

SPECIAL LAWS

OF

MINNESOTA.

PASSED AND APPROVED AT THE FOURTH SESSION OF THE STATE LEGISLATURE,
COMMENCING JANUARY SEVENTH, ONE THOUSAND EIGHT HUNDRED AND
SIXTY-TWO, AND TERMINATING MARCH SEVENTH, ONE THOUSAND EIGHT
HUNDRED AND SIXTY-TWO.

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*An Act to Incorporate the Town of Saint Cloud, and to
Repeal a former Charter of said Town.*

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8. Land required to be taken, shall not be taken till the damages awarded shall be paid to the owner thereof.
9. When the whole or part of a tract of land shall be taken by virtue of this act, all the covenants and contracts existing between landlord and tenant shall be absolutely discharged.
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4. What shall not be considered a reason for suspending said corporation.
5. On and after the passage of this act, the present town council shall act under the provisions herein contained.
6. The town council elected under the provisions of this act, shall perform all the duties enjoined upon the present town council.
7. The amount assessed upon the lots in said town, shall be a lien on each lot to the amount of expense assessed upon such lot.
8. When mayor may enforce collection of taxes on property held in trust.
9. Town council may have power to assess additional expenses upon lands which they hold as trustees of said trust.
10. No general laws shall be considered repealing or modifying the same, unless expressly set forth in such law.
11. Appeals shall be allowed from decisions in all cases.
12. All acts inconsistent with this act are hereby repealed.
13. Declared to be a public act.
14. Act, when to take effect.

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

CHAPTER I.

SECTION 1. All that part of the county of Stearns, in the State of Minnesota, contained within the limits and boundaries hereinafter described, shall be a town by the name of St. Cloud, and the people now inhabiting and those who shall hereafter inhabit within the district of country herein described, shall be a municipal corporation by the name of the town of St. Cloud, and shall have the general powers possessed by municipal corporations at common law: in addition thereto, shall possess the powers hereinafter specifically granted, and the authorities thereof shall have perpetual succession and shall be capable of contracting and being contracted with, of suing and being sued, pleading and being impleaded in all courts of law and equity, and shall have a common seal, and may change and alter the same at pleasure.

Establishing the town of St. Cloud

SEC. 2. The territory included within the following boundaries and limits, shall constitute the town of Saint Cloud, viz :

Boundary lines—
where to hold
election

The west half of the south-east quarter and the north-east quarter of the south-west quarter and the south-east quarter of the south-east quarter, and lot number three (3) of section number eleven (11) and north-east quarter of the north-east quarter of section number fourteen (14) and the north-west quarter of the north-west quarter of section number thirteen (13) and lot number one (1) of section number twelve (12) and the south half and north-west quarter of the south-west quarter of section number eleven (11), town one hundred and twenty-four (124) north, range twenty-eight (28) west.

At the first election held under this charter, the voters of the town shall vote at the store of Joseph Edelbrock, but after the first election the town council may change the place of holding elections to any other convenient place in said town.

CHAPTER II.

Time and notice
of holding elec-
tions

SEC. 1. After the first election of town officers, the election shall be held on the first Monday in May of each year, at such place in said town as the town council shall designate, and the polls shall be kept open from ten o'clock, A. M., till twelve o'clock, M., and from one o'clock till four o'clock P. M., and ten days previous notice shall be given by the town council, of the time and place of holding such elections and the officers to be elected, by posting notices in three of the most public places in the town and by publishing the same in at least one of the papers published in the town.

Who to be elec-
tive officers

SEC. 2. The elective officers of the town shall be a mayor, recorder, and four aldermen, who shall have been residents of the town for at least thirty days next preceeding the day of election, and shall hold their office for one year and until their successors are elected and qualified.

Vacancies, how
filled

SEC. 3. Whenever a vacancy shall occur in the office of mayor, such vacancy shall be filled by a new election, which shall be ordered and held within twelve days after such vacancy shall occur; any vacancy occurring in any other office shall be filled by the town council. Any person elected or appointed to fill a vacancy shall hold his

office and discharge the duties thereof for the unexpired term, and with the same rights and subject to the same liabilities as the person whose office he may be elected or appointed to fill.

SEC. 4. All elections by the people shall be by ballot, and a plurality of votes shall constitute an election; whenever two or more candidates for an elective office shall receive an equal number of votes for the same office, the election shall be determined by the casting of lots, in the presence of the town council, at such time and in such manner as they may direct.

Election to be by ballot—what to constitute an election

SEC. 5. All persons entitled to a vote for county or state officers, and who shall have resided in the town for three months next preceding the day of election, shall be entitled to vote for any officer to be elected under this act, and to hold any office hereby created, but no person shall hold any of the beforementioned offices unless he be a freeholder in said town of Saint Cloud.

Who entitled to vote—qualifications for office

SEC. 6. After the first election, the elections in said town shall be held and conducted by the aldermen thereof, who shall be inspectors of elections, and who shall take the oath or affirmation prescribed by the general laws of this State to be taken by the judges and inspectors of elections, and the recorder, or in his absence, some person to be appointed by the inspectors, shall be clerk, and the inspectors shall have power to administer the oaths: the said elections shall be held and conducted in the same manner and under the same penalties, and vacancies in the board of inspectors thereof filled as required by the general laws regarding elections.

How elections to be conducted

SEC. 7. When an election shall be closed, and the number of votes for each candidate or person voted for, counted and ascertained, the said inspectors shall make returns thereof, stating the number of votes for each person and every office, and shall deliver or cause to be delivered such returns to the town recorder, who shall forthwith give notice to each person so elected, of their respective elections.

