

Act No. 39

To Incorporate the City of

Tombstone

1881

An Act.

To incorporate the City of Tombstone to define the Limits and Rights to specify its Privileges and Powers and provide for an Efficient-Government for the same.

Be it enacted by the Legislative Assembly of the Territory of Arizona.

Article I

Incorporation and City Boundaries

Section I. The village of Tombstone is hereby constituted and formed into a body politic and corporate, with the name and style of "The City of Tombstone, of the Territory of Arizona."

Section II. The boundaries of said city shall be as follows: Commencing at an initial monument at the intersection of the centerline of Seventh Street, with the south side line of Tough Nut Street, which monument is more particularly described as follows: The monument is of granite, pyramidal in shape, and two (2) feet square at the base, one (1) for the square at the apex, and three (3) feet high, showing one (1) above the ground. Upon the north face is inscribed "Initial Monument City of Tombstone" and upon the south face "South line of C of T"

Upon the apex is inscribed a cross, the lines of which are on the true meridian, and their intersection is the point of beginning thence on one (1) mile to a post ten (10) inches square, and five (5) feet long, three (3) feet of which shows above the ground and which has inscribed upon it "S. E. Cor. City of Tombstone", thence north one and one half (1 ½) miles to a post ten (10) inches square and five (5) feet long three (3) feet of which shows above the ground, and which has inscribed upon it "N. E. Cor. City of Tombstone", thence west two (2) miles to a post ten (10) inches square and five (5) feet long, three (3) feet of which shows above the ground and which has inscribed upon it "N. W. Cor. City of Tombstone", thence south two (2) miles to a post ten (10) inches square and five feet long, three (3) feet of which shows above the ground, and which has inscribed upon it "S. W. Cor. City of Tombstone", thence north one half (1/2) of a mile to the place of beginning.

Article II

Grants of Rights, Powers, Etc.

Section I. Under said corporate name, the said corporation is declared a public or municipal corporation, and by such name shall have perpetual succession; may make or use a corporate seal and change and alter the same at pleasure; sue and be sued; plead and be impleaded, in any and all courts of justice, and

all actions, suits and proceedings whatever; may purchase, hold and recover property, real and personal, or either within or without the limits of said city, for any or all following purposes.

First. For Public buildings, public works and improvements for public parks, and burial grounds and cemeteries or either.

Second. The establishment and maintenance of hospitals and asylums for the care of decrepid and invalid persons; persons affected with contagious, loathsome or other diseases, or either.

Third. For the erection and maintenance of jails, work-houses, and houses of correction or either.

Fourth. The purpose of establishing and constructing, maintaining and operating of gas works, and distributing the same in pipes or otherwise into and throughout said city or either.

Fifth. For the purpose of laying out, and opening in writing or otherwise improving streets, alleys, lanes, sidewalks and crosswalks within city, or either.

Sixth. For the purpose of laying out, building and constructing sewers, drains, cesspools or either.

Seventh. For the purpose of erecting, establishing and maintaining of public schools, public library and poor-house, or either.

Eighth. For the purpose of constructing and maintaining a horse, steam or cable railroad instead city or either.

Ninth. For any or all other public or municipal objects, as required for the protection, benefit and convenience of said city, and its inhabitants and for any and all such purposes and objects in this Section enumerated or referred to; the said corporation shall have the right and is hereby empowered to condemn any and all property required to be taken therefore, and to levy and collect all assessments in the manner hereinafter provided, or, as otherwise provided by law.

Section II. The said corporation shall have the further power, and is hereby further authorized through its officers or agents as hereinafter provided, or as may hereinafter be prescribed by the ordinances, by-laws, resolutions, rules and regulations instead city passed and adopted in pursuance hereof, to assess levy and collect each year, upon all property, both real and personal, in said city, and taxable under the laws of this Territory, taxes for general municipal purposes, which shall not exceed for any year the sum of one dollar on each one hundred dollars worth of property, both real and personal, according to the assessed value thereof, within said city, and said corporation is also hereby authorized and directed to assess, levy and collect each year, at the same time such other taxes as may be required to be imposed, levied and collected by special act of the Legislature, for the payment of interest and principal of any of the funded indebtedness of said city, if any there be.

Section III. The said officers and agents, as hereinafter provided by the ordinances, by-laws, rules, orders and regulations passed and adopted in the pursuance hereof, shall have the further power, and are hereby authorized subject to restrictions, provisions and conditions herein contained to manage and

control, to sell, lease or otherwise, except by mortgage or by pothication, or, as herein provided, dispose of any or all the property of said corporation, and to appropriate the proceeds, profits or other income therefrom, to the use of said incorporation. Provided, that no sales shall be made by said corporation, under this section, accepting and ordinance duly enacted, approved and published, at least once a week for eight consecutive weeks, authorizing and directing said sale in the manner thereof, except in case of the execution of deed for the quieting of equitable title, in which case no ordinance shall be required.

Section IV. The Mayor and Common Council shall have power, by ordinance, to provide for the licensing, regulating, restraining, suppressing and prohibiting or either, any or all hawkers, peddlers, vendors of goods and chattels, pawn brokers, dance-cellars or houses, melodeone, shows, showmen, circuses, theatrical exhibitions, and all kinds of public amusements, whether passage money is charged or not, billiard tables, bowling and ten pin alleys, faro banks, gaming with cards, balls or dice, games of chance, gambling houses, table or stands, bawdy houses, the sale of spirituous or malt liquors in quantities less than one quart, by keepers of saloons, or any other person or persons, houses of prostitution or assignation, all keepers of restaurants, taverns or inn-keepers, all traveling merchants; all immoderate driving in any of the streets, commons, lanes and alleys, to prevent incumbering the streets, sidewalks, alleys or public grounds; the apprehension and punishment of disorderly or idle persons, drunkards and vagrants; the carrying of concealed or deadly weapons, and the running at large of any, either or all animals, and any and all noxious and offensive, immoral, indecent or disreputable places, business and practices, or either, in said city; and if licensed, to fix the amount of license tax thereon, and to be paid as hereafter provided; and further to license the carrying on and conducting of any and all trades, callings and occupations and other business by any person natural or artificial, within the corporate limits of said city; to fix the amount of license tax thereon, and to be paid by such person therefore, at such sums respectively as the said Mayor in Common Council shall think equitable and just, and may, in the name and for the benefit of said corporation, enforce in such manner as it sees proper to prescribe, and the payment of such license taxes by suit either with or without attachment, in the Recorders Court, under the laws of this Territory, or by the fine or imprisonment, or either, or in such other manner as in said ordinances may be provided.

Section V. The Mayor and Common Council shall have the further power, by ordinance, to create offices of City Attorney, a Chief of Police, a City Assessor, a City Tax Collector, a City Treasurer, a Health Officer, City Surveyor, Clerk of the Council, a Recorder, and such other officers as they deem proper, and shall appoint officers for such offices, whose duties, powers and terms of office shall be prescribed by the Common Council, not inconsistent with this Act.

Section VI. The Common Council shall consist of the Mayor and four Councilmen, one Councilman from each ward of the city, as hereafter to be established and designated by the Common Council, that will equalize as nearly as possible, the population in each ward, by ordinance or regulations, and that the Common Council have power to increase the number of wards and Councilman at any time, not more than thirty or less than fifteen days prior to the general municipal election, and that the general municipal elections shall be held on the first Tuesday of next January, and every two years thereafter, and that the members of the Council shall be residents of wards they represent, and shall have been a resident thereof at least thirty days prior thereto, and shall be elected by the qualified electors residing

in such wards respectively. All other elective officers except as herein otherwise provided and authorized, shall be elected by the qualified electors at large residing in said city.

### Article III

Section I. Should any office becomes vacant by death or otherwise, before the expiration of the term of the incumbent appointed to such office, it shall be the duty of the Mayor, with and subject to consent and confirmation of Common Council, to appoint a suitable person to fill the same for such unexpired term, provided, that in case any vacancy shall occur in the office of the Mayor or any Councilman herein provided to be elected by the electors of the city, it shall be in the discretion of the Common Council to order a special municipal election for the election of a successor to hold office for such unexpired term, or such election may be postponed if no necessity for a special election exist, until the next general municipal election.

Section II. The power and authority given to said corporation by this Act is vested in a Mayor and Common Council, and such other officers as may be created, in pursuance of its provisions, and may be exercised by them respectively as herein provided, or as may be prescribed by any ordinance, by-law, resolution, rule or regulation, or either, enacted, passed or adopted in pursuance of the terms of this charter, in the same manner and to the same extent, and with the same authority as if thereunto specially authorized and directed.

### Article IV

#### Rights, Powers and Duties of the Common Council.

Section I. The Common Council shall have power, and is hereby authorized for and in behalf of such corporation, by ordinances or resolutions, in writing, to make regulations to prevent the introduction or spreading of any loathsome, contagious and other diseases into the city; to make regulations and provisions for the removal of the person afflicted with any contagious or loathsome disease to the hospital provided and prepared by the city or other party for that purpose; to provide for the care, protection and support of the indigent sick in said city, to secure the protection of persons and property within said city, and to provide for the health, cleanliness, peace and good order of the city and its inhabitants; or persons residing within the limits; to declare what constitutes a nuisance and to provide for the prevention, removal or abatement of any and all nuisances within said city; to provide the city with good and wholesome water, and to that end, for that purpose, may exercise, use, enjoy and carry out in the name of said corporation, any and all measures requisite and necessary therefore; powers to perform which is given said corporation by the provisions of Section I, Article II.

