

elected in alternate years, at the regular village elections, except that the village council is hereby authorized to appoint an additional justice of the peace, as provided for by this act, for the term ending first (1st) Tuesday of January, A. D. one thousand eight hundred and eighty-six (1886), and in case of vacancy occurring in the offices of justice of the peace in said village, the village council shall fill the same by appointment.

SEC. 2. This act shall take effect and be in force from and after its passage.

Approved February 28, 1885.

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## CHAPTER 68.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO INCORPORATE THE VILLAGE OF ELK RIVER," BEING CHAPTER TWELVE (12) OF THE SPECIAL LAWS OF THE STATE OF MINNESOTA FOR THE YEAR A. D. ONE THOUSAND EIGHT HUNDRED AND EIGHTY-ONE (1881).

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

SECTION 1. That section ten (10) of said act be and the same hereby is amended by striking out the words "first Tuesday in April," in the second (2d) line thereof, and inserting instead thereof the words "second (2d) Tuesday in January."

SEC. 2. That section twelve (12) of said act be and the same hereby is amended so as to read as follows:

Sec. 12. The president, the three trustees, and the recorder shall be the common council of said village, any three of whom shall constitute a quorum for the transaction of any business, and shall have full power and authority to enact, adopt, modify, enforce, and from time to time amend or repeal all such ordinances, rules and by-laws as they shall deem expedient for the following purposes, viz.:

*First*—To regulate the mode of and establish rules for their proceedings.

*Second*—To adopt a corporate seal and alter the same at pleasure.

*Third*—To receive, purchase, and hold, for the use of the village, any estate, real and personal, and to sell and convey the same.

*Fourth*—To limit and define the duties and powers of officers and agents of the village, fix their compensation, and fill vacancies when no other provision is made by law; to call special elections, and to designate trustees to act as judges of elections.

*Fifth*—To procure the books and records required herein to be kept by village officers, and such other furniture, property, stationery and printing as shall be necessary for village purposes.

*Sixth*—To provide for the prosecution or defense of all actions or proceedings in which the village is interested, and employ counsel therefor.

*Seventh*—To appoint a village attorney, a poundmaster, one (1) or more sextons or keepers of cemeteries, one (1) or more fire wardens, and one (1) or more street commissioners, whenever they deem necessary. Every street commissioner, when by resolution the common council shall require it, shall take and file his oath of office, and execute a bond, conditioned for the faithful discharge of his duties, and the proper application and payment of all moneys that may come into his hands by virtue of his office.

*Eighth*—To control and protect the public buildings, property and records, and insure the same.

*Ninth*—To renumber the lots and blocks of the village, or any part thereof, and to cause a revised and consolidated plat of the same to be recorded in the office of the register of deeds.

*Tenth*—To establish a fire department, to appoint the officers and members thereof, and prescribe and regulate their duties; to provide protection from fire by the purchase of fire engines and all the necessary apparatus for the extinguishment of fires, and by the erection or construction of pumps, water mains, reservoirs, or other water works; to erect engine houses; to compel the inhabitants of the village to aid in the extinguishment of fires, and to pull down and raze such buildings in the vicinity of fire as shall be directed by them, or any two (2) of them who may be at the fire, for the purpose of preventing its communication to other buildings; to establish fire limits, or the limits within which wooden or other combustible buildings shall not be erected; to require the owner or occupants of buildings to provide and keep suitable ladders and fire buckets, which shall be appurtenances to the realty and exempt from seizure and forced sale; and after reasonable notice to such owner or occupant, and refusal or neglect by him, to procure and deliver the same to him, and in default of payment therefor to levy the cost thereof as a special tax upon such real estate, to be assessed and collected as other taxes in such village; to regulate the storage of gunpowder and other dangerous materials; to require the construction of safe places for the deposit of ashes; to regulate the manner of putting up stove-pipes, and the construction and cleaning of chimneys; to prevent bonfires and the use of fireworks and firearms in the village, or any part thereof; to authorize fire wardens at all reasonable times to enter into and examine all dwelling houses, lots, yards, inclosures, and buildings of every description, in order to discover whether any of them are in dangerous condition, and to cause such as may be dangerous to be put in safe condition; and generally to establish such necessary measures for the prevention or extinguishment of fires as may be necessary and proper.

*Eleventh*—To lay out, open, change, widen or extend streets, lanes, alleys, sewers, parks, squares or other public grounds, and to grade, pave, improve, repair or discontinue the same, or any part thereof; or to establish and open drains, canals or sewers, or alter, widen or straighten water courses; to make, alter, widen or otherwise improve, keep in repair, vacate or discontinue sidewalks or crosswalks; to prevent the incumbering of streets, sidewalks and alleys with carriages, carts, wagons, sleighs, sleds, buggies, railway cars, engines,

boxes, lumber, firewood, or other substances or materials; to prevent horse racing or immoderate riding or driving in the streets of the village; to prevent the riding or driving of animals, or the riding or driving of vehicles of any kind, on the sidewalks of the village, or the doing of damage in any way to such sidewalks; and to require the owners or occupants of buildings to remove snow, dirt or rubbish from the sidewalks adjacent thereto, and in default thereof to authorize the removal of the same at the expense of such owner or occupant.