Duties of inspectors of election

SEC. 8. Special elections to fill vacancies, or for any other purpose, shall be held and conducted by the councilmen, in the same manner and the returns thereof shall be made in the same form and manner as general or annual elections, and in such time as may be prescribed by ordinance.

How special elections to be conducted

When offices
deemed to be va-
cated

SEC. 9. Any officer removing from this town, or any officer who shall neglect or refuse for ten days after notice of his election or appointment, to qualify and enter upon the discharge of the duties of his office, shall be deemed to have vacated his office, and the town council shall proceed to fill such vacancy as herein prescribed, or provided by ordinance, not to conflict with the provisions hereof.

When first elec-
tion to be held

SEC. 10. The first election for town officers, of the holding of which, the present town council shall give ten days notice previous to the day of election, shall be held on the seventh day of July, A. D., eighteen hundred and sixty-two, at which time an election shall be held at the place designated in section two (2), chapter one (1), of this act, and to be conducted by two inspectors who shall be chosen by the voters at the polls of election before said polls are opened: and said inspectors shall be governed by the provisions of section six, chapter two, of this act; no election shall be held under the provisions of the present charter, and the present town council shall hold their office until an election shall be had under the provisions of this section, and until the officers elected shall qualify.

When new elec-
tion may be or-
dered

SEC. 11. Should there be a failure by the people to elect any officer herein required to be elected on the day designated, the town council may order a new election to be held, ten days notice of the time and place of holding the same to be given as in general elections.

CHAPTER III.

OFFICERS—THEIR POWERS AND DUTIES.

Persons elected
to office to give
bond

SEC. 1. Every person elected or appointed to any office under this act, shall, before he enters upon the duties of his office, take and subscribe an oath of office and file the same duly certified by the officers taking the same, with the recorder of the town; and the treasurer and marshal and such other officers as the town council may direct shall severally, before entering upon the duties of their respective offices, execute to the town of St. Cloud, a bond with at least two sureties, to be approved by the town council, and such bond shall contain such conditions as the town council may deem proper, and they may from

time to time require new or additional bonds, and remove from office any officer refusing or neglecting to give the same.

SEC. 2. The town council shall consist of a mayor and four aldermen. Town council

SEC. 3. The mayor shall, when present, preside over the meetings of the town council, and take care that the laws of the State and the ordinances of the town be strictly enforced and duly observed, and that all other executive officers of the town discharge their respective duties. The mayor or any two councilmen may call special meetings of the town council. He shall have power to execute all acts that may be required of him by an ordinance made in pursuance of this act, and is hereby authorized to call upon every male inhabitant of said town, over the age of eighteen years, to aid in enforcing the laws or carrying into effect any law or ordinance. Any person who shall not obey such call, shall forfeit to said town a fine, not exceeding twenty-five dollars, and not less than five dollars. President of council—special meetings

SEC. 4. In case the mayor shall be guilty of any wilful oppression or corrupt partiality in the discharge of the duties of his office, he shall be liable to indictment, and on conviction thereof, shall pay a fine of not more than five hundred dollars, and the court shall have power (upon the recommendation of the jury in the cause), to add to the judgment of the fine, that he be removed from office. Liabilities of president of council

SEC. 5. In case the mayor shall be absent from any meeting of the town council, they shall proceed to elect of their own number, a temporary presiding officer, who for the time being, shall discharge all the duties of mayor. In case of the absence of the mayor from the town or his inability from any reason to discharge the duties of his office, the council shall elect by ballot from their own number, an officer who shall be styled acting mayor, and all acts performed by him shall have the same force and validity as if performed by the mayor. Temporary presiding officer

SEC. 6. The recorder shall keep the corporate seal and all the papers and records of the town, and keep a record of all the proceedings of the town council; he shall draw and countersign all orders on the treasurer, in pursuance of any order or resolution of the town council, and keep a full and accurate account thereof in a book provided for Duties of recorder

that purpose, and make a full and fair record of all the by-laws, rules or ordinances made or passed by said town council. The recorder shall have power to administer oaths or affirmations, and copies of all papers filed in his office and transcripts from the records of the town council certified to by him under the corporate seal, shall be evidence in all courts in like manner as if the original were produced. He shall report annually, on or about the first day of July, to the council, an estimate of the expenses of the town for the current year, and the revenues necessary to be raised therefor; and the fiscal year of the town shall commence on the first day of June. He shall countersign all contracts made in behalf of the town, and all certificates of work done by order of the town council. He shall negotiate such temporary loans for the town as the town council may direct, and such loan shall be subject to the approval of the town council. He shall examine the report, books, papers, vouchers and accounts of the treasurer, and from time to time shall perform such other duties as the town council shall direct. He shall not be directly or indirectly interested in any contract or job to which the town is a party, or in any loan to be negotiated by the town.

Power of town
council

SEC. 7. The town council shall have power to elect a town attorney, treasurer, marshal and surveyor, and define their duties.

Duty of town
attorney

SEC. 8. The town attorney shall perform all professional duties incident to his office, and when required, shall furnish written opinions upon any subject submitted to him by the town council or its committees.

Duty of town
treasurer

SEC. 9. The treasurer shall receive all moneys belonging to the town, and keep an accurate and detailed account thereof, and on the first day of June and quarterly thereafter, he shall exhibit to the town council a full and detailed account of all receipts and expenditures after the date of the last quarterly report, and also the state of the treasury, which account shall be filed by the recorder.

