the breach of any ordinance, and provide for the recovery and collection thereof, and in default of payment to provide for confinement in the city prison, or for hard labor in the city;

To fix compensation.

16th. To regulate and prescribe the duties and powers and compensation of all officers and servants of the city not herein provided for;

17th. To require of all officers and servants elected or appointed in pursuance of this act, bond and security for the faithful performance of their duties; and no officer shall become security upon the official bond of another;

To require bonds.

18th. To issue bonds of the city in such amounts and for such length of time, not to exceed twenty years, and at such rate of interest as they may deem proper, not to exceed ten per cent. per annum; said bonds to express upon their face the purpose for which they were issued, and under what ordinance, and may have interest coupons attached: *Provided*, No such bonds shall be issued for any purpose, unless at a regular or special election, after twenty days public notice, stating distinctly the purpose and object for which said bonds are to be issued, and the amount thereof, the electors of said city, by two-thirds of the legal votes at said election, shall determine in favor of issuing said bonds, which said bonds shall in no case be diverted from the object for which they are issued, and shall not be disposed of by the city at less than ninety per cent. of their face;

To issue bonds

Proviso.

19th. To provide for the prevention of cruelty to animals;

To prevent cruelty to animals.

20th. To appropriate money and provide for the payment of the debts and expenses of the city;

To appropriate money.

21st. To regulate, license or prohibit the sale of domestic animals, or goods, wares or merchandise at public auction on the streets, alleys, highways, or any public grounds within the city;

To regulate auctions.

22d. To regulate, license or prohibit the auctioneering of goods, wares and merchandise, brought into the city for the purpose of being sold at auction;

Same.

23d. To name and re-name streets, avenues, parks and squares within the city; to vacate streets and alleys, and authorize the laying of railroad switches through the same when in their judgment the interests of the city will be promoted thereby;

To name streets.

24th. To prohibit, on the petition therefor of the owners of not less than two-thirds of the ground included in any square or block, the erection of any building, or addition to any building more than ten feet high, unless the outer walls thereof be made of brick and mortar, or of iron, or stone and mortar; and to provide for the removal of any building or additions erected contrary to such prohibition.

To prevent erection of wooden buildings.

- To establish sewerage. 25th. To lay out the city into districts for the purpose of establishing a system of sewerage and drainage, and to levy and collect a special tax upon real estate in any such district for the purpose of constructing sewers and drains therein, or they may pay for such sewerage and drainage out of the general funds of the city.
- To construct water works. 26th. To erect and construct water works either within or without the corporate limits of the city, and to make all needful rules and regulations concerning the use of water supplied by such water works, and to do all acts necessary for the construction, completion, management and control of the same.
- To organize fire companies. 27th. To provide for the organization and support of fire companies, and to establish regulations for the prevention and extinguishment of fires.
- To equalize assessments. 28th. To act as a board of equalization for the city, to equalize assessments, and to correct any error in the listing or valuation of property, and to supply any omissions in the same; and to make a general increase in the valuation of real estate, as in their judgment they may deem proper; such increase not to exceed twenty per cent. of the valuation for county purposes.
- To require reports from city officers. 29th. To require from any city officer of the city at any time, a report in detail of the transactions of his office, or of any matter concerned therewith.
- To prevent horse racing. 30th. To prevent horse racing and immoderate riding or driving in the streets, and to compel persons to fasten their horses or other animals attached to vehicles, while standing in the streets.
- To regulate keeping gun-powder. 31st. To regulate the transportation and keeping of gun-powder and other combustibles and explosive articles.
- To improve parks. 32d. To purchase, hold and improve public grounds and parks, and to provide for the protection and preservation of the same.
- To appropriate private property. 33d. To appropriate private property for the use of the city.
- To provide punishment for disturbers of the peace. 34th. To provide for the punishment of persons disturbing the good order and quiet of the city by clamor and noise, by intoxication, drunkenness, fighting, using obscene or profane language in the streets or other public places, to the annoyance of citizens, or otherwise violating the public peace

by indecent and disorderly conduct, or by lewd and lascivious behavior; and to provide for the punishment of vagrants, common street beggars, common prostitutes, habitual disturbers of the peace, known and notorious pick-pockets, gamblers, burglars, thieves, watch-stuffers, ball game players, persons who practice any trick, game or device with intent to swindle, persons who abuse their families, and suspicious persons who can give no reasonable account of themselves, and such punishment may be either by imposing and collecting fines, or by imprisonment at hard labor, or both, at the discretion of the court: *Provided*, That no such person shall be fined for a single offense to exceed fifty dollars, and that such imprisonment at hard labor shall for the first offense not exceed thirty days; for the second offense sixty days; for the third offense ninety days; and they shall have power to provide that all persons who shall refuse or neglect to pay the fine imposed, on conviction of any offense, together with the costs of prosecution, shall be imprisoned and kept at hard labor until, at the rate of seventy-five cents per each day's labor, exclusive of Sundays, they shall have earned an amount equal to such fine and costs. They shall also have power to make suitable regulations to conduct such labor to the best advantage, and in a manner consistent with age, sex and health of the prisoners, and such labor may be done at the city prison, or elsewhere, under the charge of such officers or other persons, as the mayor and council may select: *Provided, however*, That no person shall for the first offense be sentenced to work outside an enclosure. And they shall have power also to provide suitable hospitals for the reception and care of such prisoners as may be diseased or disabled, the same to be under such regulations and under the charge of such persons as the mayor and council may by ordinance direct.

35th. To provide for filling such vacancies as may occur in the office of alderman, or other elective officer of the city, by calling special elections for that purpose. To provide for filling vacancies.

36th. To enter into arrangements with the county commissioners of Burleigh county for the safe keeping of city prisoners. To provide for keeping prisoners.

SEC. 13. All ordinances of the city shall be passed pursuant to such rules and regulations as the mayor and council may Manner of passing ordinances.

precise: *Provided*, That upon the passage of all ordinances the yeas and nays shall be entered upon the record of the city council, and a majority of the votes of all the members of said council present shall be necessary to their passage: *Provided*, A majority of all the members elected shall constitute a quorum.

How ordinances may be proven.

SEC. 14. All ordinances of the city may be proven by the ordinance book or certificate of the clerk under the seal of the city; and when printed or published in a book or pamphlet form, and purporting to be published or printed by the authority of the city, shall be read and received in all courts and places without further proof.

Statement to be published.

SEC. 15. The mayor and council shall cause to be published semi-annually, a statement of the receipts and expenditures, and the financial condition of the city.

Grade of streets, how established.

SEC. 16. The mayor and council shall have power to establish by ordinance the grade of any street, alley, avenue or lane within the city; and when the grade of such street, alley, avenue or lane shall have been established, such grade shall not be changed except by a vote of two-thirds of the council, and not then until the damages to property owners which may be caused by such change of grade, shall have been assessed and determined by three disinterested appraisers, who shall be appointed by the mayor, with the consent of the council, for that purpose, who shall make such appraisal, taking into consideration the benefits, if any, to such property, and file their report with the city clerk within ten days after receiving notice of their appointment; and the amount of damages so assessed shall be tendered to such property owners or their agents, before any such change of grade shall be made.

Opening and widening of streets.

SEC. 17. The mayor and council shall have power to extend, open, widen, grade, pave, macadamize or otherwise improve and keep in repair in any manner they may deem proper, any street, sidewalk, alley, avenue or lane within the limits of the city, to vacate any portion of any street or alley, and add the portion so vacated to adjoining lots; to re-survey and straighten any street or alley of said city; and to defray the cost and expense of such improvements, or any of them, out of the general funds of the city; or the mayor and council shall have power to levy and collect special taxes upon

lots and pieces of ground adjacent to and abutting upon the streets, sidewalks, alleys, avenues or lanes thus opened, widened, extended or improved, or to be improved as aforesaid.

SEC. 18. Such taxes shall be levied on all the lots and lands abounding or abutting on such improvement, said tax to be either in proportion to the feet front so abounding or abutting, or according to the value of such lots or lands (exclusive of improvements thereon) as shown by the last assessment for general city purposes, as the mayor and council may determine. And the mayor and council are hereby required to provide for ascertaining the value of the improvements, in order that the same may be deducted from the valuation of such real estate for general city purposes, in case special tax is to be levied upon the basis of valuation: *And provided*, That when such improvement shall extend into or through any unsubdivided tract or parcel of land, and taxes shall be so levied, if upon the basis of the valuation, as not to be charged upon the real estate adjoining such improvement, for a greater depth than the average distance through the subdivided real estate to be taxed for said purpose.

Concerning taxes for improvements.

SEC. 19. The mayor and council shall have the power to provide for keeping sidewalks clean and free from all obstructions and accumulations, and may provide for the assessment and collection of taxes on unoccupied real estate, and for the sale and conveyance thereof to pay the expenses of keeping the sidewalks adjacent to such real estate clean and free from obstructions and accumulations as herein provided.

Concerning cleaning of sidewalks, etc.

SEC. 20. The mayor and council shall have power to require all lots and pieces of ground within the city to be drained or filled when necessary to prevent stagnant water, or any other nuisance accumulating therein; and upon the failure of the owners of such lots or pieces of ground to fill or drain the same when so required, to cause such lots or pieces of ground to be drained or filled; and the cost and expense thereof shall be levied upon the property so filled or drained and collected as other special taxes; or pay for the same out of the general funds of the city.

Concerning draining and filling.

SEC. 21. When the mayor and council shall deem it necessary to open, widen, extend, grade, pave, macadamize, bridge, curb, gutter, drain, or otherwise improve any street, sidewalk,

Proceedings to open or widen streets.

alley, avenue or lane within the limits of the city, for which a special tax is to be levied as herein provided, the mayor and council shall by resolution declare such work or improvement necessary to be done, and such resolution shall be published for four consecutive weeks in the official newspaper of the city; and if a majority of the resident owners of the property liable to taxation therefor, shall not within twenty days thereafter file with the city clerk of said city, their protest against such improvement, then the mayor and council shall have power to cause such improvement to be made and to contract therefor, and to levy and collect the taxes as herein provided.