*Twelfth*—To restrain the running at large of cattle, horses, mules, sheep, swine, poultry, and other animals, and to authorize the distraining, impounding and sale of the same; to establish pounds and regulate and protect the same; to require the owners or drivers of horses, oxen or other animals, attached to vehicles or otherwise, to fasten the same while in the streets or alleys of such village; to prohibit the hitching of horses, teams or animals to any fence, tree or pump, and to prevent injury to the same; to regulate and control the running of engines and cars through the village, and rate of speed of the same; to prevent the running at large of dogs, and authorize the destruction of the same in a summary manner when at large contrary to the ordinances; and license public porters, solicitors or runners, cartmen, hackmen, omnibus drivers and guides, and to establish rules and regulations to their conduct as such, and to prevent any unnecessary noise or disturbance during the arrival or departure of persons in public conveyances.

*Thirteenth*—To establish and regulate markets, and restrain sales in the streets.

*Fourteenth*—To purchase and hold cemetery grounds within or without the village limits, inclose, lay out and ornament the same, and to sell and convey lots therein by deed; to establish public parks and walks, inclose, improve and ornament the same, and prevent the incumbering or obstruction thereof; and provide for and regulate the setting out of shade and ornamental trees in the streets and in and around the cemeteries and public parks and walks of the village, and for the protection thereof.

*Fifteenth*—To prevent, or license and regulate, the exhibition of caravans, circuses, theatrical performances or shows of any kind; to prevent, or license and regulate, the keeping of billiard tables, pigeon-hole tables and bowling saloons; to suppress and restrain, or license and regulate, mountebanks and auctioneers; and in all such cases they may fix the price of such license and prescribe the term of its continuance, and may revoke the same at pleasure; but the term of no such license shall extend beyond the annual election of officers next after the granting thereof.

*Sixteenth*—To provide for the planting and protection of shade trees and monuments in said village.

*Seventeenth*—To restrain and prohibit gift enterprises, all description of gaming, and all playing of cards, dice and other games of chance, for the purpose of gaming; and to license, or restrain and prohibit, any person from selling, bartering, disposing of or dealing in spirituous, malt, fermented, vinous or mixed intoxicating liquors of any kind; and to punish any violation of law or of the village ordinances relating thereto; and to revoke, for any cause, any license for the sale of intox-

icating liquors granted by the common council, whenever the council, after a hearing of the case, shall deem proper.

*Eighteenth*—To choose a village marshal, and to remove him at will; to prescribe his duties, and fix his compensation for services.

*Nineteenth*—To establish and maintain public libraries and reading rooms, purchase books, papers and magazines therefor, and make all needful rules and regulations for the safe keeping and handling of the same.

*Twentieth*—To appoint a street commissioner, regular and special policemen, and a chief of police, and to fix their compensation and prescribe their duties.

*Twenty-first*—To remove any officer appointed or elected by such council, whenever, in the judgment of such council, the public welfare will be thereby promoted.

*Twenty-second*—To purchase, build, or lease and maintain and regulate a watch house or place for the confinement of offenders against the ordinances and by-laws, and for temporary detention of suspected persons.

*Twenty-third*—To appoint a board of health, which shall have all the powers of such boards under the general laws of the state; to provide hospitals and regulate the burial of the dead and return of bills of mortality; to declare what are nuisances, and to prevent or abate the same; to require the owner or occupant of any grocery, cellar, tallow chandler's shop, factory, tannery, stable, barn, privy, or other unwholesome or nauseous house, building or place, to remove or abate the same, or to cleanse it as often as may be deemed necessary for the public health; to direct the location and management of slaughter houses, and to prevent the erection, use or occupation of the same, except as authorized by them; to prevent persons from bringing, depositing or leaving within the village any putrid carcass or other unwholesome substance; to require the owners or occupants of lands to remove dead animals, stagnant water or other unwholesome substance from their premises, and to provide for the cleaning and removal of obstructions from any river, stream, slough or water course within the limits of the village, and to prevent the obstruction or retarding of the flow of water therein, or the putting of anything into the same which may be prejudicial to the health of the village.

*Twenty-fourth*—To make and regulate the use of public wells, cisterns and reservoirs.

*Twenty-fifth*—To erect lamp-posts and lamps, and provide for the lighting any portion of the village, or streets thereof, by gas or otherwise.

*Twenty-sixth*—To establish harbor and dock limits, and to regulate the location and construction and use of all piers, docks, wharves and boat houses on any navigable waters, and fix rates of wharfage.

*Twenty-seventh*—To levy and provide for the collection of taxes and assessments, audit claims and demands against the village, and direct orders to issue therefor, in the manner prescribed in this chapter; to refund any tax or special assessment paid, or any part thereof, when satisfied that the same was unjust or illegal; to authorize bonds of the village to be issued in the cases provided by law, and generally to manage the financial concerns of the village; and they shall cause to be prepared, and read, at each annual village election, a true, detailed

and itemized statement, by them, of the finances of the village, showing the amount in the treasury at commencement of the year, when and from what sources all moneys paid into the treasury during the preceding year were derived, and the whole amount thereof, and when; to whom, and for what purpose all money paid from the treasury during the same period was paid, and the whole amount thereof, with the balance then in the treasury; which statement shall be recorded in the minute book, and filed and preserved in the recorder's office.