Duty of town
marshal

SEC. 10. The marshal shall execute such orders, and perform such duties as are prescribed by the town council, for the collection of tolls, license money and fines, for the preservation of the public peace, for the good order, cleanliness and government of the town, and for all other purposes. He shall possess the powers of a

constable at law, under the statutes of this State, and receive like fees; but shall not serve civil process except where the town is a party, and shall be collector of taxes.

SEC. 11. The town surveyor shall hold his office during the pleasure of the town council, who shall prescribe his duties and fix the fees of compensation for any service performed by him; all surveys, profiles, plans or estimates made by him for the town, shall be the property of the town, and shall be carefully preserved in the office of the recorder, open to the inspection of parties interested.

Duty of town surveyor

SEC. 12. The town council may designate a newspaper printed in the town, in which shall be published all ordinances and other proceedings and matters required by this act, or the by-laws or ordinances of the town council, to be published in a public newspaper.

Official newspaper

SEC. 13. The town printer or printers, immediately after the publication of any notice, ordinance or resolution, or other matters which by this act is, or by town ordinances shall be required to be published, shall file with the recorder a copy of such publication, which shall be conclusive evidence of the publication of such notice, ordinance, resolution or other matter.

Duty of town printer

SEC. 14. The town council shall have power from time to time to require other and further duties to be performed by any officer whose duties are herein prescribed, and to appoint such other officers as may be necessary to carry into effect the provisions of this act, and to prescribe their duties and for the compensation of all officers elected or appointed by them. Such compensation shall be fixed at the time the office is created or at the commencement of the year, and shall not be increased or diminished during the time such officer shall remain in office. The town council may at any time fix the compensation for an incidental service by them performed.

Further powers of town council

SEC. 15. No member of the town council shall be party to, or interested in any job or contract of the town, and any contract in which any member of the town council may be so interested, shall be null and void.

Who may not be interested in contracts

SEC. 16. Any person having been an officer in said town, shall within ten days after notification and request, deliver to his successor in office, all property, books, papers and effects of every description, in his possession, belonging to said town or pertaining to the office he may have held. If he fail so to do after such notification and

Penalty for non-compliance with the provisions of this section

request, he shall forfeit and pay to the use of the town, one hundred dollars, beside all damages caused by his neglect or refusal so to deliver; and such successor may recover the possession of such books, papers and effects, in the manner prescribed by the laws of this State, in cases of unlawful detention of property.

Suppression of
disorderly be-
havior

SEC. 17. The mayor, sheriff of Stearns county, and each and every councilman, marshal, recorder, and justice of the peace and constables of the precinct of which said town is a part, shall be officers of the peace, and suppress in a summary manner, all disorderly behavior within the limits of the town, and for such purpose, may command the assistance of all by-standers, and if any person so commanded shall refuse to aid in maintaining the peace, every such person shall pay a fine of twenty dollars.

CHAPTER IV.

Style of all or-
dinances—quo-
rum—where to
meet

SEC. 1. The mayor and aldermen shall constitute the town council, and the style of all ordinances shall be: "The Council of the Town of Saint Cloud do ordain." The town council shall meet at such time and place as they shall direct, and a majority shall constitute a quorum. But the first town council elected under this act, shall meet at the store of J. Edelbrock, on the third Monday in July, A. D. 1862, at two o'clock P. M. The town council shall determine the rules of its proceedings, and be judges of the election and qualification of their own members, and have the power to compel the attendance of absent members.

Who to have the
management of
finances

SEC. 2. The town council shall have the control and management of the finances, and of all the property of the town, and the town council shall likewise have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify, correct and repeal all such ordinances, rules and by-laws, for the government and good order of the town, and for the suppression of vice, as they shall deem expedient, and declare and impose penalties by fine and imprisonment, or both, and to enforce the same against any person or persons who may violate any of the provisions of such ordinances, rules and by laws, and such ordinances, rules and by-laws are hereby declared to be and have the full force of law, and for these purposes shall have authority by ordinances,

resolutions, or by-laws, provided that they be not repugnant to the constitution and laws of the United States or of this State—

First. To license and regulate the exhibitions of common showmen or shows of any kind, or the exhibition of caravans, circuses or theatrical performances, billiard tables, bowling saloons, groceries, taverns, victualing houses and all persons vending or dealing in spirituous, vinous, fermented, mixed, or intoxicating liquors.

Second. To restrain and prohibit the use of all gambling devices whatever, from being set up or used for gambling purposes, and to restrain and prohibit all description of gaming and fraudulent devices and practices.

Third. To prevent any riots, noise, disturbance and disorderly assemblages, to suppress and restrain disorderly houses or groceries, and houses of ill-fame, and to authorize the destruction of all instruments used for the purpose of gaming, and of all spirituous, vinous, fermented, mixed, or intoxicating liquors of any kind, that may be kept for sale or dealt in, contrary to any ordinance of the town.

Power of town
council

Fourth. To compel the owner or occupant of any grocery, cellars, tallow chandler's shop, soap factory, tannery, stable, barn, privy, sewer or other unwholesome or nauseous house or place, to cleanse, remove, or abate the same, and to provide for the abatement and removal of all nuisances within the limits of the town.

Fifth. To direct the location and management of slaughter houses and markets in said town and to regulate the storage, keeping and conveying of gunpowder, or other combustible materials.

Sixth. To prevent the incumbering of streets, sidewalks, lanes or alleys.

Seventh. To prevent immoderate riding or driving in the streets.