Also to provide for the lighting of streets and public buildings belonging to the city, with gas or light for the use of any other material or substances and to that end, and for that purpose, may exercise, use and enjoy and carry out in the name of said corporation any and all measures requisite and necessary therefore, powers to perform which is given said corporation by the provisions of said Section I of Article II of this Act.

Also, by ordinance or resolution in writing, to layout and open public streets within said city, at such times and in such manner as to it shall seem proper, to vacate, to extend, widen and improve the same, to layout and constrict, change and alter sewers, and water dishes in said city, or without the limits of said city, when required to conduct the sewage flowing into the sewer to cesspools or other places of deposit thereof, and to these ends and for that purpose, or either, to exercise, use, enjoy or carry out any and all measures requisite and necessary for said purposes or either, power to perform which is given said corporation by the provisions of said Section I of Article II of this Act.

Also to provide for and maintain out of the general fund of said City, a proper and efficient fire department, and to make and adopt such measures, rules or regulations for the prevention and extinguishment of fires, and for the preservation of property endangered thereby as a Common Council may think best; also by resolution, in writing or otherwise, to provide against the existence of all filth, garbage or other injurious or inconvenient matter, substances or things within or along the water dishes, streets, sidewalks and crosswalks, private lots, yard or premises, or either in said city, and for the removal of such substances and things, or either, therefrom, and may make such ordinances, rules, regulations, and adopt such measures thereafter as to them may seem best; also to provide for, regulate, restrain or prohibit the establishment of market houses and places, slaughterhouses and butcher shope, or either, and may make such ordinances, rules and regulations for the management and control of such places as it may seem best, also by ordinances or resolutions, in writing, to re-district and to re-divide the said city into as many words as they may deem proper, and in such a manner as to the Common Council may seem best calculated to equalize as nearly as possible the population to each ward, and may establish, alter and change the same at pleasure, when, in their opinion requisite to accomplish such end, provided same is done not less than fifteen days or more than thirty days before the general municipal elections; also to make such provisions for the care and custody of all parties sentenced to confinement or imprisonment, as they made the proper; also, by ordinances or resolution, in writing, to regulate the keeping or storage of gunpowder, and any and all other inflammable or combustible materials within the limits of said city or any portion thereof; also, to establish, fix, allow and prescribe and regulate the salaries, fees, and compensation of all officers and employees of this corporation; also, except as herein otherwise provided, to exercise, use and carry out all authority vested in said corporation, by Section I, of Article II of this Act, and to manage and control said property in such ways as it may seem best, also, except otherwise restricted, upon motion or otherwise, to appropriate money to pay the debts, liabilities and expenditures of the city or any part or item thereof; also to provide for surveys of the blocks, streets or lands within the limits of said city, and to declare such surveys official and compel all persons to conform to the lines of said streets, as now are or may be hereafter established; also, to provide for the management and preservation of the records, papers and archives of said city, and also to exercise and carry out and execute such other power and authority as given to said corporation by this Act, either expressly or by implication, and not otherwise specifically delegated, and to make, pass and adopt for such purposes, such laws, rules and regulations as shall be necessary therefore.

Section II. The Common Council shall annually, at the regular meeting appointed by this Act, or as soon thereafter as possible, elect a suitable person other than a member of the Council, to be the City

Auditor, who shall also be ex officio Clerk of the Common Council, such Auditor shall perform all the duties required by him by this Act, and by an ordinance, regulation or order the Common Council:

He shall be present at each meeting of the Common Council, and keep a record of its proceedings, and shall have the care and custody of all books and papers belonging to the said city. He shall, on or before the first Tuesday in January in each year, make an estimate, under the supervision of the Mayor, of the revenue of the city for the fiscal year about to commence, which estimate shall be approved by the Mayor, and presented to the Common Council. He shall number and keep record of all demands approved by him, showing the number and date of approval, amount, and name of the original holder, on what account, and the fund out of which it is payable. He shall at all times be acquainted with the exact condition of the City Treasury, and shall report to the Common Council at each regular meeting, the condition of each fund in the City Treasury, and the amount of funds drawn on each fund since the previous meeting.

He shall keep a complete set of books, in which shall be set forth in plain and business like manner every money transaction of the city, so that he can at times know and report on the state of such fund, from what source the money was derived, and for what purpose any money was expended, and all collections made and paid in the Treasury by each officer; and he shall issue all licenses (countersigned by the Mayor) and countersign all warrants on the Treasury. The said Auditor shall otherwise be under the control of said Common Council, and may for good cause, shown be removed by it at any time, and other person elected by said Common Council in his stead.

The Common Council shall, upon the call of any member, cause the ayes and nays to be taken upon any question before it, and entered upon the journal.

All proceedings and deliberations of the Common Council shall be public.

Section III. Within seven days, including Sunday and other legal holidays, after the completion of the canvassing by the Common Council of the vote cast in any general municipal election of the members of the Common Council there shall be held meetings of the Common Council, such meetings as appointed by this Act, and no notice thereof is necessary.

The Common Council of which the terms of the whole or part of the members are about to expire, shall meet, approve the records of its session then unapproved, receive communications and reports of committees, in its discretion and at its opinion, act upon all unfinished business then before the Common Council, and adjourned sine die.

Immediately thereafter the members of the Common Council elected at the last election, and the members holding over, under this Act, shall convene, and proceed then or at any subsequent time, enact the Mayor, the presiding officer, he shall be known as the President of the Common Council, and shall make further organization as it shall seem proper to form, not inconsistent with this Act.

After such organization, it may at any time thereafter proceed with the transaction of the business of the Common Council, including all unfinished business. Provided, if from any cause, the said

meeting referred to in this Section, is not held on the day hereby appointed, the same may thereafter be called by the Mayor for any other time, as herein provided, for special meetings of the Common Council; the notice in such case to be served not only upon all members of the Common Council, also upon all members elect thereof.

Section IV. The Common Council shall have power, and is hereby authorized by resolution in writing, to be entered upon the minutes, to provide for the time and place of its other regular meetings, but it may upon motion at any regular, special or joint meeting, adjourn to the next succeeding regular meeting, or to any specified time prior thereto. Special meetings of the Common Council may be called by the President of the Common Council at any time, whether for the transaction of special or adjourned business, and the notice thereof, signed by the President, specifying the object; if special, it shall be personally served upon each member of the Common Council, or shall be served by leaving a copy of the same at his place of business, is served between the hours of 7 o'clock A. M. and 5 o'clock P. M. when such place of business is known, or, if not, or if served at any other time, by leaving a copy thereof at his residence or domicile.

Section V. A majority of the members of the Common Council shall be a quorum to do business, but any less number shall meet and adjourn from time to time, and may compel the attendance of absent members in any manner prescribed by the rules of the Common Council.

The President of the Common Council shall be entitled to vote upon every question, and shall have the power and authority to preserve order, enforcing rules of the Common Council and determine the order of business, subject to the rules of an appeal to the Common Council. In the absence of the President, the Common Council shall have power to appoint one of its member's President pro tem, he shall have the rights and power of said President.

Section VI. The Common Council shall have power to punish any member or other person, by fine not exceeding one hundred dollars or by imprisonment in the County jail or other place of confinement not exceeding ten days, for disorderly or improper conduct committed in their presence when in session at any meeting and may in addition to reinforcement of their fines and other penalties provided therefore, by a majority vote, expel a member for the breach of its rules and regulations, and declare his seat vacant.

If any member of the Common Council shall without leave of absence, duly granted by motion, be absent four consecutive regular meetings of said Common Council, his seat and office shall therefore be and become vacant; and it shall be the duty of the Clerk of said Common Council forthwith to notify the Common Council of such vacancy.

The concurrence of a majority of a quorum is a sufficient majority to determine any question or matter.

Section VII. The Mayor and Common Council shall (after the approval of the City Attorney) approve, by motion or resolution, all official and other bonds, which by this Act are or by the ordinances, resolutions or orders of said Common Council may be required to be given by any officer, contractor or other

employee of said corporation, and upon all such bonds when approved as aforesaid, shall be forthwith endorsed by the Clerk, a memorandum setting forth such approval with the date thereof which memorandum shall thereupon be signed by the President of the Common Council and City Attorney, and the bonds shall then be forthwith filed by the Clerk of the Common Council in his office.

## Article V

### Other Officers, Their Powers and Duties.

Section I. The Mayor is the executive officer of the corporation and must exercise careful supervision over all its affairs and subordinate officers; it is his duty annually at the meeting of the Common Council, appointed by Section III of Article IV of this Act, to communicate by message to the Common Council a general statement of the condition and affairs of the corporation in which he shall include the report of the Auditor, provided to be made in Article IV, Section II, of this Act, and to recommend the adoption of such measures as he may deem expedient and proper and to make such special communications to the Common Council from time to time as he shall deem expedient; to exercise the constant supervision over the acts and conducts of all its officers and employees; to receive and examine into all complaints made against them for violation or neglect of duty and certify the same to the Common Council who shall receive and refer the same to a committee of three of its members to hear the evidence and report to the Common Council as soon as practicable whether the accused party be guilty or innocent.