*Twenty-eighth* — To ordain and establish all such ordinances and by-laws for the government and good order of the village, the suppression of vice and immorality, the prevention of crime, the protection of public and private property, the benefit of trade and commerce, and the promotion of health, not inconsistent with the constitution and laws of the United States or of this state, as they shall deem expedient; and to determine and establish by ordinance the mode of procedure, and what it shall be sufficient to allege and prove, in order to make out a *prima facie* case of violation of any ordinance.

*Twenty-ninth* — To prescribe penalties for the violation of any ordinance or by-law, to be not less than one (1) dollar nor more than one hundred (100) dollars, in any case, besides the costs of suit in all cases; and in default of payment provide for committing the person convicted to the watch-house, or place of confinement in the village, or to the county jail, until payment be made, but not to exceed ninety (90) days in all; and to modify, amend or repeal any ordinance, resolution, by-law or other former determination of the council.

SEC. 3. That section thirteen (13) be and the same hereby is amended so as to read as follows:

Sec. 13. No account or demand against said village shall be paid until it has been audited and allowed, and an order drawn on the treasurer therefor. Every such account shall be made out in items and verified by affidavit, indorsed or annexed, that the same is just and correct, and no part thereof paid. After auditing the council shall cause to be indorsed by the recorder, over his hand, on each account, the words "allowed" or "disallowed," as the fact is, adding the amount allowed, if any, and specifying the items or parts of items disallowed, if disallowed in part only. The minutes of the proceedings of the council shall show the amount. Every such account or demand allowed, in whole or in part, shall, with the affidavit thereto, be filed by the recorder, and those of each year consecutively numbered, and have indorsed the number of the order on the treasurer issued in payment; and the recorder shall take a receipt thereon for such order. Said village, nor any officer thereof, shall have power to issue at any time any negotiable order, or borrow money, except in the manner and for the purposes expressly declared by statute.

SEC. 4. That section fourteen (14) be and the same hereby is amended so as to read as follows:

Sec. 14. Whenever the common council shall intend to lay out and open, change, widen, or extend any street, lane, alley, public grounds, square or other places, or to construct and open, alter, enlarge or extend drains, canals or sewers, or alter, widen or straighten water courses therein, or take grounds for the use or improvement of a harbor, and it shall be necessary to take private property therefor, they shall cause an accurate survey and plat thereof to be made and

filed with the recorder; and they may purchase or take by donation such grounds as shall be needed by agreement with the owners, and take from them conveyances thereof to the village for such use or in fee, but otherwise they shall, by resolution, declare their purpose to take the same, and therein describe the metes and bounds, the location of the proposed improvements, and the land proposed to be taken therefor, defining separately each parcel and the amount thereof owned by each distinct owner, mentioning the names of owners or occupants so far as known, and therein fix a day, hour and place when and where they will apply to a justice of the peace, resident in said village, for a jury to condemn and appraise the same. They shall thereupon cause to be made by the recorder a notice of the adoption of such resolution, embracing a copy thereof, and notifying all parties interested, that the council will, at the time and place named, apply to the justice named for the appointment of a jury to condemn and appraise such land. A copy of such notice shall be served by the sheriff of the county or marshal of the village, or any constable, on the owner of each such parcel of land to be taken, if known, and resident within the county, such service to be made in the manner prescribed for serving a summons in justice court, and the returns of the officer shall be conclusive evidence of the fact therein stated. If the notice cannot be so given as to all parcels, then the same shall be also published once in each week for three successive weeks in a newspaper published in such village; and the affidavit of the printer or foreman of such newspaper shall be conclusive evidence of such publication. Such notice shall be served and such publication made for three weeks, complete at least one week before the time fixed therein for such application. If any person so served with notice be a minor or of unsound mind, the justice, before proceeding shall, on the day fixed for hearing such application, appoint for him a guardian for the purpose of such proceeding, who shall give security to the satisfaction of the magistrate and act for such ward.

SEC. 5. That section fifteen (15) be and the same hereby is amended so as to read as follows:

Sec. 15. At the time and place fixed for such hearing, the application, accompanied by a copy of such resolution and such survey, and by proof of service of the notice as provided in the last section, shall be filed with the justice, who shall thereupon make a list of twenty-four (24) competent jurors, not interested; but residents of the village shall not be disqualified. He shall hear and decide any challenges for cause or favor, made to any one, and if sustained shall replace his name with an unobjectionable juror, until the list shall be perfected. Whereupon, under direction of such magistrate, each party, the common council, by its representatives, on one side, and owners of land or their agents present, or if none be present, or they disagree, a disinterested person appointed by the justice, on the other, shall challenge six (6) names, one (1) at a time, alternately, the common council beginning. To the twelve (12) jurors remaining such justice shall issue a venire, requiring them, at an hour on a day named, not more than ten (10) nor not less than three (3) days thereafter, to appear before him to be sworn and serve as a jury to view lands and appraise damages; and at the same time shall publicly adjourn the proceedings to the time and place so named. Such venire shall be served by

the sheriff of the county, or the marshal of said village, or any constable, at least one (1) day before such appointed time, by reading the same to each such jurors, or by leaving a copy at his usual place of abode in the presence of a member of his family. The jurors summoned shall appear at the time and place named, and if any be excused by the justice, or fail to attend, he shall direct other disinterested persons to be forthwith summoned in their stead until twelve (12) be obtained; the magistrate shall then administer to them an oath that they will well and truly inquire into and determine the necessity for taking the lands mentioned in the resolution, and, if found necessary, the damages occasioned thereby, and faithfully discharge their duties as jurors according to law.

