

V. WELLSVILLE.

An Act to incorporate the city of **Wellsville**.

[Approved January 19, 1866.]

SEC. 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:* That all that district of country embraced in the following boundaries in Cache county, to wit: Commencing at the mouth of **Wellsville** city cañon, thence in a northerly direction along the base of the mountains to a parallel line running through Clayton's Spring, thence east on said line four miles, thence south four miles, thence in a westerly direction to the place of beginning, shall be known and designated under the name and style of the city of **Wellsville**, and the inhabitants thereof are hereby constituted a body corporate and politic by the name aforesaid, and shall have perpetual succession, and may have and use a common seal, which they may change and alter at pleasure.

SEC. 2. The inhabitants of said city, by the name and style aforesaid, shall have power to sue and be sued, to plead and be impleaded, defend and be defended in all courts of law and equity and in all actions whatsoever; to purchase, receive, hold, all property for cemeteries, public squares, city buildings, water works, canals, streams of water and for all other purposes for the benefit and use of said city, both within and without its corporate boundaries, to improve and protect such property, and do all other things in relation thereto, as natural persons.

SEC. 3. The municipal government of said city is hereby vested in a city council, to be composed of a mayor, six councilors, who shall have the qualifications of electors in said city, and shall hold their office for two years, and until their successors are elected and qualified.

SEC. 4. An election shall be held on the first Monday of March next, and every two years thereafter on said day, at which there shall be elected one mayor, six councilors, and two justices of the peace for said city; and the persons receiving the highest number of votes cast in the city for said offices shall be declared elected. When two or more candidates shall have an equal number of votes for the same office, the election shall be determined by the city council.

SEC. 5. The first election under this act shall be conducted in the following manner, to wit: The county clerk of Cache county shall cause notice of the time and place, and the number and kind of officers to be elected, to be posted up in four public places in said city, at least ten days previous to said election. Two judges shall be chosen by the probate judge of Cache county, at least one week previous to the day of election; said judges shall choose two clerks; and the judges and clerks, before entering upon their duties, shall take and

subscribe an oath or affirmation before the clerk of the county court for the faithful performance of said duties. The polls shall be open at eight a. m., and close at six p. m. At the close of said election the judges shall seal up the ballot box and the list of the names of the electors, and transmit the same, within two days from the time of holding such election to the county clerk of Cache county. As soon as the returns are received, the county clerk, in the presence of the probate judge, shall unseal and examine them, and furnish, within five days, to each person having the highest number of votes, a certificate of his election. In case of a tie, it shall be decided by lot drawn by the county clerk in the presence of the probate judge.

SEC. 6. All subsequent elections held under this act shall be held, conducted and returns thereof made as may be provided for by ordinance of the city council.

SEC. 7. The city council shall be judge of the qualifications, elections and returns of their own members; and the majority of them shall form a quorum to do business, shall determine the rules of their own proceedings and shall meet at such time and place as they may direct; the mayor shall preside when present, and have a casting vote; and, in the absence of the mayor, any councilor present may be appointed to preside over said meeting.

SEC. 8. The city council may hold stated meetings; and special meetings may be called by the mayor or any two councilors, by notice to each of the members of said council, served personally or left at their usual place of abode.

SEC. 9. The city council shall have power to appoint a marshal, recorder (who shall be the auditor of public accounts), treasurer, assessor and collector, supervisor of streets, surveyor and attorney, a sexton, a sealer of weights and measures and all such other officers as may be necessary, define their duties, remove them from office at pleasure, and fix and establish the fees of all city officers.

SEC. 10. All officers elected in accordance with the fourth section of this act may be removed for cause from such office by a vote of two-thirds of the city council, and shall be furnished with the charges and have an opportunity to be heard in their defense; and the council shall have power to compel the attendance of witnesses and the production of papers, when necessary.

SEC. 11. When a vacancy shall happen by the death, resignation or removal of any officer, such vacancy may be filled by the city council; and every person elected or appointed to any office under this act shall, before he enters upon the duties thereof, take and subscribe an oath or affirmation that he will support the Constitution of the United States, the laws of this Territory and the ordinances of the city, and that he will well and truly perform all the duties of his office to the best of his knowledge and ability; and shall be required to give bonds as shall be prescribed by city ordinances, which oath and bond shall be filed with the city recorder.

SEC. 12. The city council shall have power to divide the city into wards and specify the boundaries thereof; and, when necessary, create additional wards and add to the number of councilors and proportion them among the several wards, as may be just and most conducive to the welfare of said city.