Eighth. To prohibit the running at large of dogs, to authorize the destruction of the same when at large, contrary to the ordinances, and to impose fines upon their owners.

Ninth. To prevent any person from bringing, depositing or having within the town, any putrid carcase, or other unwholesome substance, and to require the removal of the same by a competent officer, at the expense of such person or persons.

Tenth. To make and establish public pounds, pumps, water cisterns and reservoirs, and to provide for the erection of water works, for the supply of water to the inhabitants, to erect lamps or other means whereby to light the town, to regulate and license hacks, cabs, drays, carts, and charges of hackmen, coachmen, draymen and cartmen of the town.

Eleventh. To prevent damage to sidewalks.

Twelfth. To prevent the shooting of fire arms, crackers, rockets or any other projectiles, and to prevent the exhibition of any fire works in any situation which may be deemed by the council dangerous to the town or any property therein, or annoying to any citizen thereof.

Thirteenth. To restrain drunkards, immoderate drinking of intoxicating beverages, brawling and obscenity in the streets or public places.

Fourteenth. To license and regulate peddlers, runners and solicitors for boats, vessels, stages, public houses, railroads and other establishments, and to regulate the police of the town.

Power of town
council

Fifteenth. To regulate the place and manner of selling and to provide for the inspection and weight of hay, and coal, and measuring of charcoal, firewood and other fuel.

Sixteenth. To compel the owners or occupants of buildings or grounds to remove snow, dirt or rubbish from the side walks, streets, or alleys opposite thereto, and in his default, to authorize the removal or destruction thereof, by some officer of the town, at the expense of the owner or occupant.

Seventeenth. To prevent the introduction of contagious diseases into the town.

Eighteenth. To regulate the time place and manner of holding public auctions or vendues.

Nineteenth. To appropriate money and provide for the payment of the debts and expenses of the town.

Twentieth. To alter, abolish, open, widen, extend, establish, grade, repair, or otherwise improve or keep in repair, streets, avenues, lanes and alleys.

Twenty-first. To establish, regulate and support night watches.

Twenty-second. To provide for the erection of all needful buildings for the use of the town.

Twenty-third. To provide for the enclosing, improving

and regulating of all public grounds belonging to the town, and for the adorning of the streets thereof with shade trees.

Twenty-fourth. To provide for the taking from time to time, the enumeration of the inhabitants of the town.

Twenty-fifth. To prescribe the limits within which wooden buildings, or buildings of other materials, that shall not be deemed fire proof shall not be erected, placed or repaired.

Twenty-sixth. To prevent the dangerous construction, placing and condition of chimneys, fire places, hearths, stove pipes, ovens, boilers and appurtenances, used in and about any building, and to cause the same to be removed or placed in a safe and secure condition, when considered dangerous, and to prevent the deposit of ashes in unsafe places, and to regulate and prevent the carrying on of manufactories, dangerous in causing or promoting fires within the town limits.

Power of town council

Twenty-seventh. The town council shall have power to purchase fire engines and other fire apparatus, and to authorize the formation of fire companies, hook and ladder and hose companies, and to provide for the due support and regulation of the same, and to order such companies to be disbanded, and their apparatus to be delivered up. Each member of every such company shall be exempt from a poll tax and from serving on juries during the continuance of such membership.

SEC. 3. All laws, ordinances, regulations and by-laws shall be passed by an affirmative vote of the majority of the town council, and be signed by the mayor and recorder, and shall be published in the official paper of the town; or posted for ten days in three of the most public places in the town.

All laws and ordinances to be signed by mayor and recorder

SEC. 4. The town council shall examine and adjust the accounts of all town officers and agents of the town, at such time as they may deem proper, and if any such officer or agent shall refuse to comply with the order of said council in discharge of their duties in pursuance of this section, the council shall declare the office of such person vacant, and may commence suit or proceedings at law against any such officer or agent who may be found delinquent or defaulting in his accounts, or in the dis-

To examine claims of town officers

charge of his official duties; the council shall make full record of all such settlements and adjustments.

Power to make
all contracts

SEC. 5. The town council shall have power to order and contract for the making grading, repairing, cleansing, improving and adorning of the streets, lanes, alleys, public grounds, reservoirs, gutters, sewers and wharves within the town.

Costs for repair-
ing sidewalks, &c
how paid

SEC. 6. Whenever the town council shall deem it necessary to construct or repair any side walk, or open, grade, gravel, plank or pave any street or alley within the town, they shall direct the owner or occupant of any lots adjoining such sidewalk, street or alley to make, or repair, or open, grade, gravel, plank or pave the same at his, or their own proper cost and charge, in such manner and within such time as in such direction specified; and if such work is not done in the manner and within the time prescribed, the town council shall cause the same to be done at the expense of the lots adjoining such sidewalks, streets or alleys.

Costs for survey-
ing streets, &c—
how paid

SEC. 7. The costs and expenses of surveying streets, lanes, alleys, sidewalks, sewers, public grounds and reservoirs and estimating work thereon, and of cleansing streets and alleys, and of constructing and repairing reservoirs and sewers, may be paid out of the town funds; but the expense of opening, grading, gravelling, plank-ing or paving streets and alleys, and to the centre thereof, shall be chargeable to and payable by lots fronting on such streets or alleys, and all street crossings shall be graded and all cross walks built at the expense of and payable by the lots cornering upon said crossings and squares, each corner lot being liable for the expense of improving that quarter of the square adjoining or cornering upon said lots; sewers may be built and the expense apportioned by the town council among the lots or parcels of land benefitted thereby.