SEC. 6. That section sixteen (16) be and the same hereby is amended so as to read as follows:

Sec. 16. Under the direction of such magistrate the jury shall view the lands to be taken, and shall then sit before him to hear such competent evidence as shall be produced by any party; and for such purposes such magistrate shall possess the same powers as a court in session with a jury, and, if there be necessity, may adjourn the sitting from day to day. The jury shall render a separate verdict in writing, signed by them, in which they shall find whether it be necessary to take such lands or any part thereof for such purposes, describing such as they find necessary to be taken; and if any be found necessary to be taken, then a verdict or appraisement of damages, specifying therein the damages of each owner, and separately the value of the land taken for each, and the damage otherwise sustained by each by reason of the taking thereof, in estimating which they shall deduct therefrom any special benefit, if any, to be enjoyed by each from such improvements; and a majority of such jury may render such verdict or appraisement of damages and shall sign the same. Any technical error in such verdict may be immediately corrected, with the assent of the jury, and they shall be thereupon discharged, and their verdict filed by the magistrate. In case the jury shall fail to find a verdict another jury shall be selected, summoned, sworn and proceed in the same manner.

SEC. 7. That section seventeen (17) be and the same hereby is amended so as to read as follows:

Sec. 17. Within ten (10) days after verdict, any land owner, whose land has been found necessary to be taken, may appeal from the award of damages to him, in such verdict, to the district court, and the village may likewise appeal from the award of damages to any owner, by filing with such magistrate a notice of appeal, specifying whether the appeal is from the whole award to him or a part, and if a part, what part, and therewith an undertaking, with two sufficient sureties, to be approved by the magistrate, to pay all costs that may be awarded against such appellant, on the appeal, and paying the magistrate for his return thereof. Any party not so appealing shall be forever concluded by such verdict or appraisement. Upon an appeal being taken the magistrate shall transmit to the clerk of the district court, within ten (10) days, the notice of appeal and undertaking, and thereto annex a copy of all papers and proceedings before him, with his certificate thereof. He shall, after the time for appealing is expired, file with the village recorder, annexed together, all the original papers,

including the verdict, with a certificate by him thereof, and that no appeal has been taken from such verdict, except as the facts are, which he shall briefly specify; and the recorder shall record all such proceedings. Upon filing such transcript in the district court the appeal shall be considered an action pending in such court, and be so entered, the land owner as plaintiff, the village as defendant, and be subject to trial and appeal to the supreme court. The case shall be tried by a jury, unless waived, and costs shall be awarded against the appellant, if more favorable verdict be not obtained; otherwise, against the respondent. Upon entry of judgment the clerk of the district court shall transmit a certified copy thereof to the village recorder.

SEC. 8. That section eighteen (18) be and the same hereby is amended so as to read as follows:

Sec. 18. If the verdict of the jury first called find it necessary to take such land, or any part thereof, the common council may, upon return thereof to the recorder, enact an ordinance according thereof for laying out, changing, widening or extending and opening any such street, lane, alley, public ground, square, or other public place, or constructing and opening, altering, enlarging, or extending any such drains, canals, or sewers, or altering, widening or straightening any such water course, or for the use or improvement of a harbor, but shall not enter upon any such land therefor until the owner be paid in full, or the damages be set apart for him in the hands of the treasurer, and an order therefor lawfully executed to him be deposited with the recorder, to permanently remain subject to his order. At any time before causing any such land to be actually taken, or put to public use, and before the rendition of a judgment in the district court for damages, the common council may discontinue all proceedings theretofore taken, and the village shall in such event be liable for the costs only. All the costs of every such proceeding shall be paid by the village, except when they recover costs in the district court.

SEC. 9. That section nineteen (19) be and the same hereby is amended so as to read as follows:

Sec. 19. For the purpose of payment of the expenses, including all damages and costs incurred for the taking of private property, and of making any improvement mentioned in the last preceding section, the common council may, by resolution, levy and assess the whole or any part, not less than half of such expenses, as a tax upon such property as they shall determine is specially benefited thereby, making therein a list thereof, in which shall be described every lot or parcel of land so assessed, with the name of the owner thereof, if known, and the amount levied thereon set opposite. Such resolution, signed by the president and recorder, shall be published once in each week for two (2) weeks in a newspaper printed regularly in such village, and three (3) copies thereof shall be posted by the recorder in three (3) of the most public places in such village, and a notice therewith that at a certain time, therein stated, the said council will meet at their usual place of meeting, and hear all objections which may be made to such assessments, or to any part thereof. At the time so fixed the said council shall meet and hear all such objections, and for that purpose may adjourn from day to day, not more than three (3) days, and may, by resolution, modify such assessment in whole or in part. At any time before the first (1st) day of September thereafter, any party



liable may pay any such tax to the village treasurer. On such first (1st) day of September, if any such tax remains unpaid, the recorder shall certify a copy of such resolution to the county auditor, showing what taxes thereby levied remain unpaid; and the county auditor shall put the same upon the tax roll, in addition to and as part of all other village taxes therein levied on such land to be collected therewith.

