

## CHAPTER XLII.

## OF WATER-WORKS.

AN ORDINANCE Authorizing the Des Moines Water-Works Company to Construct, Maintain and Operate Water-Works to Supply Water to the City and Citizens of Des Moines, and Defining their Powers and Privileges.

O. 106. P. May 1, 1871.

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| 1. Water Company authorized to construct Works. | 57. Rents to be paid by the city.           |
| 2. Company not to obstruct street.              | 8. New rates, how adopted.                  |
| 3. Holly system to be used.                     | 9. Taxes not to be levied within two years. |
| 4. How to extend their pipes.                   | 10. Council not to abridge rights.          |
| 5. To commence construction in thirty days.     | 11. Location of Works.                      |
| 6. To furnish water to city and citizens.       | 12. To file acceptance.                     |
|   | 13. Rights of plumbers not abridged.        |

SECTION I. *Be it ordained by the City Council of the City of Des Moines:* That the Des Moines Water Company, a corporation organized under the laws of the State of Iowa, and its successors be, and are hereby authorized and empowered to build, construct, maintain, and operate water-works in the city of Des Moines, to supply said city and its inhabitants with pure and wholesome filtered water, to acquire and hold as by law authorized, any real estate, easements, and water rights necessary to that end and purpose, and to use streets, alleys and avenues of said city of Des Moines, as it now or may hereafter be laid out and enlarged for the purpose of laying their pipes and conduits necessary to carry and convey water throughout said city, said company shall have the exclusive right to construct and operate their water works as herein specified for the term of forty years from this date.

§ 2. That during the progress of the work the company shall not unnecessarily obstruct any street, avenue, alley or public ground, and shall complete each part of the work commenced therein as speedily as practicable, and restore the same to as good and like condition as before said work was commenced, and during the progress of such work upon any public grounds, the company shall be under the supervision of the City Engineer.

§ 3. That in the construction of said water works the company shall adopt that system known as the Holly Water Works, and shall



maintain the same in such condition as to be capable at all times of throwing six streams at once, one hundred feet vertically through one inch nozzle, and said company shall erect for fire purposes as many hydrants, single or double, and at such places as the City Council shall from time to time direct, and the city shall pay said company the actual cost of such hydrants, which shall be under the control of the City Council and the Fire Department appointed by it; *provided*, said company shall at all times keep the same in good condition, except in cases wherein the city is at fault, in which case the company shall repair the same and charge the city the actual cost thereof. Each hydrant shall have the capacity to furnish a supply of water to said city for the use of the fire department of said city not less in quantity than one stream forced through a nozzle one inch in diameter; *provided*, that said company shall not be required to throw more than six streams at one time, and such supply shall be continuous unless cut off by accident or casualty, and in such event said company shall repair the same immediately, and said company shall furnish to said city from such hydrant, all the water necessary for washing, cleaning, cooling, sprinkling and draining the streets and alleys, avenues, gutters, sidewalks, sewers and public grounds, not to exceed, however, at the rate of one hundred thousand gallons daily for each ten thousand in population and fraction of ten thousand for such purposes, and the city may attach to each of such hydrants a faucet, or nozzle, from which water may be drawn by citizens or passers by for the purposes of drinking for persons and animals; also, that the principle of fire alarm possessed by the Holly system, shall be preserved for the use of the fire department of the city.

§ 4. Said company shall extend their pipes along such streets and avenues as the City Council shall hereafter require, on the city giving such reasonable notice as the time and the condition of the ground may require for work of that character, and shall erect for the use of the city such number of hydrants as the City Council may direct for such required extension; *provided*, the city shall pay to said company the actual cost of such hydrants.

§ 5. That the said company shall, within thirty days from the passage of this ordinance, commence the construction of said water-works, and shall, within eighteen months from the time the



same is commenced, have at least ten miles of pipe laid down and connected with the works, of sufficient size to admit of future extension, at least three miles of which pipe shall be laid on the east side of the Des Moines river, and a main pipe shall be laid on Second street as far south as the gas works.

§ 6. The company shall furnish to the city authorities and to the citizens upon the several streets, avenues and public grounds along which their pipes and water-courses may be laid, such quantity of water as they may desire, and the Water Company shall have the right to charge the citizens thereof for such water as may be supplied them as much and no more than the average price paid therefor in other cities of the United States having efficient water-works; *provided*, that in case the City Council and the Water Company disagree upon a schedule of prices to be paid by the citizens thereof, then such schedule and rates of charges shall be ascertained and determined by five disinterested persons, two of whom shall be chosen by the City Council, two by the Water Company, and the fifth by the four thus chosen, and the rates thus fixed shall remain in force until altered by agreement or arbitration, as aforesaid, and either the city authorities, through the City Council, or the Water Company, by its president and directors, may demand an adjustment of said rates at any time after the expiration of one year from the last preceding adjustment; *provided, however*, that pending any such disagreement or adjustment of rates, the company shall continue to furnish water to the city and citizens thereof, and shall be entitled to receive pay therefor at the rates that may be agreed upon as above provided.