Estimate for im-
provements—
how made

SEC. 8. Whenever the town council shall determine to make any public improvement, as authorized by sections six, seven and eight of this chapter, they shall cause to be made an estimate of the whole expense thereof, and the proportion to be assessed and charged to each lot, and such estimate shall be filed in the office of the town recorder, who shall thereupon give notice for one week in the official paper of the town, or by posting a notice of the same in three of the most public places in the town

for ten days, that such estimates are on file in his office for the inspection of parties interested.

SEC. 9. All work for the town shall be let by contract to the lowest responsible bidder, and the town council may require of the bidder a bond with suerties for the faithful performance of the contract. Not less than ten days notice shall be given of the time and place of letting such contract.

Contracts—how made

SEC. 10. Whenever the general interest of the town requires a deep cutting or extraordinary filling in any street, and the owners of the lots or parcels of land fronting on such deep cutting or filling, shall represent to the town council in writing, that the expense of such excavation or filling will exceed the benefit the same will be to the property assessed therefor, the town council shall appoint three freeholders not interested in said lots or parcels of land, who first being duly sworn, faithfully and impartially to discharge the trust reposed in them, shall examine the premises. If those first appointed refuse or are incapacitated to serve, the council shall appoint others in their stead. Upon examination of the premises, if in their opinion, the cost of such improvement shall exceed the benefits to be derived therefrom, it shall be their duty to report to the town council, and shall specify in such report, what portion of the work to be performed shall be chargeable to the town funds, and how much and what proportion shall be chargeable to such lots, and such part or proportion as shall be so reported as properly chargeable to the lots or parcels aforesaid, shall be assessed upon the same, and levied and collected as other taxes and assessments, and the remainder paid out of the town fund; *Provided*, That no such representation or petition shall be received unless presented within ten days after the first publication of the notices required in section nine of this chapter. *And provided further*, That it shall be the duty of the town council to appoint such commissioners whenever it shall appear to them that such lands or lots belong to infants or other persons under legal disability, not represented by guardians.

When expense of excavation or filling exceeds the benefits—how to proceed

SEC. 11. After the completion and performance of any contract entered into by the town council, for the work chargeable to lots or lands by virtue of this act, they shall give to the contractor a certificate under the hand of the mayor and the seal of the town, countersigned by the

Holders of certificates of contracts—how paid

recorder, stating therein the amount of work done by such contractors, the nature thereof, and the description of the lot or parcel of land upon which the same is chargeable, which said certificate shall be transferrable by endorsement thereon, and shall bear interest at such rate as the council shall direct, and if the amount thereof shall not be paid before the time of making out the annual assessment roll, the same shall be assessed and levied upon the lots or parcels of land respectively and collected, together with interest up to the time of such collection of such certificate, as they shall bear, for the use and benefit of the holder of such certificate, as other taxes on real estate are collected by virtue of this act, and if the notice to do the work required, shall have been given, no informality or error in the proceedings shall vitiate such assessment.

CHAPTER V.

Taxation of property for support of town government SEC. 1. All property, real and personal, within the town, except such as may be exempt by the laws of this State, or by ordinance of this town, shall be subject to taxation for the support of the town government, and the payment of its debts and liabilities, and the same shall be assessed in the manner hereinafter provided, but such assessment shall not exceed three mills on the dollar of the valuation, and all qualified voters shall be liable to a poll tax not exceeding one dollar in any one year, to be levied by the town council.

Town assessors—how appointed SEC. 2. The town council shall annually appoint two persons town assessors, who shall have and possess the same powers that are or may be conferred by the laws of this State upon township or county assessors, except so far as they may be altered by this act; *Provided*, That the town council may prescribe the form of the assessment rolls, and may fully define the duties of assessors, and make such rules and regulations in regard to revising, altering or adding to such rolls as they may from time to time deem advisable.

Who to make out assessment roll—what to contain SEC. 3. The assessors so appointed, are hereby authorized to administer such oaths as shall be required; and within such time as the town council shall designate, the said assessors shall make out a complete and accurate assessment roll, which shall contain a description to iden-

tify the same of all lands, lots or parcels of lands within said town, and also of all persons or bodies politic, liable to pay taxes on personal property, or capitation tax, and opposite to each parcel or lot of land shall be affixed the value thereof, and opposite the name of each person or body politic, shall be affixed the value of the personal property for which such person or body politic shall be assessed. When there are buildings upon any lot or parcel of land, their value shall be set forth in a separate column. The assessors may assess any lot or tract of land in such parcels or sub-divisions as they may deem proper, but it shall not be necessary to enter the name of the owner opposite to every tract or parcel of land.

SEC. 4. When the assessment roll shall be completed, the assessors shall give ten days notice thereof in the official paper of the town, or give notice thereof by posting notices in three of the most public places in the town, fixing a time and convenient place when they will meet for the purpose of hearing any objections of parties declaring themselves aggrieved by such assessment, and after hearing such objections the assessors may make such alterations or revisions as justice and equity may require; *Provided*, The time of hearing such objections shall not be extended more than five days from the expiration of such notice. Duty of assessors

SEC. 5. Within six days after the time limited for hearing such objections, the assessors shall return the said assessment roll to the town council, and they may confirm or refer the same back to the assessors. The town council may supply omissions in said roll, and for the purpose of equalizing the same, may alter, add to, take from, and otherwise revise and correct the same. When to make return of assessment roll

SEC. 6. When the assessment roll shall have been revised and corrected, the same shall be filed with the recorder; thereupon the said town council shall, by resolution, levy such sum or sums of money as may be sufficient for the purpose for which taxes are herein authorized to be levied, but not exceeding the authorized limits. To be filed with recorder

SEC. 7. All taxes and assessments, general or special, levied under this act, shall be and remain a lien upon the lands and tenements upon which they may be assessed, from the time of the order of confirming the assessment roll, and upon all personal property of any person or body politic from the time of the delivery of the warrant for Taxes to remain a lien upon lands

the collection thereof to the marshal, until such tax shall be paid, and no sale or transfer of such real or personal estate after said time shall effect said lien. Any personal property belonging to the parties taxed, may be taken and sold for the payment of taxes upon personal property.