SEC. 10. That section twenty (20) be and the same hereby is amended so as to read as follows:

Sec. 20. Upon the petition, in writing, of all the owners of lots or land on any street or alley in said village, and not otherwise, the common council may discontinue such street or alley, or any part thereof. At least one (1) week before acting on such petition the council shall cause a written or printed notice to be posted in three (3) public places in such village, stating when the petition will be acted on, and what street, or part thereof, is proposed to be vacated.

SEC. 11. That section twenty-one (21) be and the same hereby is amended so as to read as follows:

Sec. 21. The common council may cause any street, or any part of any street, to be graded, paved, macadamized, or otherwise improved, or any sidewalk or gutter to be built, and may order any sidewalk or gutter previously built to be put in repairs when necessary. For the purpose of so improving any street, or building or repairing any gutter or sidewalk, the common council may levy and cause to be collected, upon the lots, tracts or parcels of ground on such street or part of street improved, or on the side thereof where only such sidewalk or gutter is to be built, and upon the owners thereof, a tax sufficient to pay the expense of constructing such improvement as ordered, opposite such property, to the centre of the street, or such proportion thereof, not less than half, as they shall deem justly assessable to such property, if they shall think the whole ought not to be so assessed; in which case the remainder shall be paid from the village treasury. Every such tax for repair shall be for the entire cost of repairs in front of the property so assessed. If any tax levied under this section shall prove insufficient to pay the cost or proportion thereof assessed to such property, the common council may levy an additional tax thereon, to make good such deficiency.

SEC. 12. That section twenty-two (22) be and the same hereby is amended so as to read as follows:

Sec. 22. Whenever the council shall levy any such tax as specified in the preceding section, they shall make out and deliver to a street commissioner of said village a list of the persons, and a description of the property taxed, together with a warrant for the collection and expenditure of said tax; and thereupon the street commissioner shall notify the persons named in such tax list, by publishing a notice two (2) weeks in some newspaper published in said village, and by posting up notices in three (3) or more public places in said village, and shall specify in such notice a time or times, not less than twenty (20) days nor more than forty (40) days from the date thereof, when the persons charged with taxes in such list may pay their taxes in labor, materials or money; and the persons charged with such tax may, at such time and place as may be required by the said street commissioner, pay their taxes in labor or materials; *Provided*, The labor and materials offered in payment of such taxes are such as may be required

by the said street commissioner, and done and furnished to his satisfaction. The street commissioner shall be provided with a book or memorandum by the village recorder, in which he shall keep an accurate account of all moneys coming into his hands by virtue of his office; the amount received and disbursed by him; the name of every person from whom money or labor is due, the amount paid in money or labor, and a correct account of all expenditures by him made as a street commissioner. The book containing the account so kept shall, at all times when required, be furnished for the inspection of the common council, and ten (10) days before the expiration of his term of office shall be handed to the village recorder, to be filed in his office for the inspection of the taxpayers in his district.

SEC. 13. That section twenty-three (23) be and the same hereby is amended so as to read as follows:

Sec. 23. At the expiration of forty (40) days from the date of said notice given by the said street commissioner, he shall make out and deliver to the recorder of said village a certified list of the lots, pieces or tracts of lands in said village upon which any such tax remains unpaid, with the amount of such delinquent tax upon each of said lots or parcels of land; and at any time before the first (1st) of September any party liable may pay any such tax to the village recorder, who shall thereupon pay the same over to the village treasurer, taking his receipt therefor; and said recorder, on the first (1st) day of September, or within five (5) days thereafter, if any such tax remain unpaid, shall certify a copy of such delinquent taxes to the county auditor of the county, and the said auditor shall upon the receipt of said statement and list, enter and carry out the same upon the proper tax lists, and they shall be collected the same as other taxes are collected, and when collected pay over the same to the village treasurer. The county treasurer, when he shall collect or receive any moneys on account of such delinquent taxes, shall pay the same to the treasurer of the said village and take duplicate receipt therefor, and file one of said receipts with the recorder of said village.

SEC. 14. That section twenty-four (24) be and the same hereby is amended so as to read as follows:

Sec. 24. No part of the streets or highways of said village shall be in any road district established by the town board, nor be under the control of town officers; nor shall the town be liable for any damages occasioned by any insufficiency or want of repair thereof, and all bridges in said village shall be built, maintained and repaired by the village. No overseers of highways shall be elected in or for said village, but the poll tax may be levied by the common council instead of the town board, and shall be collected, and shall be expended, and the streets, highways and public places governed, by the common council and officers of their appointment; nor shall any town road taxes be assessed or levied therein; and any person neglecting or refusing to pay any poll tax in said village may be fined and punished for such neglect or refusal, upon complaint of the street commissioner, before any justice of the peace, in the manner and as prescribed in the general law.