Concerning special taxes.

SEC. 22. Such special taxes shall be due and may be collected as the improvements are completed in front of, or along or upon any block or piece of ground, or at the time the improvement is completed according as shall be provided in the ordinance levying the tax. Such tax, if not paid within thirty days after becoming due, shall have added thereto a penalty of ten per cent., and shall bear interest from the day of sale at the rate of twenty-five per cent. per annum, to be computed on the tax, penalty and cost of sale.

Certain costs may be included in special tax.

SEC. 23. The cost and expense of grading, filling, paving, macadamizing, culverting, curbing and guttering, or otherwise improving streets, sidewalks, alleys, avenues or lanes at their intersections, may be included in the special tax levied for the improvement of any street, sidewalk, alley, avenue or lane, as may be deemed best by the mayor and council.

Duty of engineer when special tax is levied.

SEC. 24. When the special tax is levied, it shall be the duty of the engineer of the city to calculate the amount of the tax on any block, or piece of ground, and file a statement thereof with the city clerk, who shall, as soon as the tax is due on any block or piece of ground, issue a certificate describing it by its number and block, and stating the amount of tax due thereon, and the name of the person charged with the same, and the purpose for which said tax was levied; and such certificate so given shall be the tax warrant of the contractor, and shall be by the clerk placed in the hands of the treasurer, who shall give notice through the official paper of the city when the penalty will accrue; and he shall keep a record of all such warrants and enter in the margin of such records all amounts paid, and by whom paid.

Tax warrant.

SEC. 25. It shall be sufficient in any case to describe the lot or piece of ground as the same is platted or recorded, although the same may belong to several persons, but in case any lot or piece of ground belongs to different persons, the owner of any part thereof may pay his proportion of the tax on such lot or piece of ground, and his proper share may be determined by the city treasurer.

Description
of lot.

SEC. 26. The mayor and council shall have power to provide for the sale and conveyance of any lot or piece of ground for non-payment of such taxes, and the deed given to convey the same may be recorded in the office of register of deeds of the county, as other conveyances. The conveyance shall be to the person owning the certificate of sale at the time such conveyance is given: *Provided*, That any lot or piece of ground may be redeemed within two years after the day of sale, or at any time thereafter until the tax deed is issued, by paying to the treasurer the tax, penalty, cost and interest at the rate of forty per cent. per annum. Lots or lands belonging to minors, or any interest they may have in any lands sold for special taxes, may be redeemed in the same manner at any time before such minor becomes of age and during one year thereafter.

Provision for
selling property
at tax rate.

SEC. 27. When any improvement mentioned in this act is completed according to contract, it shall be the duty of the engineer of the city to carefully inspect the same, and if the improvement is found to be properly done, such engineer shall accept the same and forthwith report his acceptance thereof to the city council, who may confirm or reject such acceptance. When the ordinance levying the tax makes the same due as the improvement is completed in front of, or along any block or piece of ground, then the engineer may accept the same in sections, from time to time, if found to be done according to contract, always reporting acceptance to the city council for confirmation or rejection.

Duty of en-
gineer respect-
ing improve-
ments.

SEC. 28. Special taxes shall be a lien on the lots or pieces of ground subject to the same, from the time the amount thereof shall have been ascertained, and in case any error or irregularity should occur in levying or collecting any such special tax, proceedings may be taken anew, so as to obviate any such error or irregularity.

Special taxes
to be a lien.

Manner of appropriating private property.

SEC. 29. Whenever it shall become necessary to appropriate property for the use of the city, and such appropriation shall be declared necessary by resolution, the mayor, with the approval of the council, shall appoint three disinterested freeholders of the city, who after being first duly sworn to perform the duties of their appointment with fidelity and impartiality, shall assess the damage to the owners of the property, respectively, affected by such appropriation. Such assessment shall be reported to the council, and when confirmed by them the damages shall be payable as provided in the next section.

Payment of damages.

SEC. 30. Such damage shall be paid to the owners of such property, and be deposited with the city treasurer, subject to the order of such owners, respectively, before such property shall be taken for the use of the city.

Where assessment is not confirmed.

SEC. 31. If the assessment of the freeholders be not confirmed by the council, proceedings may be taken anew to assess the damages.

Concerning sinking fund.

SEC. 32. The mayor and council is hereby required to make provisions for a sinking fund, to redeem at maturity the bonded indebtedness of the city, and the tax levied for the sinking fund shall be paid in cash.

Concerning interest on city bonds.

SEC. 33. The mayor and council shall make provisions for the payment of interest on the bonds of the city; and taxes levied for the payment of such interest shall be payable in cash.

How sinking fund may be used.

SEC. 34. The sinking fund to redeem at maturity the bonded indebtedness of the city, may be used to purchase such bonds before maturity, on such terms and in such manner as may be prescribed by an ordinance to be enacted for that purpose: *Provided*, That bond holders shall be given an opportunity to compete for the sale of bonds held by them; and the bonds that can be purchased upon the most favorable terms shall be preferred.

How money to be expended

SEC. 35. No money shall be expended or payment made by the city, except in pursuance of a specific appropriation made for that purpose by ordinance or resolution. And the residents of said city shall be exempt from payment of a poll tax for the benefit of roads as required under the present laws relating to roads; but in lieu thereof the mayor and council of

said city shall have power to require each able-bodied male person between the ages of 21 and 60 years, resident within the city, to perform by himself or substitute, in each and every year, one day's labor upon the streets and highways of said city: *Provided*, That acting volunteer firemen shall be exempt from performing said one day's labor: *And provided further*, That such labor, when so required may be commuted by the payment of the sum of two dollars in each year, to be expended upon the streets and highways where such labor would have been applied. Road poll tax.

SEC. 36. At the first meeting in each month the mayor and council shall provide, by ordinance or resolution, for the payment of all liabilities of the city incurred during the preceding month, or at any time previous thereto, except the bonded indebtedness of said city which shall be paid at the maturity of such bonds. Liabilities of city to be provided for.

SEC. 37. Any ordinance or resolution appropriating money shall be subject to the veto of the mayor as any other ordinance, and the mayor may veto any single item in any such ordinance over fifty dollars, and if such item be not passed on a reconsideration thereof, the veto of the mayor to the contrary notwithstanding, in the same manner as in other ordinances, such item shall be stricken out and shall not be allowed or paid by the city. Mayor may veto single item of appropriation bill.

ARTICLE III.

MAYOR.

SEC. 38. The mayor shall have power to sign or veto any ordinance or resolution passed by the city council. Any ordinance or resolution vetoed by the mayor may be passed over the veto by a vote of two-thirds of the whole number of aldermen elected, notwithstanding the veto; and should the mayor neglect or refuse to sign any ordinance, or return the same with his objections, in writing, within ten days, the same shall take effect without his signature. Veto power of mayor.

SEC. 39. All orders and drafts upon the treasury for money shall be signed by the mayor, and shall be attested by the city clerk, who shall also affix the seal of the city, and keep an accurate record thereof in a book to be provided for that purpose. Treasury drafts—how signed and attested.

Mayor may be
superintendent
of city affairs.

SEC. 40. The mayor shall have the superintending control of all the offices and affairs of the city, and shall take care that the ordinances of the city and this act are complied with.

Mayor to sign
commissions.

SEC. 41. He shall sign the commissions or appointments of all the officers appointed in the city government.

Mayor to ap-
point special
policemen.

SEC. 42. He shall be a conservator of the peace throughout the city, and shall at all times have power by and with the consent of the city council, to appoint any number of special policemen which he may deem necessary to preserve the peace of the city, and to dismiss the same at pleasure.

Shall commu-
nicate informa-
tion to city.

SEC. 43. He shall from time to time communicate to the city council such information, and recommend such measures as in his opinion may tend to the improvement of the finances of the city, the police, health, security, ornament, comfort and general prosperity of the city.

Who may call
special meet-
ings of council.

SEC. 44. The mayor or any five aldermen shall have power to call special meetings of the council, the object of which shall be submitted to the council in writing, and the call and object, as well as the disposition thereof, shall be entered upon the journal of the council.

May require
any city officer
to report.

SEC. 45. The mayor shall have power, when he deems it necessary, to require any officer of the city to exhibit his accounts or other papers, and to make a report to the council in writing, touching any subject or matter he may require, pertaining to his office.

Duty and pow-
ers of mayor.

SEC. 46. The mayor shall be active and vigilant in enforcing all laws and ordinances for the government of the city, and he shall cause all subordinate officers to be dealt with promptly for any neglect or violation of duty; he shall have jurisdiction as may be vested in him by ordinance, over all places within the corporate limits of the city, for the enforcement of any health or quarantine ordinance or regulation thereof.

Mayor pro tem

SEC. 47. When any vacancy shall happen in the office of mayor, by death, resignation, absence from the city, removal from office, refusal to qualify, or otherwise, the council shall, by vote of a majority of all the aldermen elected, elect from their number a mayor *pro tem.*, who shall exercise the office of mayor, with all the rights, privileges and jurisdiction of the regular mayor, until such vacancy is filled, or such disability be removed; or in case of temporary absence, until the

mayor shall return; and during the time, he shall receive the same compensation that the mayor would be entitled to, the same to be deducted from the salary of the mayor; and in case of such vacancy other than temporary absence or disability, the person exercising the office of mayor shall forthwith cause a special election to be held, giving ten (10) day's notice thereof by proclamation.

SEC. 48. At the first meeting of the city council after any general election for city officers, they shall cause to be made out and certified by the clerk, a certificate of the election of such officers as are required to be elected by this act; and a neglect of any such officer to qualify within ten days after the delivery of such certificate to him, shall be deemed a refusal to accept the office to which he shall have been elected.

Council to cause certificates of election to be made out.

SEC. 49. The mayor is hereby authorized to call on every male inhabitant of the city, over eighteen years of age, and under the age of fifty years, to aid in enforcing the laws and ordinances of the city; and in case of necessity, to call out the militia within the city to aid in the suppression of any riot, or in the enforcement of any ordinance; and any person who shall not obey such call, shall forfeit to the city a fine not exceeding one hundred dollars.