Duty of recorder

SEC. 8. As soon as the taxes shall be levied, the recorder shall copy the same in a book provided for that purpose, setting opposite to each person named under the proper columns, such sum or sums as may have been levied upon such lot or against such person; the said copy shall be designated the "tax list," and to it shall be appended a warrant signed by the mayor and recorder, and sealed with the corporate seal of said town, directed to the marshal requiring and commanding him to collect taxes and assessments on said list, specified in the manner prescribed in this act; and in case said taxes and assessments shall not be paid within such times as therein directed and specified, then, that he shall proceed to sell the several lots or parcels of lands, or those parts thereof upon which said taxes and assessments shall remain unpaid and make due return to the town council within such time as shall be fixed in said warrant.

Recorder to affix
his certificate to
assessment roll

SEC. 9. Such tax list, before being delivered to the town marshal, shall be compared by the recorder with the assessment roll as confirmed, he shall affix to it his certificate that the same has been so compared by him, and that the whole of said assessment roll has been copied into such tax list, and the said tax list when so certified, shall be *prima facie* evidence in any court that the land and person therein named were subject to taxation, and that the assessments were just and equal.

When taxes to be
paid—when and
at what rate in-
terest to be
charged

SEC. 10. On the receipt thereof, the marshal shall give one week's notice thereof in the official paper, or shall give ten days' notice thereof by posting up notices in three of the most public places in the town; such notices shall specify that taxes on personal property shall be paid within twenty days from the first publication of such notice, or from the first day of posting the same, and taxes and assessments on real estate before the first day of October following; that if such taxes are not paid till after the first day of October, interest will be charged at the rate of twelve per cent. per annum, after said first day of October, upon all unpaid taxes, and that all tracts or parcels of land or buildings specified in said tax list, upon

which said taxes and assessments shall not be paid by the first day of January, will be sold at a certain time and place therein to be specified for the payment of such taxes and assessments, and the publication or posting of such notices shall be deemed a demand, and a neglect to pay the taxes and assessments within the time specified, shall be deemed a refusal to pay the same.

SEC. 11. At the expiration of twenty days, the marshal shall proceed to enforce the collection of the taxes on personal property in the same manner prescribed by the statutes and laws of this State, and if any such personal tax shall not be paid or collected in consequence of the neglect or delay of the marshal, the town council may sue and recover the amount thereof from the said marshal and his sureties. When collection may be enforced

SEC. 12. On the day and at the place designated in the marshal's notice, he shall commence by public auction the sale of all tracts and lots of land or parcels thereof, upon which the taxes or assessments shall remain unpaid, and continue the said sale from day to day until the whole of such tracts, lots or parcels of lands are disposed of. On receiving the amount of such purchase money, the marshal shall issue to the purchaser a certificate containing the name of the purchaser, description of the premises sold, the amount paid thereon, the rate of interest said certificate may bear, and the time when the right to redeem shall expire. The marshal shall keep a record of the lots or tracts so sold, the name of the purchaser, date of sale, the amount received for taxes and charges respectively, the time when, by whom and for what amount the same was redeemed, and the time and to whom the same was conveyed, if not redeemed, and the recorder shall act as clerk at such sale. Lands to be sold at public auction on which taxes remain unpaid

SEC. 13. In case any purchaser at such tax sale shall neglect or refuse to pay the amount for which any lot or tract was sold, before ten o'clock on the morning following the day of sale, the marshal shall immediately offer such tract again for sale, and the person refusing or neglecting to pay for the same by ten o'clock of the day following the day of sale, he shall forfeit and pay to the town five dollars for each lot so purchased, to be sued for and collected as other penalties under this act. Neglect of purchaser—duty of marshal

SEC. 14. Any lot or tract of land so sold may be redeemed by the owner thereof, his agent or attorney, or

How lands may
be redeemed

by any other person having an interest therein, at any time within one year after the day of sale, by paying to the marshal the amount for which the same was sold, including taxes and charges together with the interest thereon at the rate of ten per cent. per annum, and the legal charges and taxes thereon since the time of sale. If the estate of an infant or lunatic be sold, the same may be redeemed upon like terms within one year after such disability is removed, or at any time before the expiration of such time.

Tax certificates
may be assign-
able

SEC. 15. Any such tax certificate shall be assignable by endorsement and the assignee thereof shall be entitled to receive a deed of the premises in such certificate described, in his own name and with the same effect as though he had been the original purchaser.

When property
may be struck off
to the town

SEC. 16. In case at any sale of real or personal estate for taxes or assessments, no bid shall be made for any parcel of land or any goods and chattels, the same shall be struck off to the town, and thereupon the marshal shall execute to the town in its corporate name, a certificate of the sale thereof, specifying the same facts as a certificate issued to other purchasers, and the town shall be vested with the same rights as other purchasers, and which certificate shall be filed with the town treasurer. If the town shall become the purchaser of any personal property by virtue of this chapter, the treasurer shall have the power to sell the same at public sale; and in case the town shall become the purchaser of any real estate at any tax sale, the town council may authorize the treasurer to sell the certificate issued therefor, for the amount paid therefor with interest, and to endorse and transfer such certificate to the purchaser thereof.