SEC. 15. That section twenty-five (25) be and the same hereby is amended so as to read as follows:

Sec. 25. The common council shall, on or before the fifteenth (15th)

day of August in each year, by resolution, to be entered of record, determine the amount of corporation taxes to be levied and assessed on the taxable property in said village for the current year, which shall not exceed in any one (1) year one (1) per centum of the assessed valuation of such property, including what may have been voted by the legal voters of said village. Before levying any tax for any specific purpose, the council may, in their discretion, submit the question of levying the same to the village electors, at any special or general election, and in such manner as they may prescribe. When so submitted they shall be bound by the vote thereon. On or before the first (1st) day of September in each year the village recorder shall deliver to the county auditor a copy of all such resolutions, certified under his hand and the corporate seal of said village, and such auditor shall enter such taxes upon the tax books in the same manner as he is required to do in levying town taxes.

SEC. 16. That section twenty-six (26) be and the same hereby is amended so as to read as follows:

Sec. 26. All prosecutions for violating any of the ordinances, rules or by-laws enacted under the provisions of this act shall be brought in the corporate name of said village, and shall be commenced by warrant, upon complaint being made as required by law in criminal cases before justices of the peace; and the same proceedings shall be had therein as are required to be had by the laws of this state in criminal or civil actions before justices of the peace; *Provided*, That no warrant shall be necessary in any case of the arrest of any person or persons while in the act of violating any law of the state of Minnesota or ordinance of said village. But in such cases a complaint shall be made, which the justice shall reduce to writing, and the party required to plead thereto as to warrants in other cases, and the person or persons so arrested may be proceeded against in the same manner [as] if the arrest had been made by warrant. All processes issued by the justices of the peace of said village shall be directed to the marshal of said village, or the sheriff, or any constable of the county. It shall be a sufficient pleading of the by-laws or ordinances of said village to refer to the chapter and section thereof which are hereby declared to have all the force and effect of general laws within the jurisdiction of said village; and it shall not be necessary to read or give them in evidence upon the trial of any proceeding or action, criminal or civil.

SEC. 17. That section twenty-seven (27) be and the same hereby is amended so as to read as follows:

Sec. 27. Judgment shall be given if for the plaintiff, for the amount of fine, penalty or forfeiture fixed by such ordinance, resolution or by-law, or such part thereof, if a discretion be given, as the court shall deem proportionate to the offense, together with the costs of suit; and shall in all cases further adjudge and order that, in default of payment thereof, the defendant be committed to the watch-house of said village, or to the common jail of said county, for such time, not exceeding ninety (90) days, as the court shall think fit. If such payment be not forthwith made, the justice shall make out a commitment stating the amount of judgment and costs, and the time for which committed, and in the usual form of commitments by justices of the peace. Every person so committed shall be received and committed to prison by the keeper of such watch-house or keeper of the county

jail, and kept at the expense of the village until the expiration of the time; but he shall be released by order of the justice, on payment to him of such fine and costs, or by due course of law.

SEC. 18. That section twenty-eight (28) be and the same hereby is amended so as to read as follows:

Sec. 28. Appeal may be taken to the district court in the same manner as from judgments, in similar actions before justices of the peace, except as herein otherwise provided; but if taken by the defendant, he shall, as a part thereof, execute a bond to the village, with surety to be approved by such justices, conditioned that if judgment be affirmed, in whole or in part, he will pay the same, and all costs and damages awarded against him on such appeal and in case such judgment shall be affirmed, in whole or in part, execution may issue against both defendant and his surety. Upon perfection of such appeal the defendant shall be discharged from custody.

SEC. 19. That section twenty-nine (29) be and the same hereby is amended so as to read as follows:

Sec. 29. All fines, forfeitures and penalties recovered for the violation of any ordinance, rule, regulation, resolution or by-law of said village, and all moneys paid for licenses and permits, shall be paid into the village treasury for the use of said village. The justices of the peace shall report and pay into the treasury, quarterly, all moneys collected by them belonging to said village; which reports shall be verified by affidavit and filed in the office of the treasurer; and such justice shall be entitled to duplicate receipts for such moneys, one of which such justice shall take and file with the village recorder.

SEC. 20. That section thirty (30) be and the same hereby is amended so as to read as follows:

Sec. 30. Whenever a final judgment shall be obtained against the village the judgment creditor, his assignee or attorney, may file with the village recorder a certified copy of such judgment, or of the docket thereof, together with his affidavit, showing the amount due thereon and all payments, if any, and that the judgment has not been appealed from or removed to another court, or if so appealed or removed, has been affirmed; and thereupon the common council shall assess the amount thereof, with interest from date of its rendition to the time when the same shall be paid, as near as may be, upon the taxable property of the village, and the village recorder shall return and certify the amount of such tax to the county auditor, to be collected the same as other taxes levied upon said village.