Mayor may call out militia.

SEC. 50. The mayor shall have power to remit fines and forfeitures, to grant reprieves and pardons for all offenses arising under the ordinances of the city, by and with the consent of the council.

Mayor may remit fines.

SEC. 51. The mayor shall have power, by and with the consent of the council, to appoint all officers of the city other than those elected by the people, and all nominations made by him may be confirmed or rejected by a majority of the councilmen present and voting upon such confirmation.

Mayor to appoint certain officers.

ARTICLE IV.

CITY JUSTICE OF PEACE.

SEC. 52. A city justice of the peace shall be appointed by the mayor and council from the qualified voters of said city. The city justice of the peace shall have exclusive jurisdiction and it shall be his duty to hear and determine all offenses against the ordinances of the city, and concurrent jurisdiction with other justices in all other cases civil and criminal.

Appointment of city justice, jurisdiction of.

When justice shall issue warrants.

SEC. 53. Whenever complaint shall be made to the city justice of the peace, upon oath or affirmation of any person competent to testify against the accused, that an offense has been committed, of which the city justice of the peace has jurisdiction, said justice shall forthwith issue a warrant for the arrest of the offender, which warrant shall be served by the city marshal, or the sheriff of the county, or some person specially appointed by said justice for that purpose.

Justice, when to hear complaint.

SEC. 54. When any person shall be brought before the said justice, upon such warrant, it shall be his duty to hear and determine the complaint alleged against the defendant.

Postponement of trials.

SEC. 55. Upon good cause shown said justice may postpone the trial of the case to a day certain, in which case he shall require the defendant to enter into recognizance with sufficient security, conditioned that he will appear before such justice at the time and place appointed, and then and there to answer the complaint alleged against him.

Summons of witnesses.

SEC. 56. It shall be the duty of said justice to summon all persons whose testimony may be deemed material as witnesses on the trial, and enforce their attendance by attachment if necessary; and when a trial shall be continued by said justice, he may verbally notify such witnesses as may be present at the continuance, to attend before him, to testify in the cause set for trial; and such verbal notice shall be as valid as a summons.

Trials, how governed.

SEC. 57. All trials before the said justice for misdemeanors arising under the laws of the territory, shall be governed by the criminal procedure applicable to justices courts in like cases.

Concerning judgment on conviction.

SEC. 58. In all trials for offenses under the ordinances of said city, if the defendant is found guilty, said justice shall render judgment accordingly. It shall be part of the judgment that the defendant stand committed until judgment be complied with; in no case to exceed one day for every seventy-five cents of the fine and costs assessed against said defendant.

Court, when to be open.

SEC. 59. Said justice shall be a conservator of the peace, and his court shall be open every day except Sunday, to hear and determine any and all cases cognizable before him; and shall have power to bring parties forthwith before him for

trial; and no act shall be performed by him on Sunday, except to receive complaints, issue process and take bail.

SEC. 60. In all cases before the said justice, arising under the ordinances of the city an appeal may be taken by the defendant to the district court of Burleigh county except in cases tried by a jury; but no appeal shall be allowed unless such defendant shall, (in case of fine,) within ten days, (and in case of imprisonment,) within twenty-four hours, enter into recognizance, with sufficient securities, to be approved by said justice, conditioned in case of fine, for the payment of said fine and costs, and costs of appeal, and in case of judgment of imprisonment, that he will render himself in execution thereof, if it should be determined against the appellant. Concerning appeals.

SEC. 61. Any person convicted before the said justice of an offense under the ordinances of the city, shall be punished by fine and imprisonment, as may be regulated by ordinance, and under no circumstances shall such justice remit fines or penalties, on payment of costs or otherwise. Justice not to remit fine.

SEC. 62. In case of a vacancy in the office of city justice of the peace, by death, resignation or otherwise, or in case of his absence, interest or disability to perform his duty, it shall be the duty of any acting justice of the peace within the city, who shall be designated by the mayor, to act as city justice of the peace during such vacancy, absence or disability, in the trial of causes cognizable before the said justice. Who to act in case of death of city justice.

SEC. 63. If upon any trial under the provisions of this act, it shall appear to the satisfaction of the city justice of the peace, or the jury (in cases arising under the laws of the territory), that the prosecution was commenced without probable cause, or from malicious motives, the jury or justice trying the case shall state the name of the prosecutor or prosecutors in the finding, and shall impose the costs of the prosecution upon him or them, and judgment shall be rendered against such prosecutor or prosecutors, that he or they pay such costs, and stand committed until the same are paid. Duty of justice when prosecution malicious.

SEC. 64. The city justice of the peace shall have power to enforce due obedience to all orders, rules, judgments and decrees made by him; and he may fine or imprison for contempt offered to him while holding his court, or to process issued, or orders made by him in the same manner and to the same extent as provided for justice court. On the trial of any case in Power of justice.

Bill of ex-
ceptions.

said court, it shall be the duty of the city justice of the peace to sign any bill of exceptions rendered to the court during the progress of such trial: *Provided*, The truth of the matter be fairly stated, and thereupon said exceptions shall be entered in the record of such trial and become a part thereof; and any final conviction, sentence or judgment of said court may be examined by the district court on writ of error which may be allowed by said district court or the judge thereof, for sufficient cause, and proceedings may be stayed as may be deemed reasonable, and the revising court shall, in such proceedings take judicial notice of all the ordinances of said city. Cases before the city justice of the peace, arising under the city ordinances, shall be tried and determined by the justice without the intervention of a jury, except in cases where, under the provisions of the ordinances of the city, imprisonment for a longer period than ten days is made a part of the penalty, or the maximum fine shall be twenty dollars or over, and the defendant shall demand a trial by jury before the commencement of such trial; and when a demand shall be so made it shall be the duty of the city justice of the peace to write down the names of eighteen persons, residents of the city, and having the qualifications of jurors in the district court, and the defendant and the attorney for the city shall each strike off three names, or, in case the defendant shall neglect or refuse so to do, then the city justice of the peace, with the attorney for the city, shall strike off such names; and the said justice shall at once issue his venire to the marshal commanding him to summon the twelve persons whose names remain upon the list as jurymen. And in all trials by jury in said court challenges shall be allowed in the same manner and for the same causes as in the district court in cases of misdemeanor, and in case the number shall be reduced below twelve by such challenges, or any portion of said number shall fail to attend, then the marshal shall summon in a sufficient number of talesmen, having the qualifications of jurors, to complete the panel, which shall in all cases consist of twelve jurors. If either party objects to the competency of a juror, the question thereon must be tried in a summary manner by the justice who may examine the juror or other witness under oath. Each and every person summoned as a juror in any case shall be entitled to a fee of fifty cents, and in case of conviction,

Concerning
jury.

such fees shall be taxed against the defendant as a part of the costs of the case.

SEC. 65. In all cases not herein specially provided for, the process and proceedings of said court shall be governed by the laws regulating proceedings in justices courts in criminal cases. Proceedings, how governed.

ARTICLE V.

TREASURER.

SEC. 66. The city treasurer shall receive all moneys belonging to the city, and shall keep his books and accounts in such manner as the mayor and council may prescribe; and such books and accounts shall be always subject to the inspection of the mayor or any member of the city council. Duty of city treasurer.

SEC. 67. All warrants drawn upon the treasury must be signed by the mayor, and countersigned by the clerk, stating the particular fund or appropriation to which the same is chargeable and the person to whom chargeable; and no money shall be otherwise paid than upon such warrant so drawn, except as hereinafter provided. All warrants shall be paid in the order in which they are presented, and the treasurer shall note upon the back of each warrant presented to him the date of such presentation, and when payment is made the date of such payment: *Provided*, That any warrant shall be paid by the treasurer in case a sufficient amount of money shall remain in the treasury to pay all warrants presented previous to such warrant. Any violation of the provisions of this section on the part of the treasurer of said city shall be sufficient ground for his removal from office by the mayor and city council. Concerning city warrants.

SEC. 68. The city treasurer shall keep a separate account of such fund or appropriation, and the debts and credits belonging thereto. Treasurer to keep separate accounts.

SEC. 69. The city treasurer shall give every person paying money into the city treasury, a duplicate receipt therefor, specifying the date of payment, and upon what account paid; and he shall also file copies of such receipts with the clerk at the date of his monthly report. Treasurer to give duplicate receipts for taxes.

SEC. 70. The city treasurer shall, at the end of each and every month, and oftener if required, render an account to the mayor and city council, or such officer as the mayor and city Treasurer to render account

council may designate, showing the state of the treasury at the date of such account, and the balance of money in the treasury. He shall also accompany such accounts with a statement of all moneys received into the treasury, and on what account, together with all warrants redeemed and paid by him, which said warrants, with any and all vouchers held by him, shall be delivered to the clerk, and filed with his said account in the clerk's office upon every day of such settlement, taking their receipt for the same. He shall return all warrants paid by him stamped or marked "paid," and shall give a list of said warrants, stating the number and amount of each.

Treasurer prohibited from using city moneys.

SEC. 71. The city treasurer shall keep all moneys in his hands belonging to the city separate and distinct from his own moneys; and he is hereby expressly prohibited from using, either directly or indirectly, the corporation money or warrants in his custody and keeping, for his own use and benefit, or that of any other person or persons whomsoever; any violation of this provision shall subject him to immediate removal from office by the city council, and upon conviction thereof they are hereby authorized to declare such office vacant; and the city council shall appoint a successor of the term unexpired of such officer so removed.

Penalty.

Treasurer's report.

SEC. 72. The city treasurer shall report to the mayor and council at such time as may be prescribed by ordinance, giving a full and detailed account of all receipts and expenditures during and since his last report, and the state of the treasury. He shall also keep a register of all warrants redeemed and paid during the year, describing such warrants, their date, amount, number, the fund from which paid, and person to whom paid, specifying also the time of payment; and all such warrants shall be examined by the finance committee at the time of making such report.

Warrant register.

Special assessments.