SEC. 13. The justices of the peace shall be conservators of the peace within the limits of the city, and shall give bonds and qualify as other justices of the peace; and, when so qualified, shall possess the same powers and jurisdiction, both in civil and criminal cases arising under the laws of the Territory, and may be commissioned as justices of the peace in and for said city by the governor. They shall account for and pay over all fines and forfeitures arising under the ordinances of the city into the city treasury, and all fines and forfeitures arising under the laws of the Territory into the county treasury, and shall issue such process as may be necessary to carry into effect all ordinances of said city.

SEC. 14. It shall be the duty of the recorder to make and keep accurate records of all ordinances made by the city council and all their proceedings in a corporate capacity; which record shall at all times be open to the inspection of the electors of the city and all other parties interested, and audit all accounts of said incorporation. He shall have and keep a plat of all surveys within the city; and he is hereby authorized to take the acknowledgment of deeds, transfers and other instruments of writing, and shall perform such other duties as may be required of him by city ordinance.

SEC. 15. The treasurer shall receive all money or funds belonging to the city, and shall keep an accurate account of all receipts and expenditures in such manner as the city council shall direct. He shall pay all funds that may come to hand, by virtue of his office, upon orders signed by the auditor of public accounts, and shall report to the city council a true account of his receipts and disbursements, as they may require.

SEC. 16. The city council shall have power within the city, by ordinance, to annually levy and collect taxes on the assessed value of all property in the city made taxable by the laws of the Territory, for the following named purposes, to wit: Not to exceed five mills on the dollar for contingent expenses, nor to exceed five mills on the dollar to open, improve and keep in repair the streets of the city. The city council is further empowered to divide the city into school districts, provide for the election of trustees, appoint a board of school inspectors, annually assess and collect and expend the necessary tax for school purposes, and for furnishing the city with water for irrigating and other purposes, and regulate and control the same; and furthermore, so far as may be necessary, control the water courses leading thereto.

SEC. 17. The city council shall have the management and control of all the finances and property of said city.

SEC. 18. To require, and it is hereby made the duty of every able-bodied male resident of the city, over the age of eighteen and under the age of fifty years, to labor not to exceed two days in each year upon the streets; but every person may, at his option, pay two dollars for the day he shall be so bound to labor: *Provided*, it be paid within five days from the time he shall be notified by the street supervisor. In default of payment as aforesaid, the same may be collected as other taxes.

SEC. 19. The council shall have power to borrow money for city purposes, the interest of which shall not exceed one-fourth of the city revenue arising from taxes of the previous year.

SEC. 20. The city council shall have power, by ordinance, to regulate the form of the assessment rolls. The annual assessment roll shall be returned by the assessor on or before the first Monday in June in each year, but the time may be extended or additions made thereto by order of the city council. On the return thereof, the city council shall fix a day for hearing objections thereto, and any person feeling aggrieved by the assessment of his property may appear at the time specified and make his objections, which shall be heard and determined upon by the city council; and they shall have power to alter, add to, take from and otherwise correct and revise said assessment roll.

SEC. 21. The collector shall be furnished, within thirty days after the assessment rolls are corrected, with a list of taxes to be collected; and if not paid when demanded, the collector shall have power to collect said taxes with interest and cost, by suit in the corporate name as may be provided by ordinance. The assessment roll shall in all cases be evidence on the part of the corporation.

SEC. 22. To appropriate and provide for the payment of the expenses and debts of the city.

SEC. 23. To make regulations to prevent the introduction of contagious diseases into the city; to make quarantine laws and enforce the same within the city and around it, not exceeding ten miles next beyond the boundaries thereof.

SEC. 24. To examine licenses and regulate the practice of surgeons and physicians; to prohibit, prevent and punish, by fine and imprisonment, the imposition of quacks and other medical pretenders; to establish hospitals and infirmaries, and make regulations for the government of the same; to make regulations to secure the health of the inhabitants; to declare what shall be nuisances and prevent and remove the same.

SEC. 25. To provide the city with water; to dig wells, lay pump logs and pipes and erect pumps in the streets for the extinguishment of fires and the convenience of the inhabitants.

SEC. 26. To direct or prohibit the location and management of houses for the storing of gunpowder, tar, pitch, rosin or other combustible and dangerous materials within the city, and to regulate the conveying of gunpowder.