§ 7. That the city shall pay to said company for the use of the hydrants and water therefrom as hereinbefore mentioned and specified, the yearly rent of two thousand dollars per mile for the first five miles of water mains laid, and the sum of fifteen hundred dollars per mile for the second five miles so laid, and for such additional mile thereafter laid by order of the City Council, the city shall pay such annual rent per mile as the city and company can agree upon, and in case of disagreement, the same to be fixed by arbitration as provided in section six (6) of this ordinance, the same not to exceed in cost the sum of fourteen hundred dollars per mile, said rent to be paid semi-annually; that after the expira-



tion of twenty years from this date, at the option of the city, the rates above specified shall cease, and thereafter said city shall pay to said company for all water furnished, the average rates paid by other cities of the United States, having efficient water works operated by private companies; the amount, in case of disagreement, to be settled as provided in section six of this ordinance.

§ 8. That at any time after six months from this date, on giving six months' notice to the president and directors of said Water Company, the city authorities of Des Moines shall have the right to purchase said water-works, together with all land, fixtures, and appurtenances thereto belonging and requisite for operating the same, by paying to said company the amount actually expended by them in the construction of their works and the purchase of their grounds necessary for use thereof, and in case the net receipts from such works shall not amount to ten per cent. per annum on the actual cost thereof, then the city shall pay to said company in addition to the cost aforesaid, such further sum as when added to the net receipts of said company, shall be equal to ten per cent. on the cost aforesaid, and for the purpose of ascertaining the said cost and receipts of said works, it shall be the duty of the company to file with the City Clerk on the first Monday of June of each year, a detailed statement of the cost of constructing and operating such works, and of the receipts therefrom for the preceding year, which statement shall be subscribed and sworn to by the president or secretary of the company, and the books and accounts of the company shall be open to the inspection of a committee to be designated by the City Council.

§ 9. That for the purpose of encouraging the investment of capital in said Des Moines Water Company, and to manifest the interest felt by the citizens in that enterprise, it is hereby declared that no city taxes shall be levied or collected on the works of the company, or on the stock issued thereby or capital necessary invested and employed in constructing and operating the same, for two years from this date.

§ 10. That in laying down the pipes and conduits necessary to supply the city with water, it is hereby expressly provided that no authority is conferred by the Council to interfere with or abridge the rights and privileges heretofore conferred upon the Des



Moines Gas Company, or to interfere or abridge any other rights previously conferred upon any railroad or other corporation holding under the authority of the state or the city, nor to interfere with other public works, nor with the present or future drainage of this city by sewers or otherwise. This grant to said water company being conferred with the express condition that said company shall be liable for all injury to persons or property caused by the negligence, mismanagement, or fault of itself, or any of its employes while engaged in the construction of or operating said works; and should the city be sued therefor, the company or some officer thereof shall be notified of such suit. And thereupon it shall be the duty of the company to defend or settle the same; and should judgment go against the city in such case, the city shall recover the amount with all costs from the company, and the record of the judgment against the city shall be conclusive evidence in the cause to entitle the city to recover in any suit therein against the company.

§ 11. That said water-works shall not be located east of Sixth street on the Raccoon river, or south of Bird's Run on the Des Moines River.

§ 12. *Provided, however,* that to entitle the Des Moines Water Company to the rights and privileges of this ordinance, said company shall, within ten days from this date, accept in writing all its privileges, duties and obligations, signed by its president, and attested by its secretary; which privileges, powers and franchises shall extend to said Des Moines Water Company for a period of forty years from this date. And should the same not be so accepted within ten days from the date of the passage of this ordinance, then this ordinance shall be void and of no force. *Provided, further,* that having accepted the rights and privileges of this ordinance, said company shall fail to perform faithfully the duties and obligations herein prescribed, or shall in any manner fail to comply strictly with any of the requirements of this ordinance, or shall violate any of its provisions, then and in either case the rights and privileges herein granted shall be forfeited and shall revert to the city.

§ 13. *Provided,* That the right of no plumber to furnish and lay the service pipes for consumers shall be abridged, but the



company shall have the right to attach the same to the main pipe at no higher rate than is charged by similar companies.

O. 106. P. May 1, 1871.

## CHAPTER XLIII.

### OF POLLUTION OF 'COON RIVER.

AN ORDINANCE Prohibiting the Pollution of Raccoon River above the point where the Des Moines Water Company draw water for its Works, and for the Protection of said Works, together with the Machinery, Pipes, Hydrants, and other Apparatus connected therewith, from Injury or Damage.

O. 160. P. February 3, 1873.

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| 1. Pollution of Raccoon River prohibited                    | 4. Watering troughs not to be damaged.         |
| 2. Works, machinery and trenches not to be interfered with. | 5. Marshal and policeman to enforce ordinance. |
| 3. Fire hydrants not to be tampered with                    | 6. Punishment for violations.                  |

SECTION I. *Be it ordained by the City Council of the City of Des Moines,* That no person shall throw or put into Raccoon river, or any of its tributaries at any point where the Des Moines Water Company take water from said river to supply its works, any dead carcass, manure, offal, putrid matter of any kind, or any other substance or fluid which will tend to pollute or render impure the water in said stream; nor shall any person deposit, place or discharge any such substance in, on, or near the banks of said river within such five miles, so that the same will wash or flow into said river, nor shall any person bathe or swim in the waters of said river within the corporate limits of the city of Des Moines, above the said point where said Water Company draws water for its works.

§ 2. That no person shall in any way interfere with or injure or damage said water works, or the machinery, pipes, hydrants, trenches, or sewers belonging thereto, or dig up or uncover, so as to expose to the frost, any of the pipes or sewers of said company, nor shall any person impede or in any way interfere with the operation of the same by the Des Moines Water Company, or its employes or agents. *Provided, however,* that nothing in this sec-