SEC. 73. All moneys received on any special assessment shall be held by the treasurer as a special fund, to be applied to the payment of the improvement for which the assessment was made; and said money shall be used for no other purpose whatsoever.

Bonds of treasurer.

SEC. 74. The treasurer shall be collector of taxes for the city, and shall give bonds in a sum not less than five thousand dollars, and in such further sum as may be provided by

ordinance, said bond to be approved by the mayor and council, for the honest and faithful performance of the duties of his office, said bond to be filed in the office of the clerk of the city.

ARTICLE VI.

MISCELLANEOUS.

SEC. 75. The marshal shall possess the powers of constable ^{Marshal, powers of} in the service of a process, and may arrest offenders within or without the city limits, for offenses committed within the same; and shall at all times have power to make or order an arrest upon view of an offense being committed, with or without process, for an offense against the laws of the territory, or the ordinances of the city, and bring the offender to trial or examination before the proper officers of the city. *Provided*, That any person arrested for an offense without process shall be entitled, on demand before trial, to have filed a complaint on oath in writing.

SEC. 76. The policemen of the city shall have power to ar- ^{Power of policemen.} rest all offenders against the laws of the territory or ordinances of the city by day or by night, and keep them in the city prison to prevent their escape until they can be brought before the proper officer.

SEC. 77. The marshal, in the discharge of his duties, shall ^{Marshal to be subject to orders of Mayor.} be subject to the order of the mayor and city justice of the peace, only, and shall be *ex-officio* chief police.

SEC. 78. The policemen of the city in the discharge of their ^{Policemen, who subject to.} duties, shall be subject to the orders of the mayor and marshal only.

SEC. 79. When, by this act, the power is conferred upon the ^{Mayor and council to have certain powers} mayor and council to do and perform any act or thing, and the manner of exercising the same is not specifically pointed out, the mayor and council may provide by ordinance the details necessary for the full exercise of such power.

SEC. 80. The duties, powers and privileges of all officers of ^{What may be defined by ordinance.} every character, in any way connected with the city government, not herein defined by ordinance, and the defining by this act of the duties of the city officers, shall not preclude the mayor and council from defining by ordinance further and additional duties to be performed by any such officer.

Exempt from
taxation.

SEC. 81. Lands, houses, moneys, debts due the city, and property and assets of every description belonging to said city, shall be exempt from taxation, and sale on execution; judgments against the city shall be paid out of the general fund, or by a tax to be assessed upon the taxable property of the city.

Fines, to whom
paid.

SEC. 82. All fines, penalties and forfeitures collected for offenses against the ordinances of the city, and all fines, penalties and forfeitures collected within the city for misdemeanors against the laws of the territory, shall be paid to the officer or officers entitled by law to receive the same.

Penalty where
city officer is
intrusted in
contract.

SEC. 83. Any officer of the city, or member of the council, who shall by himself or agent become a party to, or in any way interested in any contract, work or letting under the authority of the city; or who shall, either directly or indirectly, by himself or other party, accept or receive any valuable consideration or promise, for his influence or vote, shall be fined in any sum not less than one hundred dollars, nor more than one thousand dollars, one-half of which shall go to the informer and the balance to be paid into the city treasury, by the officer collecting or receiving the same.

Compensation
of city officers.

SEC. 84. The several officers of said city hereinafter named shall for the year 1875, receive the compensation fixed by this act, and no more; and it is hereby made the duty of the mayor and council to fix by ordinance the compensation to be paid the several officers provided for in this act, and such other officers as may be appointed by the mayor and council for said city: *Provided*, That in no case shall the compensation of the mayor and council be increased during their term of office:

1st. The mayor shall receive for the year 1875, the sum of five dollars.

2d. The members of the council shall each receive for the year 1875, the sum of three dollars.

Term of of-
fice.

SEC. 85. Any officer appointed by the mayor and city council shall hold his office for one year, or during the pleasure of the mayor and council, and may be removed at any time by the appointment of his successor in such office in the manner provided for the appointment of officers: *Provided*, That the mayor shall nominate to the council for confirmation the successor of any such officer upon the request of a majority of all

the members of such council, expressed by resolution, and upon the passage of such resolution the ayes and noes shall be taken and recorded.

SEC 86. That all the district of country and territory west of the middle of Third street shall be the first ward; all the district of country between said middle of Third street and the middle of Fifth street, as the same is now laid out and staked, shall be the second ward; all the district of country east of the middle of Fifth street shall be the third ward.

Boundaries of wards.

SEC. 87. The following named persons are hereby appointed officers, to hold their respective offices until the first election as provided for in this act, and until their successors have qualified: For mayor, Edward Hackett; for members of the council, 1st. ward, John J. Jackman and B. F. Slaughter; 2d ward, R. D. Gutzsell and John H. Richards; 3d ward, Thomas Welch and Alex. McKinzie; for treasurer, James W. Raymond; for clerk, Samuel O'Connel; for marshal, Michael McLear; city justice, H. M. Davis.

Names of city officers.

SEC. 88. This act shall take effect and be in force from and after its passage and approval.

When to take effect.

Approved, January 14, 1875.

CHAPTER 12.

FARGO.

AN ACT to Incorporate the city of Fargo.

Be it enacted by the Legislative Assembly of the Territory of Dakota:

ARTICLE I.

GENERAL PROVISIONS.

SECTION 1. That all of sections seven and eight, and of the south half of section six and lot three, in section five, in township one hundred and thirty-nine north, of range forty-eight west, which lie within the county of Cass, and Territory of Dakota, together with the inhabitants residing thereon, be

Limits of Fargo defined.

and the same is hereby declared to be a corporation, by the name of the "City of Fargo"; and the east line of said city shall extend to the middle of the main channel of the Red River of the North.

Manner of
laying out city
property.

SEC. 2. The corporate limits of the city of Fargo shall remain as herein incorporated, except as changed by the provisions of this section. The proprietor or proprietors of any land within the corporate limits of the city of Fargo, or adjoining and contiguous to the same, may lay out said land into lots, blocks, streets, avenues, alleys and other grounds, under the name of addition to the city of Fargo, and shall cause an accurate map or plat thereof to be made out, designating explicitly the land so laid out, and particularly describing the lots, blocks, streets, avenues, alleys and other grounds belonging to such addition. The lots must be designated by numbers, and the streets, avenues and other grounds, by names or numbers; and such plat shall be acknowledged before some officer authorized to take the acknowledgment of deeds, and have appended a survey made by some competent surveyor; and said surveyor shall certify that he has accurately surveyed such addition, and that the lots, blocks, streets, avenues, alleys, parks, commons, and other grounds, are well and accurately staked off and marked, and when such map or plat is so made out, acknowledged and certified, and after being approved by the mayor and council, the same shall be filed and recorded in the office of the register of deeds of Cass county, and thereupon such plat shall be equivalent to a deed in fee simple from the proprietor or proprietors, of all streets, avenues, alleys, public squares, parks and commons, and such portion of the land as is therein set apart for public and city use, or is dedicated to charitable, religious or educational purposes; and all additions thus laid out within the said corporate limits shall remain a part of such city; and all additions now and hereafter laid out and adjoining and contiguous to the said corporate limits, shall be included within the same, and be and become a part of such city for all purposes whatsoever; and the inhabitants of such addition shall be entitled to all the rights and privileges, and be subject to all the laws, ordinances, rules and regulations of the city to which said land is an addition: *Provided*, The mayor and council shall have con-

Duty of sur-
veyor.

trol of all such additions, and shall have power, by ordinance, to compel the owners of any such additions to lay out streets, avenues and alleys so as to have the same correspond in width and direction, and be continuations of the streets, avenues and alleys in the city or additions belonging thereto; and no addition shall have any validity, rights or privileges as an addition, unless the terms and conditions of such ordinances are complied with, and the plat thereof shall have been submitted to, and approved by, the mayor and council, and such approval indorsed thereon.

Who to control additions.

SEC. 3. No right of property accrued to said city of Fargo, or any corporation, or person, under any law heretofore in force, shall be affected by this act.

What this act not to affect.

SEC. 4. The city of Fargo, created and governed by the provisions of this act, shall be a body corporate and politic, and shall have power:

Power of the city.

1st. To sue and be sued;

2d. To purchase and hold real and personal property for the use of the city, and real estate sold for taxes;

3d. To sell and convey any real or personal estate owned by the city, and make such order respecting the same as may be deemed conducive to the interests of the city;

4th. To make all contracts, and do all other acts in relation to the property and concerns of the city necessary to the exercise of its corporate or administrative powers, to have a common seal, and to change and alter the same at pleasure;

5th. To exercise such other and further powers as may be conferred by law.

SEC. 5. The powers hereby granted shall be exercised by the mayor and council of the city of Fargo as hereinafter set forth.

Who to exercise powers.

SEC. 6. The city of Fargo shall be divided into three wards, named respectively, the first, second, and third wards.

Wards, number of.

SEC. 7. Each and every process whatever affecting the city of Fargo shall be served upon the mayor, or in his absence, upon the city clerk, or in the absence of both from the city, then upon the city marshal.

Process, upon whom served.

SEC. 8. The council of said city of Fargo shall consist of six citizens of said city, being two from each ward, who shall be qualified electors of their respective wards, under the organic act and laws of this territory.

Council, of whom consist.

Time of holding election. SEC. 9. On the first Monday in April, after the taking effect of this act, and on the same day in each year thereafter, an election shall be held for mayor, six aldermen, clerk, treasurer and marshal, each of whom shall be elected for the term of one year, commencing on the first Monday succeeding the day of their election and shall hold their respective offices until their successors are elected and qualified.

Opening and closing polls. SEC. 10. At all elections authorized by this act, the polls shall be kept open from nine o'clock A. M. until four o'clock P. M., and no longer.