SEC. 27. To exclusively control, regulate, repair, amend and clear the streets, alleys, bridges, sidewalks or crosswalks, and open, widen, straighten or vacate streets and alleys, and put drains or ditches and sewers therein, and prevent the incumbering of the streets in any manner, and protect the same from any encroachment or injury.

SEC. 28. To provide for the lighting of streets and erecting lamp posts; to erect market houses and establish markets and market places, and provide for the government and regulation thereof.

SEC. 29. To provide for the erection of all needful buildings for the use of the city and for enclosing, improving and regulating all public grounds belonging to the city.

SEC. 30. To license, regulate, prohibit or restrain the manufacturers, sellers or vendors of spirituous or fermented liquors, tavern keepers, dram or tipping shop keepers, boarding, victualing or coffee houses,

restaurants, saloons or other houses or places for the selling or giving away of wines or other liquors, whether ardent, vinous or fermented.

SEC. 31. To license, tax and regulate auctioneers, merchants, and retailers, grocers, ordinaries, hawkers, peddlers, brokers, pawnbrokers and money changers.

SEC. 32. To regulate the selling or giving away of any ardent spirits or other intoxicating liquors by any shopkeeper, grocer or trader, to be drunk in any shop, store, grocery, outhouse, yard, garden or other place within the city, except by persons or at places duly licensed; to forbid the selling or giving away of ardent spirits or other intoxicating liquors to any child, apprentice or servant, without the consent of his or her parent, guardian, master or mistress, or to any Indian.

SEC. 33. To regulate and license or prohibit butchers, and to revoke their license for malconduct in the course of trade; and to regulate, license or restrain the sale of fresh meat and vegetables in the city.

SEC. 34. To license, tax, regulate, suppress or prohibit billiard tables, pin alleys, nine or ten pin alleys, or table and ball alleys; to suppress or restrain all disorderly houses and groceries; to authorize the destruction and demolition of all instruments and devices used for the purpose of gaming; to prevent any riot, noise, disturbance or disorderly assemblage; and to restrain and punish vagrants, mendicants, street beggars and prostitutes.

SEC. 35. To regulate, license, suppress or prohibit all exhibitions of common showmen, shows of every kind, concerts or other musical entertainments, exhibitions of natural or artificial curiosities, caravans, circuses, theatrical performances, ball rooms and all other exhibitions and amusements.

SEC. 36. To license, tax and regulate hacking, carriages, wagons, carts and drays, and fix the rates to be charged for the carrying of persons and for wagonage, cartage and drayage of property as also to license and regulate porters and fix the rates of portorage.

SEC. 37. To provide for the prevention and extinguishment of fires; to regulate the fixing of chimneys and the flues thereof and stove pipes; and to organize and establish fire companies.

SEC. 38. To regulate and order parapet walls and other partition fences.

SEC. 39. To establish standard weights and measures and regulate the weights and measures to be used in the city, in all cases not provided by law.

SEC. 40. To provide for the inspection and measuring of lumber and other building materials, and for the measurement of all kinds of mechanical work.

SEC. 41. To provide for the inspection and weighing of hay, lime and stone coal, and the measuring of charcoal, firewood and other fuel to be sold or used within the city.

SEC. 42. To provide for and regulate the inspection of tobacco, beef, pork, flour and meal; also beer, whisky, brandy and all other spirituous or fermented liquors.

SEC. 43. To regulate the weight and quality of bread sold and used in the city.

SEC. 44. The city council shall have exclusive power within the city, by ordinance, to license, regulate or restrain the keeping of ferries and toll bridges.

SEC. 45. To provide for taking the enumeration of the inhabitants of the city, to regulate the burial of the dead and registration of births and deaths; to direct the returning and keeping of bills of mortality; and to impose penalties on physicians, sextons and others for any default in the premises.

SEC. 46. To prevent horse racing, immoderate riding or driving in the streets, and to authorize their being stopped by any person; to punish or prohibit the abuse of animals; to compel persons to put up posts in front of their lots to fasten their horses and other animals; to compel the fastening of horses, mules, oxen or other animals attached to vehicles, whilst standing or remaining in the streets.

SEC. 47. To prevent the incumbering of the streets or sidewalks, lanes, alleys, and public grounds with carriages, tents, wagons, carts, sleighs, horses or other animals, sleds, wheelbarrows, boxes, lumber, timber, firewood, posts, awnings, signs, adobies or any material or substance whatever.

SEC. 48. To restrain, regulate or prohibit the running at large of cattle, horses, mules, sheep, swine, goats and all kinds of poultry; and to tax, prevent or regulate the keeping of dogs, and to authorize the destruction of the same, when at large contrary to city ordinance.