If the accused party be found guilty the Common Council shall prescribe the punishment, which punishment maybe suspension for any time less than sixty days or removal from office or position.

Section II. If at any time owing to absence from the city, sickness or any other cause the Mayor should be unable to perform the duties of his office he shall notify the Common Council thereof at its first meeting thereafter, and in such case one of the Councilman shall be and become upon resolution Mayor pro tem and shall perform and discharge in the same manner and with like power and effect any and all of the duties of the Mayor until the meeting of the Common Council at which the Mayor shall notify them of his readiness to resume the discharge of his office.

Section III. It shall be the duty of the City Attorney to prosecute in behalf of the Mayor in Common Council of the City of Tombstone, all criminal cases for violation of City Ordinances and resolutions pending in the Recorder's Court, and in all other courts upon appeal thereto, and to attend to all suits, matters and things in which the city may legally be interested; to give his advice or opinion writing whenever required by the Mayor or Common Council and to do and perform all such things, touching his office as by the Common Council may be required of him. The City Attorney shall draft and approve the form of all official or other bonds required by this Act or any ordinance, resolution, motion order of the Common Council before the same are submitted to the Common Council or Mayor for final approval as

herein before provided and no such bond shall be approved by the Mayor or common Council until the City Attorney shall signify his approval of the form of such bonds.

Section IV. It shall be the duty of the Chief of Police during the continuances of such office in addition to the duties prescribed to him by ordinances, by-laws, resolutions, rules and regulations of said city authorities to execute and return all processes issued by the Recorder's Court or Judge thereof or directed to him by any legal authority; to attend upon the Recorder's Court regularly to arrest all persons guilty of a breach of the peace or any violation of any ordinance or by-law, resolution, rule or regulation of said municipal authorities and bring them before the Recorder's Court or other proper Court for trial. He shall possess a superintending control, subject to the Board of Police Commissioners, over the city police.

Section V. It shall be the duty of the City Assessor in addition to any duty that may be prescribed for him by ordinance, resolution, by-law, rule or regulation of the said Common Council of said City, to make out, within such limits as may be prescribed by the ordinance of said city, either now in force or which may hereafter be passed into pursuance thereof a full, true and correct list of all the property, both real and personal, taxable by law, within the limits of said city, with the valuation thereof.

After the general municipal election to be held on the first Tuesday in January, and each year thereafter shall also be the duty of the Assessor to collect the taxes of all personal property when the owner of said property is not seized of real estate in said city sufficient to afford ample security for the collection of said taxes. In all such cases he shall be governed in fixing the amount of the tax by the rate of the tax levy for the preceding year.

Immediately after fixing the assessment on such property he shall serve upon the owner or owners, a notice in writing, which shall specify the assessed valuation of the property, the rate percent, and the amounts of the tax payable, and contain a demand for the payment of said tax within three days after the services of said notice. Said notice shall be served personally, or by leaving a copy of the same at the last known place of residence of the person whose property is so assessed, upon expiration of said three days, after such service, if the tax demand still remains unpaid or payment thereof be not secured to the satisfaction of the City Attorney and the City Assessor, the Assessor shall forthwith proceed to collect the same by seizure and sale of any personal property owned by the delinquent.

The said sales shall be made in accordance with the ordinance of said Common Council of the said city as hereafter prescribed when the rate is fixed for the year in which such collection is made; then if a sum in excess of said rate has been collected, the excess must be repaid on motion of the Common Council, to the person from whom the collection was made, or to his assignee, and if a sum less than the rate fixed has been collected, the deficient amount must be collected as other taxes on personal property are collected. Should the Board of Equalization reduce the valuation for the same year the property assessed, the sum collected in excess of said reduced valuation must be repaid to the person from whom the collection was made or his assignee. And if the valuation of said property should be increased by said Board, then the deficiency must be collected as other taxes on personal property are collected. The Assessor shall carefully note upon his assessment list, and also upon a book, to be by

him kept for that purpose all collections made by him under this Section, and shall turn over to the City Treasurer all money received within ten days after its receipt. In case the said Assessor shall fail to demand and collect any and all taxes which by this Section he is directed to collect he shall be and become personally liable to the city for the amount of said delinquent in unpaid taxes with interest from the date of their assessment. To recover the same the Common Council is authorized and directed to cause proper action or actions, of law to be brought against that Assessor and the parties on his official bond.

Section IV. The mode of making out such assessment list, of ascertaining the value of property and equalizing the same, shall be such as it is now, or may hereafter be, prescribed by the ordinances of the Common Council of said city. When such list has been made out and the same is returned to the Common Council as prescribed by such ordinances, the Mayor and Common Council shall at the time and in the manner prescribed in such ordinances sit and act as a Board of Equalization, unless herein otherwise provided, and shall have, as regards the equalization of said list, all the powers conferred by law upon the Board of Supervisors of Cache County as a Board of Equalization of Territory and County taxes.

The meetings of said Board shall be public and notice of such meetings shall be given by publication at such time in such manner as shall be provided by ordinances. The whole of said assessment list shall be publically read during the session of said Board. The said Board shall have power in its discretion, to increase or diminish the amount of any or all of the assessments from said list both as to the real and personal property.

Provided, that before any such assessments be increased due notice shall be given to the owner or owners of the property, the assessed value of which is sought to be increased, and such owner or owners shall have opportunity to be heard before the Board, under oath. Such notice to be regulated in all respects by ordinance. After such list has been equalized it shall be returned to the Common Council we shall forth with fixed the levy or rate percent of taxes levied for all municipal purposes for that fiscal year.

Every tax so levied shall have the force and effect as a judgment against the person and property taxed, and shall be and constitute from the date of such levy, of the rate of percent, a lien upon the real property situated in said city, so assessed or owned by the party against whom such assessment is made. Every such assessment and the lien thereof shall have the force and effect as of an execution duly levied upon all property owned by the party assessed or by the unknown owner of such property when assessed to an unknown owner. The judgment is not satisfied nor discharged until all the taxes assessed against the property and the owners are paid for the property sold for the payment thereof.

Section VII. The said corporation shall have such other rights, claims, privileges and liens for the amount of such municipal taxes as may now or hereafter be given to or exercised by the people of this Territory for and on account of the assessment of Territorial and County taxes levied in said County. The mode and manner of collecting such municipal taxes and enforcing such tax lien and proceedings thereafter,

shall substantially be the same as the mode and manner at the time prescribed by law for the collection of Territorial and County taxes. Provided, however, that the Common Council may by ordinance have the power to regulate the time or times of the collection of said taxes within each fiscal year and prescribed by what officers the respective duties appertaining to such collection and enforcement shall be performed, all such proceedings, sales, certificates and conveyances had made and executed by them, in pursuance thereof shall be of like force, effect and validity as is or may hereafter be given by law to such proceedings and acts in the matter of the collection of Territorial and County taxes in said County.

Section VIII. It shall be the duty of the City Tax Collector, in addition to the duties that may be prescribed for him by any ordinances, resolution, motion, by-law, rule or regulation of the Common Council of said city to receive and collect all taxes, licenses and revenue of the city, and pay the same over to the Treasurer, as dictated by ordinance; to keep the book which shall contain a record of every deed given by or on behalf of the city for real estate provided sold for delinquent taxes or assessments, which book shall be properly indexed, and shall be at all suitable times subject to public inspection and reference.

Section IX. It shall be the duty of the Treasurer, unless otherwise provided by or in pursuance of this Act, to receive all money that shall come to said city, either by taxation or otherwise, and to pay the same out on warrants legally ordered by the Common Council, drawn and signed by the Auditor and countersigned by Mayor, and to do and perform all such other acts as may be prescribed to him by this Act, any city ordinances, or by the Common Council of said city. He shall on the first day of January, April, July and October of each year, and at any other time when required by the Common Council, make out and present to the Common Council, a full and complete statement of the receipts and expenditures since his last report, which statement the Common Council so cause to be published. The Finance Committee, or any special committee of the Common Council thereto appointed by themselves, or with the aid of any accountant selected by said committee, shall have the right and power to examine the books of the Treasurer, and to inspect and count all public monies under his control or on deposit elsewhere.

Section X. The Recorders Court of said city as to all offenses committed within such limits, to which the jurisdiction of said Courts by this Act is declared to extend whether against the laws of this Territory, or the ordinances, resolutions, rules and regulations of the city shall have the same jurisdiction, power and authority as is now or maybe hereafter conferred upon Justices of the Peace or Justice Courts, in and for said townships, whereof said city may form a whole or part, in any of such cases, shall have the same power and authority to examine in discharge or commit persons brought before it in charge with the commission of any such offense. The Judge thereof may take recognizance to appear, bonds to keep the peace, and may issue all writs and processes in like manner, and to the same extent and with the same power and authority as is now, or may hereafter be conferred upon said Justices of the Peace, or upon said Justice Courts in such cases, or in either of them.