SEC. 21. That section thirty-one (31) be and the same hereby is amended so as to read as follows:

Sec. 31. All fines and penalties imposed, under or by virtue of the provisions of this act, shall belong to the village, and shall constitute a fund to pay the expenses incurred under the provision of its charter.

SEC. 22. That section thirty-two (32) be and the same hereby is amended so as to read as follows:

Sec. 32. The justices of the peace and marshal of said village shall have and may exercise, in addition to the powers and authority herein specially granted to such officers, all the powers, authority and jurisdiction in any case possessed by a justice of the peace or a constable elected in the county in which said village is situated. The village justices and marshal shall take the same oath of office, and

execute, before entering upon the discharge of their duties as such officers, the same bond as township justices of the peace and constables, and file their bonds with the same officers as justices of the peace and constables elected elsewhere in the state are now or hereafter may be required to do, and shall receive the same fees for their services as justices of the peace and constables elected elsewhere in the state are allowed under the general statutes of the state, now or hereafter in force.

SEC. 23. That section thirty-three (33) be and the same hereby is amended so as to read as follows:

Sec. 33. Should a vacancy occur in any of the offices provided for in this act, the common council, or the remaining members thereof, may fill the same by appointment.

SEC. 24. That section thirty-four (34) be and the same hereby is amended so as to read as follows:

Sec. 34. The village so organized shall constitute one (1) road district, and the street commissioner or roadmaster thereof be appointed by the common council and all the taxes raised within the limits of said village for road purposes shall be expended under the direction of the common council.

SEC. 25. That the said act be and the same hereby is further amended by adding thereto the following sections:

Sec. 35. The common council shall constitute a board of auditors for the purpose of auditing all accounts payable by said village. Said board shall draw up a report, stating in detail the items of accounts audited and allowed, the nature of each account, and the name of the person to whom the account was allowed, and also including a detailed statement of the financial concerns. Such report shall be filed with the recorder, and a copy thereof shall be posted at the time and place of holding the annual election, or published in a newspaper of general circulation in said village, two (2) weeks before such election.

Sec. 36. The legal voters of said village may, at any annual or special meeting, authorize the village to levy a tax for any legitimate object, but in no case shall the tax so levied exceed the sum of ten (10) mills upon the dollar valuation in any one year; and all taxes levied, except for improvement of streets, sidewalks and crossings, shall be levied and collected as prescribed by the statutes of this state for the levying and collection of township taxes; *Provided*, That the common council shall, on or before the first (1st) day of September in each year, make and certify to the county auditor of the county a statement of all taxes levied and assessed by them; and the county auditors shall, upon receipt of said statement, enter and carry out the said tax or taxes against the property within such village, and the same shall be collected as other taxes are collected, and, when collected, paid over to the village treasurer.

Sec. 37. The village recorder shall give a bond in form similar to that required of town clerk. It shall be his duty,

*First*—To perform the duties of clerk of election and keep a record of all proceedings at the annual and special elections of the village, to give notice of such elections as required by law, and to notify persons elected or appointed to office thereof.

*Second*—To transmit to the clerk of the district court, within ten (10) days after election and qualification, a certified statement of the

name and term for wick elected of all the officers elected at such election, and in case of the appointment or election of any justice of the peace, marshal, treasurer, or recorder of said village, to fill a vacancy, a like notice shall be so filed within ten (10) days after such election or appointment.

*Third*—To attend all meetings of the common council; to record and sign the proceedings thereof, and all ordinances, rules, by-laws, resolutions, and regulations adopted, and to countersign and keep a record of all licenses, commissions and permits granted or authorized by them, and for such purpose to keep the following books: A minute book, in which shall be recorded, in chronological order, all the papers mentioned in, full minutes of all elections, general or special, and the statements of the judges thereof; full minutes of all the proceedings of the common council; the titles of all ordinances, rules, regulations, and by-laws, with a reference to the book and page where the same may be found. An ordinance book, in which shall be recorded at length, in chronological order, all ordinances, rules, regulations, and by-laws. A finance book, in which shall be kept a full and complete record of the finances of the village, showing the receipts, the date, amount, and source thereof, and the disbursements, with the date, amount, and object for which paid out; and to enter in either such other matters as the council shall prescribe, and keep such other books as the council direct.

*Fourth*—To countersign and cause to be published or posted, every ordinance, by-law, or resolution, as required by law, and to have proper proof thereof made and filed.

*Fifth*—To be the custodian of the corporate seal, and to file as required by law, and to safely keep all records, books, papers, or property belonging to, filed or deposited in his office, and deliver the same to his successor when qualified; to permit any person with proper care to examine and copy any of the same, and to make and certify a copy of any thereof, when required, on payment of the same fees allowed town clerks thereof.

*Sixth*—To draw and countersign all orders on the village treasury, ordered by the council, and none other.

*Seventh*—To file, when presented, all chattel mortgages and affidavits relating thereto, and to enter at the time of filing, in a book properly ruled and kept therefor, the names of all the parties, arranging mortgagors alphabetically; the date of each mortgage, and the date of filing the same and of each affidavit relating thereto, for which he shall receive the same fees allowed town clerks.

*Eighth*—To perform all other duties required by law or by any ordinance or other directions of the common council.