SEC. 49. To compel the owner or occupant of any grocery, cellar, tallow chandler shop, soap factory, tannery, stable, barn, privy, sewer or any unwholesome place, to cleanse, remove or abate the same from time to time, as often as may be necessary for the health, comfort and convenience of the inhabitants of said city.

SEC. 50. To direct the location and management of and regulate breweries and tanneries; and to direct the location, management and construction of, and restrain or prohibit within the city distilleries, slaughtering establishments, and all establishments or places where nauseous, offensive or unwholesome business may be carried on.

SEC. 51. To prevent any person from bringing, depositing or having within the limits of the city any dead carcass or any unwholesome substance, and to require the removal or destruction of the same by any person who shall have placed or caused to be placed upon or near his premises or near any of the streams of this city any such substances, or any putrid or unsound beef, pork, or fish, hides or skins of any kind; and on his default to authorize the removal or destruction of the same by any officer of said city.

SEC. 52. To direct and regulate the planting and preserving of trees in the streets and public grounds, and regulate the fencing of lots within the boundaries of the city.

SEC. 53. To prevent the ringing of bells, the blowing of horns and bugles, the crying of goods and all other noises, performances and devices tending to disturb the peace and quiet of the said city.

SEC. 54. To grant and issue licenses, and direct the manner of issuing and registering thereof. Bonds may be taken, on the granting of licenses, for the due observance of the ordinances of the city council.

SEC. 55. To require every merchant, retailer, trader and dealer in

merchandise or property of every description which is sold by measure or weight, to cause their weights and measures to be sealed by the city sealer and to be subject to his inspection, the standard of which weights and measures shall be conformable to those established by law.

SEC. 56. The city council shall have power to make such ordinances and resolutions, not contrary to the Constitution and laws of the United States and the laws of the Territory, as may be necessary and expedient to carry into effect the powers vested in the city council or any officer of said city by this act, and enforce observance of all ordinances and resolutions made in pursuance of this act, by penalties not exceeding one hundred dollars, or imprisonment not to exceed six months, or both.

SEC. 57. The city council shall have exclusive authority and power to establish and regulate the police of the city; to impose fines, forfeitures and penalties for the breach of any ordinance; to provide for the recovery of such fines and forfeitures and the enforcement of such penalties; and to pass, make, ordain, establish and execute all such ordinances, not repugnant to the Constitution and laws of the United States or the laws of this Territory, as they may deem necessary for carrying into effect and execution the powers specified in this act, and for the peace, good order, regulation, convenience and cleanliness of the city, for the protection of property therein from destruction by fire or otherwise, and for the health, safety and happiness of the inhabitants thereof.

SEC. 58. To provide for the punishment of offenders and vagrants by imprisonment in the county or city jail, or by compelling them to labor on the streets or other public works until the same shall be fully paid, in all cases where such offenders or vagrants shall fail or refuse to pay the fines and forfeitures which may be awarded against them.

SEC. 59. All ordinances passed by the city council shall, within one month after they shall have been passed, be published in some newspaper printed in said city, or certified copies thereof be posted up in three of the most public places in the city.

SEC. 60. All ordinances of the city may be proven by the seal of the corporation; and when printed or published in book form, purporting to be printed or published by the authority of the city council, the same shall be received in evidence in all courts or places, without further proof.

SEC. 61. When it shall be necessary to take private property for opening, widening, or altering any public street, lane, avenue or alley, the corporation shall make a just compensation therefor to the person whose property is taken; and if the amount of such compensation cannot be agreed upon, the justice of the peace shall cause the same to be ascertained by a jury of six disinterested men, who shall be inhabitants of the city.

SEC. 62. All jurors, impaneled to inquire into the amounts of benefits or damages that shall happen to the owners of property so proposed to be taken, shall first be sworn to that effect; and shall return to the mayor or presiding officer of the city council their inquest in writing, signed by each juror.

SEC. 63. All officers of the city, created conservators of the peace

by this act, shall have power to arrest, or cause to be arrested, with or without process, all persons who shall break the peace, commit for examination and, if necessary, detain such persons in custody forty-eight hours in the city prison or other safe place, and shall have and exercise such other powers, as conservators of the peace, as the city council may prescribe.

SEC. 64. The city council shall cause to be published in some newspaper printed in the city of Wellsville, or posted up in three public places, on or before the first day of December in each year, a statement of the amount of city revenue, specifying in said statement whence derived and for what disbursed.