Section XI. The Recorders Court, except as herein otherwise provided, shall also have jurisdiction over violations of any ordinance, by-law or resolution of any authorities of said city, committed within the

limits of said city, and may, according to the provisions of such ordinances, by-law resolution or regulation, hold to bail, fine and imprisonment, or either, any person found guilty of such violation.

Section XII. All prosecutions brought before the said Court for the violation of any ordinance, resolution, by-law, rule or regulation of any of the authorities of said city, shall be brought and prosecuted in the name of the Mayor in Common Council of the City of Tombstone.

In case of the absence from the city, or the inability to act of the Recorder, he may select and deputize any one of the Justices of the Peace in said city to act in his place as Judge of said court, which Justice during the time of his substitution, shall have the same power, and perform the same duties as a said Judge of said Court. But the said substituted justice shall receive no pay or compensation from the city for his services. All fines collected in said Court shall be paid by said Judge into the City Treasury, and placed to the credit of the Salary Fund.

Section XIII. The Chief of Police shall perform such duties as shall be prescribed to him by ordinance, resolution order of the said city authorities.

## Article VI

### Proceedings to Condemn Property for Public Use.

Section I. Whenever it shall become necessary for the said corporation to take private property for any municipal or public use, the Common Council may, by ordinance, direct proceedings to be taken for the condemnation of such property, and to ascertain the compensation to be paid therefore and state in the ordinance the lines and how far the assessment shall extend to pay for damages sustained by said improvements; and provided that if within twenty (20) days from the publication of such ordinance the owners of the property fronting along the street or streets embraced within the limits to be assessed amounting to two-thirds of the said frontage, shall make and file with the Clerk of the Common Council, a written remonstrance against the proposed improvements, thereupon the same shall not be further proceeded with or made. For that purpose a petition, in the name of the corporation, signed by its Attorney shall be presented to the Superiors of County Court of said Cache County, if any there be, if none, then to the District Court of the County in which said city is located, at a regular or special term thereof, stating the object for which the said property sought to be condemned is required particularly, describing the property, and praying for the appointment of Commissioners to ascertain the amount of compensation to be made to the owners and other parties of interest there into named in the petition for an account of the taking thereof, for the proposed public use.

If several pieces of property or parts of several pieces of property whether owned by the same or different owners, be required for the same object or public use, all, or any part less than all may be embraced in one proceeding or separate proceedings may be commenced against each respectively.

Whenever any proceeding has been commenced jointly against two or more parties, the corporation shall have the right in the time to dismiss each proceedings as to any one or more of such parties, and proceed as against the remainder.

Notice of the time and place at which such petition will be presented to the said Court, signed by the City Attorney shall be given the owners of such property and all other parties in interest. Such notice shall state generally the object of the proceedings and the property sought to be taken and may refer for all particulars to the petition which must be on file in the office of the Clerk of said Court at the time of said notice. If the service upon any party be made within the County the notice shall be served upon him by delivering to him personally a copy of such notice at least ten days before the time appointed for the presentation of the petition. If the owner or other party be a nonresident of the County or cannot be found within the County service may be made upon him by publication of a copy of the notice once a week for two weeks in some newspaper printed and published in the city. The publication shall be completed at least five (5) days before the presentation of the petition to the said Court.

The notice shall in all other respects be served and return as may be provided by the laws of the Territory for the service and return of a summons in civil actions pending in the said Court of said County provided that in case of a publication, no order of publication shall be required nor shall it be necessary to file any paper or copy of any papers in the office of the Secretary of the Territory. Proof of service of such notice by publication shall be by affidavit of the proprietor, publisher, book-keeper or other person connected with the publication of the paper in which such notice shall be given. But in all cases whether the parties in interest be known or unknown, the publication once a week for two (2) weeks in some newspaper printed and published the city of a notice correctly describing the property sought to be taken, and the proof of such publication as aforesaid shall be sufficient notice to all parties in interest and sufficient proof thereof. Such notice may be addressed to the parties in interest by name or to unknown owners or both. If service be not had upon all the parties as above provided before the time applied for the hearing, the Court may continue the hearing from time to time not exceeding thirty days, for services upon such parties not served. In all such proceedings a notice of lis pendens may be filed at the time of filing the petition, or any time thereafter, seem to be filed in like manner, and with like affect as in other cases under the laws of this Territory.

Section II. The Court before hearing the application shall have satisfactory evidence that such notice has been given, as above provided, to all parties and when so satisfy the Court shall, by entry into its minutes, appoint three (3) disinterested persons, commissioners to ascertain the compensations; specifying in the entry the time and place for the first meeting of the Commissioners. The Commissioners shall be residents of the said city and shall be sworn to discharge their duties faithfully and impartially; they or a majority of them shall view the premises and ascertain a report in writing to the Court as soon as practicable the compensation proper to be paid to the parties interested in each piece of property sought to be taken, and in case a new line of a street would leave a strip of land lying between the old and such new line , then said strip is to be vacated by the city and become a part of the lot of land upon which it abuts and in case a strip fall between two or more owners then such a division of the land shall be made so that each owner shall have the same frontage on the new line as he had on

the old. If any one or more commissioners fail to qualify or thereafter be prevented from acting the Court may at any time appoint one or more commissioners.

Section III. If no objections and writing have been filed with the Clerk of the Court, by petition or by any of the other parties in interest within five (5) days after the filing of the report, the Court shall, by an order to be entered in the minutes of the Court, confirm the report of the Commissioners. If such objection to the report of the Commissioners be filed by any party as above provided, the Court may at any time thereafter proceed to hear and determine the same and the evidence of the witnesses produced in support of the objections and in opposition thereto respectively, and may if it thinks the report informal, refer the same back to the Commissioners for correction as to form, and if it thinks the compensation to be either excessive or inadequate set aside the report and refer the matter again to the same or other Commissioners. The second report shall be made heard and determined as above provided and the Court shall have the power to set the same aside and cause another report to be made. When the third report of Commissioners on the same matter shall be made to the Court and the Court shall find said report informal in all respects that said report shall be final and conclusive as to the amount of compensation therein found in shall be the duty of the Court upon his presentation to confirm the same. But if the report shall be defective or informal as to its form the Court shall refer back to the same said Commissioners for correction as to form only, until a formal report shall have been returned to the Court, provided, than when a report shall be referred back to a Commissioner for correction as to form only, the members of said Commission shall not receive any compensation for their services and correcting the form of said report. It shall be the duty of the Court, in referring back reports of the Commissioners, to indicate clearly wherein the judgment of the Court the said reports are informal, defective, unjust or erroneous. The Court when satisfied with the report of the Commissioners and the compensation awarded for upon presentation of the third report, as herein before provided, shall confirm the same as above provided.

Section IV. Whenever any proceeding for the condemnation of property, for the opening of new streets, the extending or prolongation of streets for the widening or straightening of streets and said city or for any other purposes, when the damages are to be paid by assessments upon the property benefited, is instituted the report of the Commissioners filed and the order of condemnation has been made, entered by the Court and any damage or damages have been awarded to the owners of such property so taken or to other parties in interest it shall be the duty of the City Attorney within thirty (30) days thereafter, to procure from the clerk of the Court of said County a certified copy of the report of said Commissioners in such proceedings and of the order of condemnation made and entered by the Court therein, and submit the same to the Common Council at any meeting thereof within twenty (20) days from the expiration of the said thirty (30) days. The Common Council so apportion the damages awarded in such proceedings amongst the owners of real property liable to be assessed therefore, and having, by motion, adopted such assessment shall then order the Clerk of the Common Council to enter and record in the Docket of the City Liens hereafter referred to the set assessment of damages against said owners of the property liable therein respectively. Such record so substantially contain the same entries as is required by Section IX of Article VII of this Act, in the assessment of property for grading and other street improvements and shall be and constitute a lien upon the property assessed therefore.

After such entry has been made in the Docket of City Liens, if the said assessment be not paid by the several parties therefore within thirty (30) days, the Clerk of the Common Council shall issue warrants thereon directed to the City Tax Collector or other officer performing the duties of City Tax Collector and commanding him to sell the said property, liable therefore. Such warrants shall be executed and returned in all subsequent proceedings shall be taken in the same manner and with like force and effect as provided by Article VII of this Act, for the enforcement of liens upon property for grading or otherwise improving the streets and said city. All costs of surveys, maps, commissioners' fees, cost of courts and other expenses except damages allowed to the parties in interest shall be paid out of the General Fund of the city.

Provided, that all costs and other expenses incurred in opposition to any petition or report or any proceedings for the review of any orders shall be paid by the party against whom the decision thereon may be rendered.

Section V. The Court shall at any time, on proof being made that the respective amounts of damages awarded and confirmed to the parties in interest, have been paid to them or into Court shall cause in order to be entered in the minutes describing the property, setting forth the ascertainment of compensation and the payment as aforesaid, and adjudging and decreeing that the said corporation have, hold and enjoy the said property for public use, as prayed for in the petition. Upon the entry of the order of condemnation being made by the Court the corporation shall be entitled to have, hold, use and enjoy the property for public use as decreed in said order as fully as if the same had been conveyed to it by the owners and other parties in interest, and made parties to such proceedings. A certified copy the order as entered may be recorded in the Recorder's office of the County in like manner and with like effect as if it were added of conveyance to the corporation for the parties defendant to such proceedings.