In case land
omitted to be
assessed—how to
proceed

SEC. 17. If it shall appear to the assessors that any lot or parcel of land was omitted in the assessment roll of either or both the preceding years, and that the same was then liable to taxation, they shall, in addition to the assessment for that year, assess upon the lot or parcel of land so omitted for such year or years that it shall have been so omitted, the just value thereof, noting the year when such omission occurred, and such assessments shall have the same force and effect as it would have had if made the year when the same was omitted; and the town council shall, in addition to the taxes for the current year, lay such tax upon such lot or tract of land as the same

would have been chargeable with, had not the same been omitted, and such tax shall be collected as other taxes or assessments for the current year. All lands shall be subject to taxes that may have been omitted, in whatsoever hands they may come. Should any tax or assessments upon any lot or parcel of land be set aside or declared void by reason of any defect or informality in the assessing, buying, selling or conveying the same, or other matters, but not affecting the justice of the tax itself, the town council shall cause the tax or assessment so set aside or declared void, to be re-levied in such manner as they shall direct; *Provided*, That if the defect was in the assessment, the same shall be again assessed at such time as the town council shall direct, and the said tax or assessment so re-assessed or re-levied, shall be and continue a lien upon said tract or lot, and shall be collected as other taxes or assessments are collected under this act.

SEC. 18. All deeds purporting on their face to be executed on account of sales for taxes or assessments, under this act, shall be in all cases *prima facie* evidence of all facts recited in such deeds so far as they affect the force or validity of all title conveyed or purporting to be conveyed by such deeds.

What to be deemed evidence

SEC. 19. All the instructions and directions herein given for the assessing of lands and personal property, and the levying and collecting of taxes and assessments shall be deemed only directory, and no error or informality in the proceedings of any of the officers entrusted with the same and not affecting the substantial justice of the tax itself, shall violate or in any wise affect the validity of the tax or assessment, or of the title conveyed under any sale for taxes under this chapter.

Instructions given for assessing lands what to be deemed

SEC. 20. The marshal shall receive the moneys that may be legally tendered him for the redemption of lands sold for taxes, and he shall keep account thereof and immediately pay the same over to the town treasurer and take his receipt therefor, who shall also keep an account thereof, and the treasurer shall pay the same over on demand to the person entitled to receive the same. The treasurer shall cancel all certificates so redeemed and preserve the same in his office, and at the expiration of his term of office he shall deliver to his successor all redemption moneys in his hands with a statement of the amount so received and of the amount and to whom paid.

Who may receive money for redemption of land sold for taxes

Assessment of
liens upon land to
be in a separate
column

SEC. 21. In all cases under the provisions of this act, whereby any charge or assessment is made a lien upon the land, the assessment of such charge shall be carried out in a separate column or columns opposite to the lot or tract upon which the same may be a lien, and the marshal may collect and sell and do all other acts thereto, in the same manner as if the amount of such lien was a general tax.

Fees for collect-
ing taxes

SEC. 22. The marshal shall be allowed the following fees, to wit: Such per cent. on all taxes collected as the town council may allow, not to exceed five per cent., and in case of distress and sale by him, of goods and chattels for the payment of any taxes, he shall be entitled to such fees as sheriffs are allowed by law, upon sale of goods under execution.

For each certificate by him issued on the sale of lands for the payment of taxes, twenty-five cents, to be added to the amount of such tax or assessment, and included in such certificate.

For each lot or parcel of land redeemed, for which he shall issue a certificate, twenty-five cents, and five cents for each additional lot or parcel embraced in such certificate, to be paid by the person redeeming, before he shall be entitled to redeem.

When bid on
property to be
all

SEC. 23. Whenever any person shall bid off any lot or parcel of land offered for sale for taxes, which lot shall have been bid off in the name of the town for taxes for any previous year, and shall at the time of such subsequent sale remain the property of the town, such person shall, before being entitled to his certificate of such sale and purchase, purchase of the town its certificate, by paying the amount of principal, interest and charges thereon, and to receive from the treasurer an assignment thereof, and if such purchase of the town be not paid and executed before ten o'clock of the day following, the bid thereof shall be considered as null, and the land again offered for sale.

How property re-
deemed

SEC. 24. When there shall be a sale by the treasurer of Stearns county, or by any other county or township officer, and by the marshal, of any lot or parcel of land for taxes, in the same year, the purchaser of any such lot or parcel who shall be first in point of time, may redeem the same from the subsequent purchaser, and in case he should not redeem, the right of the last purchaser shall

be held paramount, if he obtains a deed therefor. If the first purchaser in point of time shall so redeem, it shall be the duty of the proper officer, to make an entry in the sale book, of the character in which such person may have redeemed, and the person so redeeming, shall be substituted in all the rights of the holder of the certificate so redeemed as aforesaid.

SEC. 25. No person shall be permitted to institute any proceedings to set aside any assessment or special tax hereafter levied or assessed upon any lot or tract of land, or to set aside a deed executed by reason of the non-payment of such taxes upon the sale of the premises therefor, unless such person shall first pay or tender to the proper party, or deposit to his use with the treasurer, the amount of all town taxes that remain unpaid, and that have been paid upon such lots or tracts since the sale thereof for taxes by the purchasers, together with the interest and charges thereon.