Election districts. Power of council. Proviso. Who may vote. SEC. 11. Each ward shall constitute an election district, and polls shall be opened at such place therein as may be designated by the mayor, or fixed by ordinance or resolution of the council: *Provided*, That when any ward shall contain over three hundred legal voters, the mayor and council may, by ordinance, re-district said city, and increase the number of wards to six; and when so re-districted, each of said wards shall be entitled to two aldermen: *And provided further*, That every legal voter of the territory, who shall have been a resident of the city thirty days next preceding a city election, is declared a citizen of said city, and is entitled to vote at all elections thereof: *Provided*, That such citizen has paid all poll tax that may be due from him to the city at the time of offering to vote, and in case any person so offering to vote shall be challenged at said polls, he shall, in addition to the oath now required by law, make oath that he has paid such tax, or, in case he refuses to make such oath, his vote shall be rejected. And no person shall be eligible to any elective office mentioned in this act, unless he be a legal voter of the city, and has been a resident thereof one year next preceding his election: *And provided further*, That every person shall vote in the ward where he resides, and not elsewhere.

ARTICLE II.

POWERS OF THE MAYOR AND COUNCIL.

Power of Mayor and council. SEC. 12. The mayor and council of the city of Fargo shall have the care, management and control of the city, and its property and finances, and shall have power to enact and ordain any and all ordinances not repugnant to the organic act, and the laws of this territory, and such ordinances to alter, modify or repeal; and shall have power:

1st. To levy and collect taxes for general purposes, not exceeding four mills on the dollar in any one year, on all the property within the limits of city, taxable according to the laws of the territory, the valuation of such property to be taken from the assessment roll of Cass county; and it shall be the duty of the county clerk of said Cass county, to permit the city clerk to make out, from the assessment rolls of the county, an assessment roll for the city, of all the property liable to taxation as above specified: *Provided*, That the authorities of the said city of Fargo, shall not, in any year, issue warrants or orders to an amount greater than ninety per cent. of the amount of taxes levied for such year, and the amount actually received from other sources; and said city authorities shall not contract or incur any indebtedness in addition to the amount for which they are authorized to issue warrants, or orders, or bonds;

To levy and collect taxes.

2d. To provide for the sale of real estate for the non-payment of taxes due thereon, and for the time and manner of redemption of the same, and conveyance thereof: *Provided*, That the owner may redeem the same within two years after the day of sale, or at any time thereafter, until the tax deed is issued, by the payment of the full amount of tax, and all taxes subsequently paid thereon by the purchaser, and all costs, penalties and charges thereon, together with interest at the rate of forty per cent. per annum;

To sell real estate.

3d. To provide for the sale of personal property for any taxes due from the owner thereof, or assessed upon the property to be sold;

To sell personal estate.

4th. To levy and collect a license tax on runners, hawkers, peddlers, liquor sellers, pawn brokers, taverns, dram shops, saloon keepers of any kind, brokers, shows and exhibitions for pay, billiard tables, ball and ten pin alleys, without regard to the number of pins used; hacks, drays, wagons, or other vehicles used for pay, within the city; theater and theatrical exhibitions for pay, and to adopt all such measures as they may deem necessary for the accommodation and protection of strangers and the traveling public in person or property;

To license liquor sellers, etc.

5th. To restrain, prohibit and suppress tippling shops, billiard tables, ten pin alleys, ball alleys, houses of prostitution and other disorderly houses and practices, games and gam-

To suppress tippling shops, etc.

bling houses, desecrating the Sabbath (commonly called Sunday,) and all kinds of indecencies;

To prevent contagious diseases.

6th. To make regulations to prevent the introduction of contagious diseases into the city; to make quarantine laws for that purpose, and to enforce the same within the limits of the city;

To erect hospitals.

7th. To erect, establish and regulate hospitals, work houses, houses of correction and jails, and provide for the government and support of the same;

To remove nuisances.

8th. To make regulations to secure the general health of the city, and to prevent and remove nuisances, and to make and prescribe regulations for the cleaning and keeping in order all slaughter houses, stock yards, warehouses, stables or other places where offensive matter is kept or liable to accumulate;

To regulate police.

9th. To establish, regulate and support night watch and police, and define the duties thereof;

To light streets.

10th. To provide for the lighting of streets, laying down of gas pipes, and erection of lamp posts, and to regulate the sale of gas and the rent of gas metres within the city;

To establish market houses.

11th. To erect and establish market houses and make market places, and to regulate and govern the same, and to provide for the erection of all other useful and necessary buildings for the use of the city, and for the protection and safety of all property owned by the city, and to provide for the safety and protection of private property when damages are likely to accrue by the action of the elements, or through the carelessness or negligence of any servant or officer of the city, and to establish, alter and change the channels of streams and water-courses, and bridge the same: *Provided*, That any such improvement mentioned in this subdivision, costing in the aggregate a sum greater than two thousand dollars, shall not be authorized until the ordinance providing therefor shall be first submitted to and ratified by a majority of the legal voters of said city, voting at said election;

To change channels of streams.

When to submit question to vote.

To take census.

12th. To provide for and cause to be taken, an enumeration of the inhabitants of the city;

To provide for elections.

13th. To provide by ordinance for the election of city officers and prescribe the manner of conducting the same, and the return thereof, and for deciding contested elections;

14th. To provide for removing officers of the city for misconduct; to appoint a city attorney, street commissioner and city engineer, and to prescribe the duties and compensation of such officers, and to create any office, or employ any agent they may deem necessary for the good government and interests of the city; To remove officers.

15th. To regulate the police of the city, and impose fines, forfeitures and penalties for the breach of any ordinance, and provide for the recovery and collection thereof, and in default of payment to provide for confinement in the city prison, or for hard labor in the city; To impose penalties.

16th. To regulate and prescribe the duties and powers and compensation of all officers and servants of the city not herein provided for; To fix compensation.

17th. To require of all officers and servants elected or appointed in pursuance of this act, bond and security for the faithful performance of their duties; and no officer shall become security upon the official bond of another; To require bonds.

18th. To issue bonds of the city in such amounts and for such length of time, not to exceed twenty years, and at such rate of interest as they may deem proper, not to exceed ten per cent. per annum; said bonds to express upon their face the purpose for which they were issued, and under what ordinance, and may have interest coupons attached: *Provided*, To issue bonds
No such bonds shall be issued for any purpose, unless at a regular or special election, after twenty days public notice, stating distinctly the purpose and object for which said bonds are to be issued, and the amount thereof, the electors of said city, by two-thirds of the legal votes at said election, shall determine in favor of issuing said bonds, which said bonds shall in no case be diverted from the object for which they are issued, and shall not be disposed of by the city at less than ninety per cent. of their face; Proviso.

19th. To provide for the prevention of cruelty to animals; To prevent cruelty to animals.

20th. To appropriate money and provide for the payment of the debts and expenses of the city; To appropriate money.

21st. To regulate, license or prohibit the sale of domestic animals, or goods, wares or merchandise at public auction on the streets, alleys, highways, or any public grounds within the city; To regulate auctions.

- Same.** 22d. To regulate, license or prohibit the auctioneering of goods, wares and merchandise, brought into the city for the purpose of being sold at auction;
- To name streets.** 23d. To name and re-name streets, avenues, parks and squares within the city; to vacate streets and alleys, and authorize the laying of railroad switches through the same when in their judgment the interests of the city will be promoted thereby;
- To prevent erection of wooden buildings.** 24th. To prohibit, on the petition therefor of the owners of not less than two-thirds of the ground included in any square or block, the erection of any building, or addition to any building more than ten feet high, unless the outer walls thereof be made of brick and mortar, or of iron, or stone and mortar; and to provide for the removal of any building or additions erected contrary to such prohibition;
- To establish sewerage.** 25th. To lay out the city into districts for the purpose of establishing a system of sewerage and drainage, and to levy and collect a special tax upon real estate in any such district for the purpose of constructing sewers and drains therein, or they may pay for such sewerage and drainage out of the general funds of the city;
- To construct water works.** 26th. To erect and construct water works either within or without the corporate limits of the city, and to make all needful rules and regulations concerning the use of water supplied by such water works, and to do all acts necessary for the construction, completion, management and control of the same;
- To organize fire companies.** 27th. To provide for the organization and support of fire companies, and to establish regulations for the prevention and extinguishment of fires;
- To equalize assessments.** 28th. To act as a board of equalization for the city, to equalize assessments, and to correct any error in the listing or valuation of property, and to supply any omissions in the same; and to make a general increase in the valuation of real estate, as in their judgment they may deem proper; such increase not to exceed twenty per cent. of the valuation for county purposes;
- To require reports from city officers.** 29th. To require from any city officer of the city at any time, a report in detail of the transactions of his office, or of any matter connected therewith;
- To prevent horse racing.** 30th. To prevent horse racing and immoderate riding or driving in the streets, and to compel persons to fasten their

horses or other animals attached to vehicles, while standing in the streets;

31st. To regulate the transportation, and keeping of gun-powder and other combustibles and explosive articles;

To regulate keeping gun-powder.

32d. To purchase, hold and improve public grounds and parks, and to provide for the protection and preservation of the same;

To improve parks.

33d. To appropriate private property for the use of the city;

To appropriate private property.

34th. To provide for the punishment of persons disturbing the good order and quiet of the city by clamor and noise, by intoxication, drunkenness, fighting, using obscene or profane language in the streets or other public places, to the annoyance of citizens, or otherwise violating the public peace by indecent and disorderly conduct, or by lewd and lascivious behavior; and to provide for the punishment of vagrants, common street beggars, common prostitutes, habitual disturbers of the peace, known and notorious pick-pockets, gamblers, burglars, thieves, watch-stuffers, ball game players, persons who practice any trick, game or device with intent to swindle, persons who abuse their families, and suspicious persons who can give no reasonable account of themselves, and such punishment may be either by imposing and collecting fines, or by imprisonment at hard labor, or both, at the discretion of the court: *Provided*, That no such person shall be fined for a single offense to exceed fifty dollars, and that such imprisonment at hard labor shall for the first offense not exceed thirty days; for the second offense sixty days; for the third offense ninety days; and they shall have power to provide that all persons who shall refuse or neglect to pay the fine imposed, on conviction of any offense, together with the costs of prosecution, shall be imprisoned and kept at hard labor until, at the rate of seventy-five cents per each day's labor, exclusive of Sundays, they shall have earned an amount equal to such fine and costs. They shall also have power to make suitable regulations to conduct such labor to the best advantage, and in a manner consistent with age, sex and health of the prisoners, and such labor may be done at the city prison, or elsewhere, under the charge of such officers or other persons, as the mayor and council may select: *Provided, however*, That no person shall for the first offense be

To provide punishment for disturbers of the peace.

sentenced to work outside an enclosure. And they shall have power also to provide suitable hospitals for the reception and care of such prisoners as may be diseased or disabled, the same to be under such regulations and under the charge of such persons as the mayor and council may by ordinance direct;

To provide for filling vacancies.