Section VI. If at any time thereafter it should be necessary for the full enjoyment of said property by said corporation to condemn the interest of any persons, whether a party to such former proceedings or not in such property not taken in the former proceedings, proceedings may be had for that purpose, in the same manner and with like effect as herein after provided.

Section VII. In all proceedings after the date of the passage of this Act, for the purpose of laying out, opening any new street, for the purpose of extending and prolonging the line of, or widening or straightening of any street already established, the damages and compensation to be awarded or paid to the owner of the property or other parties in interest for and on account of the taking of said property for the purpose aforesaid, shall be paid by, and all such improvements shall be made at the expense of the property holders along and fronting on and adjacent the property holders or on the street to be extended, prolonged, widened or straightened as follows; It shall be the duty of the Common Council, by resolution, in writing to designate certain limits on the route of the streets laid out, extended, straightened or widened, which limit shall include that part of the said street which the Common Council shall determine to be the immediate vicinity of improvements, in which resolution shall also state the line, and how far the assessment shall extend. They shall fix and assess the rate per foot frontage which the owners of land on each side of that portion of the street included in said limit

shall pay for the benefit accruing to said lands by reason of said improvements, and if the sum total of the assessments as made shall not be sufficient to pay the sum total of damages and compensation awarded and the expense of making said improvements, then the Common Council shall assess the amount of the deficiency upon other property abutting on said streets as follows; They shall divide the remainder of said street or so much thereof as may be necessary on both sides of said limits of immediate vicinity of improvements, into sections of five hundred feet each and the land fronting on said sections shall be reassessed as far as shall be necessary to cover said deficiency in the following ratio, the two sections immediately adjoining the said limits of immediate vicinity of improvements on either and thereof shall be assessed at the same ratio per foot footage as shall have been fixed for that portion of the street included in said limits and immediate vicinity. The two sections second in front of distance on either side of said limits of immediate vicinity shall be assessed at the rate per foot frontage twenty-five (25) percent less than the rate fixed for the immediate vicinity of improvements. The two sections third in point of distance on either side from said designated limits, shall be assessed at a rate per foot footage of fifty percent less than that fixed for the said immediate vicinity. The two sections for same point of distance on either side from said designated limits shall be assessed at a ratio per foot footage seventy-five (75) percent less than the rate fixed for the immediate vicinity, and in case there should be any further sections included in said limits to be assessed, then the Common Council shall assess such further sections at a rate per foot frontage not more than seventy-five(75) percent less than the rate fixed for the immediate vicinity and in such less sums as it may deem proper. The Common Council shall have full discretion and fixing the rate of assessment per foot frontage on land contained within the said limits of immediate vicinity, provided that the sum total of the assessment laid thereon and also on the said, first, second, third and fourth, and further sections of necessary, or on so many as shall be sufficient to pay the total amount of the damages, and compensation awarded in the expense of making said improvements. And provided further, that whenever the deficiency existing, is less than the sum which would be realized by assessing the said respective sections at the rate herein before provided; then the Common Council shall assess the said deficiency equally and proportionally on each and every foot frontage contained in this section liable to be first assessed for each deficiency. In case any street crosses the line of or forms a junction with any street so laid out, extended or improved at appointment in the limits of section herein before described, the land on the corner formed by said intersection or junction shall be assessed, in addition to the assessments herein before provided for, and at the same rate for as many feet frontage as shall be contained between the said respective corners and the center line of the street crossing in forming a junction with the street so laid out, extended or improved. Whenever the limits of any of the sections of five hundred feet, herein before directed to be designated in defined, shall fall within the boundaries of any such cross street or street forming a junction with the street laid out, extended or improved; and it shall be the duty of the Common Council to so increase or diminish the length of said section, that its said limit shall fall on or be fixed by the center line of said cross or joining street.

Section VII. Whenever any lands or other property are purchased by said city without the institution of proceedings for the combination thereof for any other purpose enumerated in Section I of this Article, the Common Council shall as soon as the amount of the purchase money for such property has been ascertained apportion the amount of such damages amongst the owners of the property liable to be

assessed therefore as herein provided. Such assessment shall be recorded and collected in the same manner as provided in Section IV of this Article. The Common Council shall have power and is hereby authorized by resolution in writing to make such provision, rules, regulations, as to them may seem best for the levying and collecting of such assessments, and to conform such mode, manner and means more closely and more fully to the provisions of Article VII, of this Act.

Section IX. Whenever in any proceedings for the laying out, extension or improvement of any street, commenced after the passage of this Act, damages and compensation shall be awarded to the owners of the property taken for the purpose of said improvements and the order of confirmation of the said Court has been duly made and entered therein is provided in Section III of this Article; if then after the said Common Council shall assess property belonging to the same owner to pay said damages and compensation and the expenses of said improvement any owner of property which has been so assessed and to whom damages and compensation have been so awarded may procure from the County Recorder a certificate of such award and the said County Recorder is hereby authorized and directed upon application to issue such certificate, the person so obtaining such certificate so receipt to the County Recorder for the same. All such certificates shall be received by the Tax Collector of the City or other officer whose duty it is to receive and collect such assessment, in payment or part payment, as the case may be, of the assessments levied for the same improvements upon land belonging to the person in whose favor any such certificate has been issued. Upon such presentation and delivery of such certificate the Tax Collector shall receipt to the holder thereof on account of said assessment and shall enter the amount so receipted for by him to the credit of the presenter thereof in the proper book. Should the amount of any such certificate of award be greater than the amount of assessment laid on the property belonging to the presenter thereof, then the same in excess shall be paid to said holder and presenter in the same manner as if the whole amount of said award was due him; and if the amount of any such certificate should be less than the amount of such assessments than the deficiency in the amount of such assessments shall be paid by an collected from the owner of the property so assessed in the same manner as if the whole amount of such assessment was unpaid and uncollected. In each and every case the Tax Collector on receipt of such certificate of award shall endorse upon the same respectively the amount of credit allowed by him to the presenter thereof and the balance due the city or the said presenter as the case may be. The Tax Collector shall keep and file all such certificates received by him and enter the same fully in a book to be kept by him for that purpose. Such certificates of award shall not be assignable or transferable to shall be void and of no effect in the hands of any other person other than the person to whom issued, or if he used or attempted to be used for any other purpose than the payment of assessments are hereinafter provided. Provided that if the person to whom such certificate is originally issued shall sell the land so assessed as above set forth before the presentation of the said certificate to the Tax Collector, then the said certificate may be assigned to the purchaser of the said land, and the presented by him to the Tax Collector with same force and effect as if presented by the original holder thereof before the sale of said land.

Section X. The provisions of this Article are only intended to apply to the combination of property for the opening, widening, extending or prolongation of streets within said city.

#### Article VII.

## Of Streets, their Grades and Improvements.

Section I. The Common Council shall have power and be authorized whenever he deems expedient by ordinance or resolution in writing to establish or alter the grades and to improve any street or part thereof now or hereafter laid out or established within the corporation limits of the city, and make such improvements in such manner as it may think best subject to the conditions and restrictions contained in Section I of Article IV of this Act.

The power and authority to improve the street includes the power and authority to improve the sidewalks and pavements or boardwalks and determine and provide for everything convenient and necessary concerning such improvements.

Section II. No grade or improvement mentioned in Section I can be undertaken or made within ten days and notice thereof being first given by publication in some daily newspaper published in the city and by posting as may be prescribed by the order or resolution of the Common Council.

Section III. Such notice must be given by the Clerk of the Common Council by order of the Common Council and must specify, at least in general terms the street or part thereof proposed to be improved, or which the grade thereof is proposed to be established or altered, and the kind of improvement which is proposed to be made.

Section IV. Within ten days from the publication of such notice the owner of property fronting on such street or part thereof, as the case may be, amounting to two thirds ( $2/3$ ) of the frontage on such street or part thereof, may make and file with the Clerk of the Common Council a written remonstrance against the proposed improvements, grade or alteration thereof and thereupon the same shall not be further proceeded in or made, but no protest shall be binding upon the Common Council for any longer period than three months from the presentation thereof; and provided that the Common Council may proceed sooner if the property holders owning real estate amounting to at least one half ( $1/2$ ) of the frontage of the property liable to be assessed for the improvement shall petition the Common Council for such improvements, in writing. Provided, however when the notice has been given to establish a grade in the hill lands, when it is intended to cut down or fill in the street crossing for the property owner having two thirds ( $2/3$ ) of the frontage of the four (4) blocks adjoining said crossing to the center for middle of said blocks may make and file with the Clerk of the Common Council a written remonstrance against the proposed cutting down or filling in of said crossing and thereupon the same shall not be further proceeded with except as otherwise provided in this Act by process of condemnation.

Section V. If no remonstrance be so made and filed, the Common Council at its earliest convenience thereafter and within six months from the final publication of such notice may establish the proposed grade or alteration thereof, or commence to make the proposed improvements by passage of necessary ordinances or resolutions as herein provided but provided further that whenever the owner of two thirds ( $2/3$ ) of the property frontage on any street shall petition the Common Council to establish or alter the grade, or to improve any street, the Common Council shall at once proceed to establish or allow the grade or make such improvement.