Sec. 38. The marshal shall give a bond similar to that required of constables elected by towns, and shall be deemed included and governed in every respect by the law prescribed to them. It shall be his duty to obey all lawful written orders of the common council; to arrest with or without process, and with reasonable diligence to take before a justice every person found in said village in a state of intoxication or engaged in any disturbance of the peace, or violating any law of the state or ordinance of said village. He may command all persons present in such case to assist him therein, and if any person being so commanded shall refuse or neglect to render such assistance, he shall forfeit not

exceeding ten (10) dollars. He shall be entitled to the same fees allowed to constables for similar services; for other service rendered the village, such compensation as the council shall fix.

Sec. 39. The legal voters of the village shall have the power and authority to vote upon and determine for themselves the question whether license for the sale of intoxicating liquors, as a beverage, shall be granted by the council of said village, or not; and it shall be the duty of the recorder of said village, upon receiving a petition for that purpose, of ten (10) or more legal voters of the village, at any time not less than fifteen (15) days before any annual election of said village, to give at least ten (10) days' notice that the question of granting license for the sale of intoxicating liquors, as a beverage, in said village will be submitted to the legal voters thereof at the next ensuing annual election, which question shall be determined by ballots containing the words "In favor of license," or "Against license," as the case may be; *Provided, however,* That the neglect of the recorder to give the required notice shall not invalidate the vote and determination under the provisions of this act, if the petition named shall have been duly filed. The vote upon said question shall be taken, canvassed, returned and announced in the same manner as is prescribed by law for taking, canvassing, returning and announcing the votes for the election of village officers, which determination so made shall continue until the same shall be reversed at a subsequent annual election in the same manner; and if such returns show that a majority of the votes cast at such election on said question shall be "against license," no license for the sale of intoxicating liquors shall be granted by the authorities of said village, except for medicinal and mechanical purposes; but if such returns show that a majority of the votes cast at such election on said question shall be "in favor of license," then the common council may grant license to any suitable person of lawful age for the sale of intoxicating liquors. The common council shall have the exclusive right to license persons vending, dealing in or disposing of intoxicating liquors within the limits of said village, and persons so licensed shall not be required to obtain a license from the board of county commissioners, nor shall said commissioners have authority to license any person to vend, deal in, or dispose of or sell intoxicating liquors in said village. And no person shall be licensed by said common council to deal in or sell intoxicating liquors, as a beverage, in said village, unless he shall fully comply with all the requirements and be subject to all the penalties as provided in the general statutes of the state relating to the sale of intoxicating liquors, except as herein provided; *And provided,* That no license shall be granted by said village for a less sum than one hundred (100) dollars, nor for a greater sum than five hundred (500) dollars, at the discretion of the common council, and that previous to granting any such license a bond shall be executed, with the same conditions and with the same penal sum as required by the general statutes of this state, and the moneys received for such license shall be paid to the village treasurer, for the use of such village; and all licenses granted by any such common council shall expire within ten (10) days after the next annual election in and for said village.

Sec. 40. All ordinances, rules and by-laws shall be enacted by a majority of all the members of the common council, and shall be signed

by the president, attested by the recorder, and published once in a newspaper published in said village, and shall be recorded in a book kept for that purpose. Proof of such publication by the affidavit of the printer or foreman in the office of such newspaper shall be attached to and filed with such ordinance or by-laws and noted on the record thereof, and shall be conclusive evidence of the facts stated. All authorized ordinances and by-laws shall have the force of law and remain in force until repealed.

Sec. 41. Said common council shall have power and authority to declare and impose fines, penalties and punishments, and to provide for enforcing the same against any person or persons who may violate any of the provisions of any ordinance, rule or by-law enacted by them; and all such ordinances, rules and by-laws are hereby declared to have the force of law; *Provided*, They are not repugnant to the constitution and laws of the United States and the state of Minnesota.

Sec. 42. No member of the common council shall become a party to or interested, directly or indirectly, in any contract made by the common council of which he may be a member, and every contract or payment voted for or made contrary to the provisions hereof is void, and any violation of the provisions of this section hereafter committed shall be a malfeasance in office which shall subject the officer so offending to removal from office. All contracts for village improvements, except expenditures of road and poll tax, shall be let to the lowest responsible bidder, after public notice of the time and place of receiving bids therefor.

Sec. 43. The president and each trustee shall be officers of the peace, and may suppress in a summary manner any riotous or disorderly conduct in the streets or public places of the village, and may command assistance of all persons, under such penalty as may be prescribed by the by-laws and ordinances.

Sec. 44. Every village officer shall deliver to his successor, when qualified, all the books, records, papers, property, and money in his hands as such officer; and if a vacancy happen before such successor is appointed, or elected and qualified, then to the village recorder, who shall demand and receive all such property and deliver the same to the person who shall be selected to fill such vacancy when qualified.

Sec. 45. Every contract, conveyance, commission, license, or other written instrument shall be executed on the part of the village by the president and recorder, sealed with the corporate seal, and in pursuance only of authority therefor from the common council.

SEC. 26. This act shall take effect from and be in force from and after its passage.

Approved March 4, 1885.