35th. To provide for filling such vacancies as may occur in the office of alderman, or other elective officer of the city, by calling special elections for that purpose;

To provide for keeping prisoners.

36th. To enter into arrangements with the county commissioners of Cass county for the safe keeping of city prisoners.

Manner of passing ordinances.

SEC. 13. All ordinances of the city shall be passed pursuant to such rules and regulations as the mayor and council may prescribe: *Provided*, That upon the passage of all ordinances the yeas and nays shall be entered upon the record of the city council, and a majority of the votes of all the members of said council present shall be necessary to their passage: *Provided*, A majority of all the members elected shall constitute a quorum.

How ordinances may be proven.

SEC. 14. All ordinances of the city may be proven by the ordinance book or certificate of the clerk under the seal of the city; and when printed or published in a book or pamphlet form, and purporting to be published or printed by the authority of the city, shall be read and received in all courts and places without further proof.

Statement to be published.

SEC. 15. The mayor and council shall cause to be published semi-annually, a statement of the receipts and expenditures, and the financial condition of the city.

Grade of streets, how established.

SEC. 16. The mayor and council shall have power to establish by ordinance the grade of any street, alley, avenue or lane within the city; and when the grade of such street, alley, avenue or lane shall have been established, such grade shall not be changed except by a vote of two-thirds of the council, and not then until the damages to property owners which may be caused by such change of grade, shall have been assessed and determined by three disinterested appraisers, who shall be appointed by the mayor, with the consent of the council, for that purpose, who shall make such appraisement, taking into consideration the benefits, if any, to such property, and file their report with the city clerk within ten days after re-

ceiving notice of their appointment; and the amount of damages so assessed shall be tendered to such property owners or their agents, before any such change of grade shall be made.

SEC. 17. The mayor and council shall have power to extend, ^{Opening and widening of streets.} open, widen, grade, pave, macadamize or otherwise improve and keep in repair in any manner they may deem proper, any street, sidewalk, alley, avenue or lane within the limits of the city, to vacate any portion of any street or alley, and add the portion so vacated to adjoining lots; to re-survey and straighten any street or alley of said city; and to defray the cost and expense of such improvements, or any of them, out of the general funds of the city; or the mayor and council shall have power to levy and collect special taxes upon the lots and pieces of ground adjacent to and abutting upon the streets, sidewalks, alleys, avenues or lanes thus opened, widened, extended or improved, or to be improved as aforesaid.

SEC. 18. Such taxes shall be levied on all the lots and lands ^{Concerning taxes for improvements.} abounding or abutting on such improvement, said tax to be either in proportion to the feet front so abounding or abutting, or according to the value of such lots or lands (exclusive of improvements thereon) as shown by the last assessment for general city purposes, as the mayor and council may determine. And the mayor and council are hereby required to provide for ascertaining the value of the improvements, in order that the same may be deducted from the valuation of such real estate for general city purposes, in case special tax is to be levied upon the basis of valuation: *And provided*, That when such improvement shall extend into or through any unsubdivided tract or parcel of land, and taxes shall be so levied, if upon the basis of the valuation, as not to be charged upon the real estate adjoining such improvement, for a greater depth than the average distance through the subdivided real estate to be taxed for said purpose.

SEC. 19. The mayor and council shall have the power to ^{Concerning cleaning of sidewalks, etc.} provide for keeping sidewalks clean and free from all obstructions and accumulations, and may provide for the assessment and collection of taxes on unoccupied real estate, and for the sale and conveyance thereof to pay the expenses of keeping the sidewalks adjacent to such real estate clean and free from obstructions and accumulations as herein provided.

Concerning
drainage and
filling.

SEC. 20. The mayor and council shall have power to require all lots and pieces of ground within the city to be drained or filled when necessary to prevent stagnant water, or any other nuisance accumulating therein; and upon the failure of the owners of such lots or pieces of ground to fill or drain the same when so required, to cause such lots or pieces of ground to be drained or filled; and the cost and expense thereof shall be levied upon the property so filled or drained and collected as other special taxes; or pay for the same out of the general funds of the city.

Proceedings to
open or widen
streets.

SEC. 21. When the mayor and council shall deem it necessary to open, widen, extend, grade, pave, macadamize, bridge, curb, gutter, drain, or otherwise improve any street, sidewalk, alley, avenue or lane within the limits of the city, for which a special tax is to be levied as herein provided, the mayor and council shall by resolution declare such work or improvement necessary to be done, and such resolution shall be published for four consecutive weeks in the official newspaper of the city; and if a majority of the resident owners of the property liable to taxation therefor, shall not within twenty days thereafter file with the city clerk of said city, their protest against such improvement, then the mayor and council shall have power to cause such improvement to be made and to contract therefor, and to levy and collect the taxes as herein provided.

Concerning
special taxes.

SEC. 22. Such special taxes shall be due and may be collected as the improvements are completed in front of, or along or upon any block or piece of ground, or at the time the improvement is completed according as shall be provided in the ordinance levying the tax. Such tax, if not paid within thirty days after becoming due, shall have added thereto a penalty of ten per cent., and shall bear interest from the day of sale at the rate of twenty-five per cent. per annum, to be computed on the tax, penalty and cost of sale.

Certain costs
may be includ-
ed in special
tax.

SEC. 23. The cost and expense of grading, filling, paving, macadamizing, culverting, curbing and guttering, or otherwise improving streets, sidewalks, alleys, avenues or lanes at their intersections, may be included in the special tax levied for the improvement of any street, sidewalk, alley, avenue or lane, as may be deemed best by the mayor and council.

Duty of en-
gineer when
special tax is
levied.

SEC. 24. When the special tax is levied, it shall be the duty of the engineer of the city to calculate the amount of the tax

on any block, or piece of ground; and file a statement thereof with the city clerk, who shall, as soon as the tax is due on any block or piece of ground, issue a certificate describing it by its number and block, and stating the amount of tax due thereon, and the name of the person chargeable with the same, and the purpose for which said tax was levied; and such certificate so given shall be the tax warrant of the contractor, and shall be by the clerk placed in the hands of the treasurer, who shall give notice through the official paper of the city when the penalty will accrue; and he shall keep a record of all such warrants and enter in the margin of such records all amounts paid, and by whom paid.

Tax warrant.

SEC. 25. It shall be sufficient in any case to describe the lot or piece of ground as the same is platted or recorded, although the same may belong to several persons, but in case any lot or piece of ground belongs to different persons, the owner of any part thereof may pay his proportion of the tax on such lot or piece of ground, and his proper share may be determined by the city treasurer.

Description of lot.

SEC. 26. The mayor and council shall have power to provide for the sale and conveyance of any lot or piece of ground for non-payment of such taxes, and the deed given to convey the same may be recorded in the office of register of deeds of the county, as other conveyances. The conveyance shall be to the person owning the certificate of sale at the time such conveyance is given: *Provided*, That any lot or piece of ground may be redeemed within two years after the day of sale, or at any time thereafter until the tax deed is issued, by paying to the treasurer the tax, penalty, cost and interest at the rate of forty per cent. per annum. Lots or lands belonging to minors, or any interest they may have in any lands sold for special taxes, may be redeemed in the same manner at any time before such minor becomes of age and during one year thereafter.

Provision for selling property at tax rate.

SEC. 27. When any improvement mentioned in this act is completed according to contract, it shall be the duty of the engineer of the city to carefully inspect the same, and if the improvement is found to be properly done, such engineer shall accept the same and forthwith report his acceptance thereof to the city council, who may confirm or reject such acceptance. When the ordinance levying the tax makes the same due as

Duty of engineer respecting improvements.

the improvement is completed in front of, or along any block or piece of ground, then the engineer may accept the same in sections, from time to time, if found to be done according to contract, always reporting acceptance to the city council for confirmation or rejection.

Special taxes to be a lien.

SEC. 28. Special taxes shall be a lien on the lots or pieces of ground subject to the same, from the time the amount thereof shall have been ascertained, and in case any error or irregularity should occur in levying or collecting any such special tax, proceedings may be taken anew, so as to obviate any such error or irregularity.

Manner of appropriating private property.

SEC. 29. Whenever it shall become necessary to appropriate private property for the use of the city, and such appropriation shall be declared necessary by resolution, the mayor, with the approval of the council, shall appoint three disinterested freeholders of the city, who after being first duly sworn to perform the duties of their appointment with fidelity and impartiality, shall assess the damage to the owners of the property, respectively, affected by such appropriation. Such assessment shall be reported to the council, and when confirmed by them the damages shall be payable as provided in the next section.

Payment of damages.

SEC. 30. Such damage shall be paid to the owners of such property, and be deposited with the city treasurer, subject to the order of such owners, respectively, before such property shall be taken for the use of the city.

Where assessment is not confirmed.

SEC. 31. If the assessment of the freeholders be not confirmed by the council, proceedings may be taken anew to assess the damages.

Concerning sinking fund.

SEC. 32. The mayor and council is hereby required to make provisions for a sinking fund, to redeem at maturity the bonded indebtedness of the city, and the tax levied for the sinking fund shall be paid in cash.

Concerning interest on city bonds.

SEC. 33. The mayor and council shall make provisions for the payment of interest on the bonds of the city; and taxes levied for the payment of such interest shall be payable in cash.

How sinking fund may be used.

SEC. 34. The sinking fund to redeem at maturity the bonded indebtedness of the city, may be used to purchase such bonds before maturity, on such terms and in such manner as may be prescribed by an ordinance to be enacted for that

purpose: *Provided*, That bond holders shall be given an opportunity to compete for the sale of bonds held by them; and the bonds that can be purchased upon the most favorable terms shall be preferred.