Section VI. When the resolution of the Common Council ordering any work to be done has been adopted the Common Council shall thereafter without unnecessary delay proceed to advertise for such time and in such manner as it shall see fit for proposals to do said work and for the awarding of such contract as it shall deem best and not inconsistent with this Act. The Common Council shall have the right to reject any or all bids, and may re-advertise for other proposals. It may let the work in such sections or parcels as it may deem best.

Section VII. In case the notice be for the improvement of a street or part thereof, Common Council may as soon as practicable after awarding the contract through the Surveyor or other officers and employees proceed to assess upon each lot or part thereof, fronting thereon and libel therefore, it's proper proportionate share of such costs. No defect in the name of any owner shall affect the validity of any assessment upon any lot or part thereof in the name of any owner be unknown, the lot or part thereof may be assessed to unknown owners.

Section VIII. When the cost of improvement has been ascertained determined and the proportion share thereof on each lot or part thereof has been ascertained to the satisfaction of the Common Council as provided in Section VII, the Common Council must by motion, declare the same and direct its Clerk to enter a statement thereof in the Docket of the City Liens as provided in the next Section.

Section IX. The Docket of the City Liens is the book in which must be entered in pursuance of this Act, the following matters in relation to assessments made in the pursuance of this Act. There must be entered therein:

First. The number or letter of the lot assessed in the number or letter of the block in which it is situated or any other valid description of the property and if a separate assessment is made upon a part of a lot, a particular description of the part.

Second. The name of the owner thereof or that the owner is unknown.

Third. The sum assessed upon such lot or part thereof and the date of the entry.

Section X. The Docket of the City Liens is a public writing and imparts notice to all the world of the matters and things therein recorded and the original certified copies of any matter authorized to be entered therein are entitled to the force and effect thereof and from the date of any entry therein of an assessment upon a lot or a part thereof of a sum so entered is to be deemed a tax levied and a lien thereon, which lien shall have priority over all other liens or encumbrances thereon whatever.

Section XI. If within fifteen days from the entry of the assessment in the Docket of the City Liens the sum assessed upon any lot or part thereof is not wholly paid to the City Treasurer and a duplicate receipt thereof filed with the Clerk of the Common Council, the Clerk shall issue warrants directed against the City Tax Collector, or other person authorized to collect taxes due the city.

Section XII. Such warrant must require the person to whom it is directed to forthwith levy upon the lot or part thereof upon which the assessment is unpaid and sell the same in the manner provided by law, and return the proceeds of such sale less his fees if any be allowed by the Common Council therefore, to

the City Treasurer and the warrant to the said clerk with his feelings endorsed thereon together with the receipt of the City Treasurer for the proceeds of such sale as paid to him and if at such sale insufficient sum be not bid to cover the assessment and cost the city shall become the purchaser.

Section XIII. Such warrant shall have the force and effect of an execution against real property and shall be executed in like manner, except as in this Article otherwise specifically provided. If from any cause any warrant be not executed within the time allowed by law, the Common Council may order the issuance of an alias work, and as many thereof as may be necessary to enforce the collection of such assessment.

Section XIV. The person executing such warrant shall immediately make a deed for the property sold to the purchaser stating therein that the same is made subject to redemption as provided in this Article. Within one (1) year from the date of such sale, the owner or any person in interest may redeem the same or any part thereof upon the terms and conditions provided in the next Section.

Section XV. Redemption of the whole property is made by the payment of the purchase money in addition ten (10) percent, if paid within three months, twenty (20) percent if paid within six months, thirty (30) percent if paid within nine (nine) months, forty (40) percent if paid within twelve months, and the amount of any tax or encumbrance which the purchaser may have paid upon the property. Redemption of a part is made by payment of that portion of the purchase money which the part redeemed bears a value to the property sold for the assessment.

Section XVI. A redemption discharges the property from the effects of sale for the assessment. If made by the owner or his successor in interest the estate in the property is thereby restore to such owner or successor in interest as the case may be but if made by a lien creditor the amount paid for the redemption is thereafter to be deemed a part of his judgment, decree or mortgage as the case may be and shall bear like interest and may be enforced and collected as part thereof.

Section XVII. Whenever a purchaser or those claiming under him refuse to convey to a person entitled to redeem, such person may enforce the conveyance thereof by suit as for a specific contract to convey real property and such suit may be maintained against absent parties without proof of the tender of the money and offer to redeem, if the plaintiff bring such money into Court and offered then to redeem.

Section XVIII. Each lot or part thereof, fronting upon any street or part thereof order to be improved, shall be liable for the portion of the cost for making such improvements which the frontage of such lot or part bear to the total frontage of the street or part thereof, along which such improvement is ordered. Provided that the Common Council shall allow a credit at the contract price as awarded by the Common Council upon any assessment for any improvements of a street in favor of any real estate or for any grading done anytime before the adoption of such assessment by the Common Council; and provided further that no such credit shall exceed the amount of the proposed assessment against such real estate for and on account of which such credit is claimed.

Section XIX. The cost of providing crosswalks and of improving all intersections of streets and of the space included between the center lines of the street to be improved and the prolongation of the side

lines of any street forming a junction with such street to be improved to such center line, shall be paid out of the General Fund of the City, and shall not be included in such assessments. The cost of the surveys, maps and of establishing grades shall be paid out of the General Fund. Whatever any street or part thereof has been graded or otherwise improved at the expense of the owners of the real estate fronting thereon, and the same has been accepted by the Common Council, and the same shall require any repairs to be made on any time, the Common Council shall order such repairs to be made; any material required in such repairs to be only of the same nature and kind as previously used, and pay the same out of the General Fund.

Section XX. A sale of real property, under the provisions of this Act, conveys to the purchaser, subject to redemption, as herein provided, all the estate or interest therein of the owners, whether known or unknown.

Section XXI. When an assessment upon any lot or part thereof, for any improvement done order to be done upon any street for the payment of which assessment such and property is chargeable, becomes delinquent any person having a lien thereon by judgment, decree or mortgage, or otherwise, made anytime before the sale of such lot or part thereof, pay the same, and the Common Council shall upon such payment being made, order the Mayor in the name of the corporation to make and execute and deliver to the party making such payment, and to his assigns, an assignment and transfer of said claim of the corporation thereof, and upon such transfer being made the amount of such delinquent assessment and all costs thereon, together with the cost of making such assignment, shall thereafter be deemed a part of such lien, creditors judgment, decree, mortgage or other charge and encumbrance, and shall bear like interest, and may be enforced and collected as part thereof.

Section XXII. If at any time it is found that the sum assessed upon any lot or part thereof for any improvements is insufficient, the Common Council must ascertain the deficient and declare the same; when so declared, the Clerk must enter the sum of the deficient in that Docket of the City Liens, in a column reserved for that purpose, in the original entry with the date thereof, and such deficit shall thereafter be a lien upon such lot or part thereof in like manner and with like effect as in the case of the sum originally assessed, and shall also be payable and may be collected in like manner and with a like effect as in the case of such some so assessed.

Section XXIII. If upon completion of any improvement it is found that the sum assessed therefore upon any lot or part thereof is more than sufficient to defray the cost thereof and the fees and other expenses allowed by the Common Council for collection, the common Council must ascertain and declare the surplus in like manner as in the case of a deficit; when so declared, it must be entered as in the case of a deficit in the Docket of the City Liens, and then after the person who paid such surplus or his legal representative, is entitled to payment of the same by warrant on the City Treasury.

Section XXIV. All money paid or collected on assessment for improvements, shall be kept as a separate fund, in and in no wise used for any other purpose whatever.

Section XXV. The proceeding authorized by this Article for the establishment or alteration of a grade or improvement of the street or a part thereof, may be taken and had without giving the notice prescribed

in Section II. Whenever the owner or owners of two thirds (2/3) of the property, liable to be assessed shall in writing petition the Common Council therefore.

Section XXVI. Whenever any lot or part thereof sold under the provisions of this Act, shall bring more than the assessment thereon, with interest and cost and charges of collection, the surplus must be paid to the City Treasurer and the person executing the warrant must take a separate receipt for such surplus, and file with the Clerk of the Common Council; on the return of the warrant at any time thereafter, the owner or his legal representative is entitled to a warrant upon the Treasurer for such surplus; provided that whenever any lot or part thereof sold under the provisions of this Act shall bring less than the assessments there on the Common Council shall supply the deficiency out of the General or Cash Fund, and, provided further that if, at the sale of any land for assessments under this Act, no bid whatever can be obtained on said land, the Mayor or City Attorney shall have the right to bid the said land in, in the names of the city, and this city shall own and hold said land so bid in, in the same manner as if it had been purchased by any private person.

Section XXVII. The deed to the purchasers must express the true consideration thereof which is the amount paid by the purchaser, and the return of the person executing the warrant must specify the amount for which each lot or part thereof was sold and the name of the purchaser.

## Article VIII

### Elections

Section I. Elections to be held in the said city for the purpose of electing the officers of said city are of two kinds.

First. General municipal elections.

Second. Special elections.