SEC. 35. No money shall be expended or payment made by the city, except in pursuance of a specific appropriation made for that purpose by ordinance or resolution. And the residents of said city shall be exempt from the payment of a poll tax for the benefit of roads as required under the present laws relating to roads; but in lieu thereof the mayor and council of said city shall have power to require each able-bodied male person between the ages of 21 and 60 years, resident within the city, to perform by himself or substitute, in each and every year, one day's labor upon the streets and highways of said city: *Provided*, That acting volunteer firemen shall be exempt from performing said one day's labor: *And provided further*, That such labor, when so required may be commuted by the payment of the sum of two dollars in each year, to be expended upon the streets and highways where such labor would have been applied.

How moneys to be expended

Road poll tax.

SEC. 36. At the first meeting in each month the mayor and council shall provide, by ordinance or resolution, for the payment of all liabilities of the city incurred during the preceding month, or at any time previous thereto, except the bonded indebtedness of said city which shall be paid at the maturity of such bonds.

Liabilities of city to be provided for.

SEC. 37. Any ordinance or resolution appropriating money shall be subject to the veto of the mayor as any other ordinance, and the mayor may veto any single item in any such ordinance over fifty dollars, and if such item be not passed on a reconsideration thereof, the veto of the mayor to the contrary notwithstanding, in the same manner as in other ordinances, such item shall be stricken out and shall not be allowed or paid by the city.

Mayor may veto single item of appropriation bill.

ARTICLE III.

MAYOR.

SEC. 38. The mayor shall have power to sign or veto any ordinance or resolution passed by the city council. Any ordinance or resolution vetoed by the mayor may be passed

Veto power of mayor.

over the veto by a vote of two-thirds of the whole number of aldermen elected, notwithstanding the veto; and should the mayor neglect or refuse to sign any ordinance, or return the same with his objections, in writing, within ten days, the same shall take effect without his signature.

Treasury drafts
—how signed
and attested.

SEC. 39. All orders and drafts upon the treasury for money shall be signed by the mayor, and shall be attested by the city clerk, who shall also affix the seal of the city, and keep an accurate record thereof in a book to be provided for that purpose.

Mayor may be
superintendent
of city affairs.

SEC. 40. The mayor shall have the superintending control of all the offices and affairs of the city, and shall take care that the ordinances of the city and this act are complied with.

Mayor to sign
commissions.

SEC. 41. He shall sign the commissions or appointments of all the officers appointed in the city government.

Mayor to ap-
point special
policemen.

SEC. 42. He shall be a conservator of the peace throughout the city, and shall at all times have power by and with the consent of the city council, to appoint any number of special policemen which he may deem necessary to preserve the peace of the city, and to dismiss the same at pleasure.

Shall commu-
nicate informa-
tion to city.

SEC. 43. He shall from time to time communicate to the city council such information, and recommend such measures as in his opinion may tend to the improvement of the finances of the city, the police, health, security, ornament, comfort and general prosperity of the city.

Who may call
special meet-
ings of council.

SEC. 44. The mayor or any five aldermen shall have power to call special meetings of the council, the object of which shall be submitted to the council in writing, and the call and object, as well as the disposition thereof, shall be entered upon the journal of the council.

May require
any city officer
to report.

SEC. 45. The mayor shall have power, when he deems it necessary, to require any officer of the city to exhibit his accounts or other papers, and to make a report to the council in writing, touching any subject or matter he may require, pertaining to his office.

Duty and pow-
ers of mayor.

SEC. 46. The mayor shall be active and vigilant in enforcing all laws and ordinances for the government of the city, and he shall cause all subordinate officers to be dealt with promptly for any neglect or violation of duty; he shall have jurisdiction as may be vested in him by ordinance, over all places within the corporate limits of the city, for the enforcement of any health or quarantine ordinance or regulation thereof.

SEC. 47. When any vacancy shall happen in the office of ^{Mayor pro tem} mayor, by death, resignation, absence from the city, removal from office, refusal to qualify, or otherwise, the council shall, by vote of a majority of all the aldermen elected, elect from their number a mayor *pro tem.*, who shall exercise the office of mayor, with all the rights, privileges and jurisdiction of the regular mayor, until such vacancy is filled, or such disability be removed; or in case of temporary absence, until the mayor shall return; and during the time, he shall receive the same compensation that the mayor would be entitled to, the same to be deducted from the salary of the mayor; and in case of such vacancy other than temporary absence or disability, the person exercising the office of mayor shall forthwith cause a special election to be held, giving ten (10) day's notice thereof by proclamation.

SEC. 48. At the first meeting of the city council after any general election for city officers, they shall cause to be made out and certified by the clerk, a certificate of the election of such officers as are required to be elected by this act; and a neglect of any such officer to qualify within ten days after the delivery of such certificate to him, shall be deemed a refusal to accept the office to which he shall have been elected. ^{Council to cause certificates of election to be made out.}

SEC. 49. The mayor is hereby authorized to call on every male inhabitant of the city, over eighteen years of age, and under the age of fifty years, to aid in enforcing the laws and ordinances of the city; and in case of necessity, to call out the militia within the city to aid in the suppression of any riot, or in the enforcement of any ordinance; and any person who shall not obey such call, shall forfeit to the city a fine not exceeding one hundred dollars. ^{Mayor may call out militia}

SEC. 50. The mayor shall have power to remit fines and forfeitures, to grant reprieves and pardons for all offenses arising under the ordinances of the city, by and with the consent of the council. ^{Mayor may remit fines.}

SEC. 51. The mayor shall have power, by and with the consent of the council, to appoint all officers other than those elected by the people, and all nominations made by him may be confirmed or rejected by a majority of the councilmen present and voting upon such confirmation. ^{Mayor to appoint certain officers.}

ARTICLE IV.

CITY JUSTICE OF PEACE.

Appointment of city justice, jurisdiction of. SEC. 52. A city justice of the peace shall be appointed by the mayor and council from the qualified voters of said city. The city justice of the peace shall have exclusive jurisdiction and it shall be his duty to hear and determine all offenses against the ordinances of the city, and concurrent jurisdiction with other justices in all other cases civil and criminal.

When justice shall issue warrants. SEC. 53. Whenever complaint shall be made to the city justice of the peace, upon oath or affirmation of any person competent to testify against the accused, that an offense has been committed, of which the city justice of the peace has jurisdiction, said justice shall forthwith issue a warrant for the arrest of the offender, which warrant shall be served by the city marshal, or the sheriff of the county, or some person specially appointed by said justice for that purpose.

Justice, when to hear complaint. SEC. 54. When any person shall be brought before the said justice, upon such warrant, it shall be his duty to hear and determine the complaint alleged against the defendant.

Postponement of trials. SEC. 55. Upon good cause shown said justice may postpone the trial of the case to a day certain, in which case he shall require the defendant to enter into recognizance with sufficient security, conditioned that he will appear before such justice at the time and place appointed, and then and there to answer the complaint alleged against him.

Summons of witnesses. SEC. 56. It shall be the duty of said justice to summon all persons whose testimony may be deemed material as witnesses on the trial, and enforce their attendance by attachment if necessary; and when a trial shall be continued by said justice, he may verbally notify such witnesses as may be present at the continuance, to attend before him, to testify in the cause set for trial: and such verbal notice shall be as valid as a summons.

Trials, how governed. SEC. 57. All trials before the said justice for misdemeanors arising under the laws of the territory, shall be governed by the criminal procedure applicable to justices courts in like cases.

Concerning judgment on conviction. SEC. 58. In all trials for offenses under the ordinances of said city, if the defendant is found guilty, said justice shall

render judgment accordingly. It shall be part of the judgment that the defendant stand committed until judgment be complied with; in no case to exceed one day for every seventy-five cents of the fine and costs assessed against said defendant.

SEC. 59. Said justice shall be a conservator of the peace, and his court shall be open every day except Sunday, to hear and determine any and all cases cognizable before him; and shall have power to bring parties forthwith before him for trial; and no act shall be performed by him on Sunday, except to receive complaints, issue process and take bail.

Court, when to be open.

SEC. 60. In all cases before the said justice, arising under the ordinances of the city an appeal may be taken by the defendant to the district court of Cass county except in cases tried by a jury; but no appeal shall be allowed unless such defendant shall, (in case of fine,) within ten days, (and in case of imprisonment,) within twenty-four hours, enter into recognizance, with sufficient securities, to be approved by said justice, conditioned in case of fine, for the payment of said fine and costs, and costs of appeal, and in case of judgment of imprisonment, that he will render himself in execution thereof, if it should be determined against the appellant.

Concerning appeals.

SEC. 61. Any person convicted before the said justice of an offense under the ordinances of the city, shall be punished by fine and imprisonment, as may be regulated by ordinance, and under no circumstances shall such justice remit fines or penalties, on payment of costs or otherwise.

Justice not to remit fines.

SEC. 62. In case of a vacancy in the office of city justice of the peace, by death, resignation or otherwise, or in case of his absence, interest or disability to perform his duty, it shall be the duty of any acting justice of the peace within the city, who shall be designated by the mayor, to act as city justice of the peace during such vacancy, absence or disability, in the trial of causes cognizable before the said justice.

Who to act in case of death of city justice.

SEC. 63. If upon any trial under the provisions of this act, it shall appear to the satisfaction of the city justice of the peace, or the jury (in cases arising under the laws of the territory), that the prosecution was commenced without probable cause, or from malicious motives, the jury or justice trying the case shall state the name of the prosecutor or prosecutors in the finding, and shall impose the costs of the prosecution

Duty of justice when prosecution malicious.

upon him or them, and judgment shall be rendered against such prosecutor or prosecutors, that he or they pay such costs, and stand committed until the same are paid.

Power of justice.