Section II. General municipal elections shall be held in said city on the first Tuesday of next January, viz; January 1882, and every two years thereafter. The Mayor, Councilman, Treasurer, City Assessor, and other officers elected at the last municipal elections held January 1881 and by said Common Council shall continue to hold their respective offices until the first general municipal election to be held on the first Tuesday of January 1882, (except City Attorney who shall hold his office two years from the date of his appointment or election by said Common Council), or until a successor is appointed or elected and qualified subject to the restrictions and conditions as herein above states.

There shall be elected at the first general municipal election the Mayor and Councilman, including such additional councilmen and officers as the said Common Council may deem proper. All new members of the Common Council shall be elected from and represent respectively the several wards, and one Councilman from each ward.

Section III. Special elections are those which may be held for the sole purpose of electing the Mayor or Councilmen, when there exists a vacancy in any of such offices before the regular expiration of the term of such offices and the election in the opinion of the Common Council should not be postponed until the next regular general municipal election.

Section IV. The said Common Council of said city shall by a resolution to be entered upon its minutes, order the holding of all elections which may at any time be authorized by law to be held exclusively affecting the interest of said city. Such order shall specify the object of, the time of, and a place within the limits of each ward for the holding of such election, and the name of the Inspector and Judges for each ward, who must be residents thereof to conduct the holding of such election. Such order certified by the Clerk of the Common Council to be a full, true and correct copy of the original resolutions adopted by the Common Council shall be published in some newspaper printed and published in said city for at least ten days prior to their appointment for the holding of elections.

Section V. Returns of such election so we made to the Common Council who shall within seven days thereafter, either on a regular or special meeting canvas and declare the results thereof and order certificates of election to be issued by the Clerk of the Common Council to the person elected. The Common Council shall, by ordinance or resolution in writing, provide for one precinct in each ward, in a suitable place and also for the Judge and Inspectors, Clerks and other persons necessarily needed to carry on the elections.

Section VI. All elections shall in all other respects be conducted and held in accordance with the provisions of the laws of this Territory, as the same may be at the time provided for the holding of general elections in this Territory, and to that end, and for that purpose, insofar as the same may be applicable and not in conflict with the provisions of this Charter, the same with the proper substitutions and corresponding changes hereby made applicable.

Section VII. All officers elected at any election or appointed by the Common Council to fill any vacancy shall, within five days after the date of the issuance of the certificate of their election, by the Clerk, qualify, by taking the oath of office before some officer authorized to administer oaths and shall file the same with the Clerk of the Common Council.

Section VIII. Any office shall be declared vacant upon the death or resignation of the incumbent and whenever any officer elected or appointed shall be absent from the city without permission of the Common Council for the period of thirty (30) consecutive days; and in case of Councilman, whenever any incumbent thereof shall remove from the ward in which he represents, the Common Council shall declare such office vacant and shall proceed to fill the same by election or appointment, as herein prescribed, provided that a change of the boundaries of any ward shall not be deemed to change the residence of any councilmen so as to cause a vacancy in office.

Section IX. The Common Council shall have power to receive and canvas the returns of all elections authorized by this Act and shall be the judge, otherwise than is herein set forth of the qualifications, elections and returns of its own members and other officers elected under this Act. No person shall be eligible for Mayor or Councilman who at the time of his election is not a qualified elector under the laws

of this Territory, and in addition to the above qualifications such person must be a resident of the ward from which he is elected for at least thirty days next preceding such election.

Section X. The qualifications of electors of any election held in said city in pursuance of this Act shall be the same as those prescribed by the laws of this Territory for electors and any General Territorial election and in addition thereto, each elector must have resided in the ward in which he offers his vote for at least ten days next prior to such election.

#### Article IX.

##### Of Salaries of Officers and their Official Bonds.

Section I. Until the officers and members of the Common Council to be elected at the general municipal election in January 1882 shall enter upon the duties of their respective offices, the salaries and official bonds respectively paid to or required of any and all officers of said city, shall be governed, regulated and controlled in all manner and respects by the provisions of this Act and by the ordinances, resolutions, by-laws or orders of the Common Council relating to said salaries and bonds passed or made or hereinafter to be passed or made in accordance with the provisions of said Act.

Section II. The salaries and compensation of the City Attorney, City Surveyor, City Treasurer, Tax Collector, Assessor, Chief of Police, Clerk of Common Council and all other officers appointed by the Mayor and Common Council shall be fixed by said Common Council at such sums or amounts they may deem just and equitable.

Section III. In addition to taking the oath required by Section VII of Article VIII of this Act the following named officers of said city shall respectively execute to the said Mayor and Common Council bonds in not less than the following sums respectively conditioned for the faithful discharge by them of the duties of their respective offices; viz: from the City Attorney \$1,000, from the City Surveyor \$1,000, conditional for the faithful and correct performance of the duties of his office; from the City Treasurer in such sums as the Common Council shall from time to time determine; from the Auditor \$2,000; from the Chief of Police \$5,000; from the Tax Collector \$5,000; from the Assessor \$5,000; and such other officers in such sums as the Common Council deem proper.

Section IV. Each such official bond shall also be executed by two or more sureties who shall be residents of the City of Tombstone and justify in double the sum specified in said bond. The bonds of all officers shall be approved by the City Attorney, Mayor and Common Council as herein before provided and after approved shall be filed with and remain in the keeping of the clerk of the Common Council; provided that the bond of the Auditor shall be filed with and remain in the keeping of the Mayor of said city.

Section V. Should any person appointed to any office fail to qualify him give bonds as herein required, the Common Council shall first or any other meeting thereafter, by resolution to be entered upon the minutes declare such office vacant, which vacancy shall be filled by appointment of the Mayor and with the consent of the Common Council.

#### Article X.

### Miscellaneous Provisions.

Section I. The City of Tombstone shall not be, and is not, bound by any contract or in any way liable therein unless the same is made in writing, by order of the Common Council, the draft thereof be approved by the Common Council and the same order to be and be signed by the Mayor or some other person on behalf of the city, but the Mayor and common Council, by an ordinance, resolution or motion may authorize any officer, committee or agent of the city, to bid the city without a contract in writing, for the payment of any sum of money not exceeding three hundred dollars; provided that no contract binding the city shall be valid unless it be completely executed, fulfilled and performed within the period of one year after the date of the execution and delivery thereof.

Section II. The said corporation shall not be liable to anyone for any loss or injury to person or property growing out of, or caused by, the malfeasance, misfeasance or neglect of duty of any officer or other authorities of said city, or for any injury or damage happening to such person or property on account of the condition of any sewer, cesspool, street, sidewalk or public ground therein; but this does not exonerate any officer of said city, or any other person, from such liability, when such casualty or accident is caused by the willful neglect of duty upon such officer or person by law, or by the gross negligence or willful, misconduct of such officer or person in any other respect.

Section III. The indebtedness of said city must not exceed in the aggregate the sum of \$50,000, and any debt or liability incurred in violation of this Section except as hereinafter provided, whether by borrowing money, loaning the credit of the city or otherwise, is null and void, and of no effect.

Section IV. In any action, suit or proceeding in any court concerning an assessment of property or levy of taxes, authorized by this Act, or the collection of any such or preceding consequent thereon, such assessment, consequent proceeding in all proceedings connected there with shall be presumed to be regular and duly done or taken until the contrary is shown, and when any proceedings, matter or thing is by this Act committed or left to the discretion of the Mayor and Common Council, or other authorities of said city, such discretion or judgment when expressed or declared is final and cannot be removed or called in question elsewhere.

Section V. In making a deed for real property sold for delinquent assessment for any improvement, it is not necessary to set forth or recite the proceedings prior to the sale but it is sufficient if it substantially appears from such and that the property was sold by virtue of a warrant of said city, and the date thereof that it was sold for a delinquent assessment and the amount thereof together with the date of the sale and the amount bid there at by the purchaser. The style of the warrant for collection of assessment shall be in the name of the Mayor and Common Council of the City of Tombstone.

Section VI. When the grade of any street has been established by the Common Council and a petition in writing signed by property owners of two thirds (2/3) of the feet fronting on that portion of the street, the grade of which has been so established, praying permission to cut down or fill up the street in front of such property, at their own expense, has been presented to the Common Council, the Common Council shall authorize such property owners to so cut down or fill up such portion of said street in front of said property according to said grade, at the expense and cost of such owners.

Section VII. The authority mentioned in Section VI cannot be given after assessment has been made for the improvement of the street in front of such property; and in giving such authority the Common Council may impose such terms and conditions as may be necessary to secure the deposit of excavations upon any part of such street as may be required to be filled up.

Section VIII. Real property, when sold for or to satisfy delinquent assessments or tax, must be sold for United States coin and not otherwise, and anyone applying or seeking to redeem property so sold, as in this Act provided, must pay or offer to pay the sum necessary therefore in such coin and not otherwise.

Section IX. All real property within the limits of the city not laid off in blocks a lot at the time of making an assessment authorized by this Act except as herein otherwise provided must be assessed at its cash value per acre or fraction thereof as the case may be.

Section X. Whenever any lot or part thereof is sold for delinquent assessment for a street improvement, and afterwards be sold for a deficit in such assessment as in this Act provided, to any person other than the purchaser the first sale, or his successor in interest, such purchaser or successor, for the purpose of making redemption from the purchaser at such sale, is to be deemed an owner within the meaning of this Act.