SEC. 64. The city justice of the peace shall have power to enforce due obedience to all orders, rules, judgments and decrees made by him; and he may fine or imprison for contempt offered to him while holding his court, or to process issued, or orders made by him, in the same manner and to the same extent as provided for justice court. On the trial of any case in said court, it shall be the duty of the city justice of the peace to sign any bill of exceptions rendered to the court during the progress of such trial: *Provided*, The truth of the matter be fairly stated, and thereupon said exceptions shall be entered in the record of such trial and become a part thereof; and any final conviction, sentence or judgment of said court may be examined by the district court on writ of error which may be allowed by the said district court or the judge thereof, for sufficient cause, and proceedings may be stayed as may be deemed reasonable, and the revising court shall, in such proceedings take judicial notice of all the ordinances of said city. Cases before the city justice of the peace, arising under the city ordinances, shall be tried and determined by the justice without the intervention of a jury, except in cases where, under the provisions of the ordinances of the city, imprisonment for a longer period than ten days is made a part of the penalty, or the maximum fine shall be twenty dollars or over, and the defendant shall demand a trial by jury before the commencement of such trial; and when a demand shall be so made it shall be the duty of the city justice of the peace to write down the names of eighteen persons, residents of the city, and having the qualifications of jurors in the district court, and the defendant and the attorney for the city shall each strike off three names, or, in case the defendant shall neglect or refuse so to do, then the city justice of the peace, with the attorney for the city, shall strike off such names; and the said justice shall at once issue his venire to the marshal commanding him to summon the twelve persons whose names remain upon the list as jurymen. And in all trials by jury in said court challenges shall be allowed in the same manner and for the same causes as in the district court in cases of misdemeanor, and in case the

Bill of exceptions.

Concerning jury.

number shall be reduced below twelve by such challenges, or any portion of said number shall fail to attend, then the marshal shall summon in a sufficient number of talesmen, having the qualifications of jurors, to complete the panel, which shall in all cases consist of twelve jurors. If either party objects to the competency of a juror, the question thereon must be tried in a summary manner by the justice who may examine the juror or other witness under oath. Each and every person summoned as a juror in any case shall be entitled to a fee of fifty cents, and in case of conviction, such fees shall be taxed against the defendant as a part of the costs of the case.

SEC. 65. In all cases not herein specially provided for, the process and proceedings of said court shall be governed by the laws regulating proceedings in justices courts in criminal cases. Proceedings, how governed.

ARTICLE V.

TREASURER.

SEC. 66. The city treasurer shall receive all moneys belonging to the city, and shall keep his books and accounts in such manner as the mayor and council may prescribe; and such books and accounts shall be always subject to the inspection of the mayor or any member of the city council. Duty of city treasurer.

SEC. 67. All warrants drawn upon the treasury must be signed by the mayor, and countersigned by the clerk, stating the particular fund or appropriation to which the same is chargeable and the person to whom chargeable; and no money shall be otherwise paid than upon such warrant so drawn, except as hereinafter provided. All warrants shall be paid in the order in which they are presented, and the treasurer shall note upon the back of each warrant presented to him the date of such presentation, and when payment is made the date of such payment: *Provided*, That any warrant shall be paid by the treasurer in case a sufficient amount of money shall remain in the treasury to pay all warrants presented previous to such warrant. Any violation of the provisions of this section on the part of the treasurer of said city shall be sufficient ground for his removal from office by the mayor and city council. Concerning city warrants.

Treasurer to
keep separate
accounts.

SEC. 68. The city treasurer shall keep a separate account of such fund or appropriation, and the debts and credits belonging thereto.

Treasurer to
give duplicate
receipts for
taxes.

SEC. 69. The city treasurer shall give every person paying money into the city treasury, a duplicate receipt therefor, specifying the date of payment, and upon what account paid; and he shall also file copies of such receipts with the clerk at the date of his monthly report.

Treasurer to
render account

SEC. 70. The city treasurer shall, at the end of each and every month, and oftener if required, render an account to the mayor and city council, or such officer as the mayor and city council may designate, showing the state of the treasury at the date of such account, and the balance of money in the treasury. He shall also accompany such accounts with a statement of all moneys received into the treasury, and on what account, together with all warrants redeemed and paid by him, which said warrants, with any and all vouchers held by him, shall be delivered to the clerk, and filed with his said account in the clerk's office upon every day of such settlement, taking their receipt for the same. He shall return all warrants paid by him stamped or marked "paid," and shall give a list of said warrants, stating the number and amount of each.

Treasurer
prohibited
from using city
moneys.

SEC. 71. The city treasurer shall keep all moneys in his hands belonging to the city separate and distinct from his own moneys; and he is hereby expressly prohibited from using, either directly or indirectly, the corporation money or warrants in his custody and keeping, for his own use and benefit, or that of any other person or persons whomsoever; any violation of this provision shall subject him to immediate removal from office by the city council, and upon conviction thereof they are hereby authorized to declare such office vacant; and the city council shall appoint a successor of the term unexpired of such officer so removed.

Penalty.

Treasurer's
report.

SEC. 72. The city treasurer shall report to the mayor and council at such time as may be prescribed by ordinance, giving a full and detailed account of all receipts and expenditures during and since his last report, and the state of the treasury. He shall also keep a register of all warrants redeemed and paid during the year, describing such warrants, their date, amount, number, the fund from which paid, and

Warrant reg-
ister.

person to whom paid, specifying also the time of payment; and all such warrants shall be examined by the finance committee at the time of making such report.

SEC. 73. All moneys received on any special assessment shall be held by the treasurer as a special fund, to be applied to the payment of the improvement for which the assessment was made; and said money shall be used for no other purpose whatsoever. Special assessments.

SEC. 74. The treasurer shall be collector of taxes for the city, and shall give bonds in a sum not less than five thousand dollars, and in such further sum as may be provided by ordinance, said bond to be approved by the mayor and council, for the honest and faithful performance of the duties of his office, said bond to be filed in the office of the clerk of the city. Bonds of treasurer.

ARTICLE VI.

MISCELLANEOUS.

SEC. 75. The marshal shall possess the powers of constable in the service of a process, and may arrest offenders within or without the city limits, for offenses committed within the same; and shall at all times have power to make or order an arrest upon view of an offense being committed, with or without process, for an offense against the laws of the territory, or the ordinances of the city, and bring the offender to trial or examination before the proper officers of the city: *Provided*, That any person arrested for an offense without process shall be entitled, on demand before trial, to have filed a complaint on oath in writing. Marshal, powers of

SEC. 76. The policemen of the city shall have power to arrest all offenders against the laws of the territory or ordinances of the city by day or by night, and keep them in the city prison to prevent their escape until they can be brought before the proper officer. Power of policemen.

SEC. 77. The marshal, in the discharge of his duties, shall be subject to the order of the mayor and city justice of the peace, only, and shall be *ex-officio* chief of police. Marshal to be subject to orders of Mayor.

SEC. 78. The policemen of the city in the discharge of their duties, shall be subject to the orders of the mayor and marshal only. Policemen, who subject to.

Mayor and council to have certain powers

SEC. 79. When, by this act, the power is conferred upon the mayor and council to do and perform any act or thing, and the manner of exercising the same is not specifically pointed out, the mayor and council may provide by ordinance the details necessary for the full exercise of such power.

What may be defined by ordinance.

SEC. 80. The duties, powers and privileges of all officers of every character, in any way connected with the city government, not herein defined by ordinance, and the defining by this act of the duties of the city officers, shall not preclude the mayor and council from defining by ordinance further and additional duties to be performed by any such officer.

Exempt from taxation.

SEC. 81. Lands, houses, moneys, debts due the city, and property and assets of every description belonging to said city, shall be exempt from taxation, and sale on execution; judgments against the city shall be paid out of the general fund, or by a tax to be assessed upon the taxable property of the city.

Fines, to whom paid.

SEC. 82. All fines, penalties and forfeitures collected for offenses against the ordinances of the city, and all fines, penalties and forfeitures collected within the city for misdemeanors against the laws of the territory, shall be paid to the officer or officers entitled by law to receive the same.

Penalty where city officer is interested in contract.

SEC. 83. Any officer of the city, or member of the council, who shall by himself or agent become a party to, or in any way interested in any contract, work or letting under the authority of the city; or who shall, either directly or indirectly, by himself or other party, accept or receive any valuable consideration or promise, for his influence or vote, shall be fined in any sum not less than one hundred dollars, nor more than one thousand dollars, one-half of which shall go to the informer and the balance to be paid into the city treasury, by the officer collecting or receiving the same.

Compensation of city officers.

SEC. 84. The several officers of said city hereinafter named shall for the year 1875, receive the compensation fixed by this act, and no more; and it is hereby made the duty of the mayor and council to fix by ordinance the compensation to be paid the several officers provided for in this act, and such other officers as may be appointed by the mayor and council for said city: *Provided*, That in no case shall the compensation of the mayor and council be increased during their term of office:

1st. The mayor shall receive for the year 1875, the sum of five dollars;

2d. The members of the council shall each receive for the year 1875, the sum of three dollars.

SEC. 85. Any officer appointed by the mayor and city council shall hold his office for one year, or during the pleasure of the mayor and council, and may be removed at any time by the appointment of his successor in such office in the manner provided for the appointment of officers: *Provided*, That the mayor shall nominate to the council for confirmation the successor of any such officer upon the request of a majority of all the members of such council, expressed by resolution, and upon the passage of such resolution the ayes and noes shall be taken and recorded.

Term of office.

Proviso.

SEC. 86. That all north of the Northern Pacific Railroad track shall constitute the first ward; all south of the railroad track and east of Sixth street shall constitute the second ward; and all south of the railroad track and west of Sixth street the third ward.

Boundaries of wards.

SEC. 87. That S. G. Roberts, Thomas M. Pugh and W. D. Maddocks are appointed judges of election for the first ward; J. E. Haggart, Terance Martin and Harry O'Neil for the second ward; and E. A. Grant, George A. Strout and James McLean for the third ward, who shall have power to hold the first election, to select the place for holding said election and give notice thereof, and to fill vacancies which may occur in said election boards in their several wards.

Names of city officers.

SEC. 88. This act shall take effect and be in force from and after its passage and approval.

When to take effect.

Approved, January 15, 1875.