Section XI. Every ordinance and resolution which shall have been passed by the Common Council shall, before it becomes effective, be signed by the City Attorney and the Clerk of the Common Council, and be presented to the Mayor for his approval and signature if he approves it, if not, he shall endorse thereon the date of the presentation to him, and shall return it to the Clerk of the Common Council, with his objections in writing. The Clerk of the Common Council shall endorse thereon the date of its return to him and shall, at the first meeting of the Common Council thereafter, present the same, with the objections of the Mayor, to that body thereupon the Common Council shall proceed to reconsider the passage of the ordinance, if after such reconsideration, four-fifths (4/5) of the members at that time actually constituting the Common Council, including absentees, agree to pass it, the same shall become an ordinance. In all such cases the votes shall be by ayes and nays, and the names of the members voting for or against shall be entered upon the journal.

Section XII. If any ordinance or resolution shall not be returned to the Clerk of the Common Council by the Mayor with his objections in writing, within fifteen (15) days (Sundays and legal holidays excepted) after it shall have been presented to him, it shall become effective and be as valid as if the Mayor had approved and signed it.

Section XIII. The style of every ordinance shall substantially be "The Mayor Common Council of the City of Tombstone" do ordain as follows.

Section XIV. The style of every resolution, in writing, of the Common Council, shall substantially be as follows: Be it resolved, by the Mayor and Common Council of the City of Tombstone.

Section XV. The Mayor of the said city shall and the Clerk of the Common Council shall respectively be authorized to administer oaths in the same manner and with like affect as other officers authorized by law the Territory to administer oaths.

Section XVI. If the bonds of any officer should at any time become insufficient the Common Council may require him to give additional security; an increase of his failure to do so within fifteen (15) days may declare his office vacant, and it shall be the duty of the Mayor, at once to take into his charge all books and paper money and other public property at the time in the hands of or under the control of such officer so removed, and retain the same until the election or appointment and qualification of a successor.

For the better enforcement of this Section, the Mayor is authorized, at the cost of the city to commence or prosecute in his own name, all appropriate remedies therefore.

Section XVII. All claims and demands against set the Corporation shall in accordance with such rules and regulations of the Common Council may prescribe, be presented to the Council, and shall be by them referred to a committee on Finance, or a special committee, or other appropriate committee, as may be determined by the Common Council, who shall examine, audit, or allow or reject the same in whole or in part subject to the approval of the Common Council. Such committee shall report to the Common Council as soon as practicable; the Common Council shall thereupon proceed to consider the report of the committee, and the claims or demands presented, and shall, if the same be just and legal, order the same to be paid and shall require the Auditor to draw warrants upon the City Treasury in favor of the holder of said claim, or demand for the amount allowed, such warrant shall be signed by the Mayor and countersigned by the Auditor.

Section XVIII. No suit shall be brought upon any claim for money or damages against said corporation until such claim or demand has been presented as aforesaid and rejected by the Common Council, whole or in part, if rejected in part, suit may be brought to recover the whole. Nor shall suit be brought against said corporation upon any such claim or demand, if the Common Council shall allow the whole such claim or demand and shall order the same to be paid as hereinbefore required, provided that nothing herein contained shall be construed as to deprive the holder of any claim or demand of his right to resort to suit of mandate or other proceeding against the said Common Council or any officer of said city to compel them or him to act upon such claim or demand to draw or sign such warrants or pay the same when so drawn.

A majority of the members of the Common Council shall be necessary to pass any ordinance or resolution or to do or perform any other act whereby any debt is created in money is appropriated or the revenue of the city is in any way diminished. Upon the passage of any such ordinance or resolution or motion the ayes and naves shall be called and the name of the persons voting for or against such ordinance, resolution or motion shall be entered upon the journal of the proceedings of the Common Council.

Section XIX. In all prosecutions for violation of any city ordinance, rule or other regulation of said authorities, whether in the Court of original jurisdiction, or in any appellate Court, it shall be

unnecessary to plead the contents of the same, but the Court before which the prosecution shall be pending, shall take judicial notice of such ordinance, resolution, or other regulation and of the contents thereof, and in any civil action or proceeding to which said corporation is a party, either as plaintiff or defendant, the adoption and contents of any ordinance, resolution, by law, rule or regulation may be prima facie proven by the introduction of the original entry thereof, or the journal of the proceedings of the Common Council. A copy of such entry, certified by the Clerk of the Common Council, to be a full, true and correct copy of such original entry, or by the introduction of a printed copy thereof.

Section XX. The official books and papers of all officers of said corporation are city property, and must be kept as such by said officers during their continuance in office, and then delivered to their successors respectively, or to the Common Council. Such books and papers may at any time be inspected by the Mayor, or by a committee of the Common Council appointed for that purpose, or as herein provided. If the city furnishes a public building, the officer of the City Treasurer, Assessor, Chief of Police, Tax Collector, and such other offices as may be prescribed by ordinance rule or otherwise, must be kept therein.

Section XXI. Unless otherwise provided in this Act, the Mayor and Common Council, or either, when authorized by this Act to adopt any ordinance or resolution, or make any rule or regulation, such municipal authority, so empowered, shall have the further power, and is hereby authorized to provide that each and every violation of such ordinance, resolution, rule or regulation, shall be and constitute a misdemeanor, and may prescribe as punishment thereafter to be imposed on any person found guilty thereof, a fine not exceeding three hundred dollars (\$300) or a term of imprisonment not exceeding six months or both fine and imprisonment.

Section XXII. In addition to what may be especially required by other provisions of this Act to be published, the following proceedings in acts of said municipal authority shall be published, in English, by at least ten insertions in some newspaper printed and published in said city.

First. All ordinances adopted in accordance with the provisions of this Act.

Second. All resolutions of the Common Council required by this Act to be in writing.

Section XXIII. The Mayor, Common Council and Chief of Police shall be and constitute a Board of Police commissioners. The Board shall have power to appoint as many regular and special policeman as may be necessary, to regulate the same, and just this mess from the police force at any time, any members thereof.

For the proper regulation of such police force the Board shall have the power to make such rules and regulations as may be proper.

Only a majority of such Board shall be necessary to determine any question. The compensation of all policemen shall be prescribed by the Common Council.

Section XXIV. Shall be the duty of the Mayor, City Attorney, City Treasurer, City Assessor, Chief of Police, City Tax Collector, Auditor and Health Officer, and City Surveyor to present to the Common Council at its second meeting in January of each year, a report which shall show as follows:

First. The Mayor shall, in addition to his report as Mayor, inform the Common Council of the condition of the Recorders Court, the number of arrests made, the offense charged and how disposed of, the penalties inflicted and amount of fines, and from whom collected.

Second. The City Attorney shall, in his report, present an abstract of all actions and proceedings in the Supreme, District, County, Recorders and other Courts, where the city is an interested party, and shall show what cases have been disposed of during the year, and in what manner, and condition of those remaining on the calendar.

Third. The City Treasurer shall show, in his report, specifically, the amount of all indebtedness of the city, of money received by him during the year; the date of the receipt thereof, and from whom, the amount paid out; when and to whom and the date and number of the warrants on which the respective amounts are paid.

Fourth. The City Tax Collector shall report the amount of money received, and on what account; and he shall present a detailed statement of all money received from licenses, with dates, amounts and from whom received; and also the amount of licenses remaining uncollected, with the names of the delinquents.

Fifth. The City Assessor shall, in his report, show the amount of personal taxes collected by him, together with the amount of any fees and compensation which he may have received or account of such collections in each case, and show the condition of the office during the year.

Sixth. The City Auditor shall make a proper statement of the transactions of his office.

Seventh. The Chief of Police report the number of arrests made by him, the offenses charged and how disposed of; the number and names of policeman employed, when appointed him when discharged.

Eighth. The Health Officer shall show the condition of the health of the city during the year and the number of cases of disease which she has treated during the year.

Ninth. The Recorder shall make a proper report of the transactions of his office.

Tenth. The City Surveyor shall make a proper report of the transactions of his office.

The several reports to be referred to a special committee of the Common Council who shall be appointed by the Mayor and the members of the Council, who shall examine the same and if found correct shall so we report: after said report shall have been made it shall be the duty of the Common Council, if they deem it proper to order the same to be printed and bound; copies thereafter be deposited in the archives, and such number as the Common Council may direct be retained for general distribution.

Section XXV. The Mayor Common Council shall have the right and are hereby authorized to establish, if they deem it proper, by ordinance or resolution, separate funds from which money shall be drawn applicable thereto or considered with or contrary to this Act.

Section XXVI. All acts of the Legislature, certificates of incorporation relating to the City of Tombstone, and all city ordinances resolutions and other regulations now in force and not inconsistent here with, shall be and remain in full force after this Act taken affect, until changed or repealed by the proper authority; and all actions and proceedings commenced in any Court where in the City of Tombstone is a party shall be continued under the law existing when said action or proceeding is commenced.

Section XXVII. This Act shall take effect and be in force immediately after its passage.

*Approved February 21, 1881*

*J. C. Fremont*

*Governor of the Territory of Arizona*