When assessment
may not be set
aside

SEC. 26. When any lands sold for taxes shall not be redeemed as aforesaid, the recorder of said town shall, after the expiration of said term of one year, for the redemption thereof, on the presentation to him of the certificate of sale, and an order from the treasurer, execute in the name of the town of Saint Cloud, under his hand and the seal of the town, to the purchaser, his heirs and assigns, a deed of the lots or parcels of land so remaining unredeemed, and shall acknowledge the same, which shall vest in the grantee an absolute estate in fee simple of such lands, subject however, to all unpaid taxes and charges that may be a lien thereon. The fees of the recorder for executing and acknowledging such deeds, shall be one dollar.

Duty of recorder
when lands not
redeemed

CHAPTER VI.

SEC. 1. Such notice shall state, that on a certain day therein named, not less than six days from the day of service of such notice, or the expiration of such publication, as the case may be, the town council will appoint three commissioners to view said premises, and determine whether it is necessary to take the same for the purposes specified in said petition. And at the time specified, the said town council shall proceed and appoint three reputable freeholders, residents of the town, but not interested

When property
may be taken for
public use

in the result of said petition, and shall enter an order in their proceedings, requesting the said commissioners, within ten days to view the said premises specified in said order, and to make return to the town council, whether in their judgment it is necessary to take said premises for the public use for the purpose specified in the petition.

**Duty of commis-
sioners** SEC. 2. The said commissioners at such time as they may agree upon within ten days of their appointment, shall proceed to view the premises in question, and shall hear such testimony as may be offered by any party interested, which testimony shall be reduced to writing by one of their number, and either of the commissioners shall be authorized to administer the necessary oaths to witnesses.

**Commissioners to
determine
amount of
damages** SEC. 3. Should the commissioners deem it necessary to take such premises for the public use, they shall determine the amount of damages to be paid to the owner or owners of the property proposed to be taken, and also what lands or premises will be benefited by such taking; and to assess such damages and benefits and to return the same to the town council within the time limited.

**Damages and
benefits—how
equalized** SEC. 4. If the damage to any person be greater than the benefits received, or if the benefits be greater than the damages, in either case the commissioners shall strike a balance and carry the difference forward to another column, so that the assessments shall show what amount is to be received or paid by such owner or owners, or persons interested respectively, and the difference only shall in such case be collected of them or payable to them.

**Damages may be
awarded by the
commissioners** SEC. 5. If the lands or building belong to different persons, or if the land be subject to lease, judgment, mortgage, or lien, or if there be any estate in it less than an estate in fee, the injury done to such person or interest respectively, may be awarded to them by the commissioner, less the benefits resulting to them respectively from the proposed appropriation to the public use.

**When new com-
missioners may
be appointed** SEC. 6. The award of said commissioners shall be signed by them, together with the testimony taken, and returned to the town council within the time limited in this order of appointment. Should they fail so to do, they shall receive no compensation for their services, and the town council shall appoint new commissioners, unless further time is granted to the said first appointed commissioners, which further time the council may by order grant.

SEC. 7. The said assessment shall be collected by the town marshal, in the same manner as he is by law empowered to collect taxes upon personal property, and the return of the marshal shall be conclusive evidence of the facts.

By whom the
assessment to be
collected

SEC. 8. The land required to be taken for the purpose mentioned in this chapter, shall not be taken till the damages awarded to the owner thereof for the taking the same shall be paid or tendered to the owner or his agent or be deposited for his use with the town treasurer, in case said owner or his agent are unknown, and the said lands and premises so taken and appropriated shall thereafter be subject to all the laws and ordinances of the town in the same manner as streets, alleys or public grounds heretofore opened or laid out, and the damages so assessed shall be paid or tendered or so deposited within eight months of the confirmation of such assessment and report, and if not so paid, tendered or deposited, all the proceedings in any such case shall be void. The benefits so assessed shall be a lien upon the premises assessed from the confirmation of such report.

When land not
to be taken

SEC. 9. Where the whole or a part of a tract of land or other premises under lease or contract shall be taken by virtue of this act, all the covenants, contracts and engagements between landlord and tenant or any other contracting parties respecting the same upon confirmation of the commissioners' report, shall be absolutely discharged as to the part thereof so taken, but shall remain valid as to the residue thereof, and the same considerations and payments received, payable and to be paid for in respect to the same, shall be so apportioned that the part thereof justly and equitably payable for such residue and no more, shall be paid.

When contracts
between landlord
and tenant may
be discharged

SEC. 10. When any known owner of lands or premises affected by any proceedings under this act, shall be an infant, or labor under any other legal disability, the judge of probate of Stearns county shall, upon the application of the person laboring under such disability, his next friend, or the town council, appoint a guardian for such person, upon whom shall be served all notices required by this act.

Duty of judge of
probate

SEC. 11. The said commissioners before entering upon the discharge of their duties, shall severally take an oath and file the same with the recorder, that they are not

Commissioners
not to be inter-
ested

at all interested in the premises proposed to be taken, and that they will faithfully discharge the trust reposed in them.

May have right
to appeal

SEC. 12. Any person whose property is taken, or against whom an assessment is made, may within ten days after the return of the said commissioners to the town council, appeal from such determination of damages or benefits, to the district court of Stearns county, where such appeal shall be tried as in ordinary cases of appeal in said court; the town council shall have the same right to appeal.

MISCELLANEOUS PROVISIONS.

All action to be
brought in the
name of the town

SEC. 1. All actions brought to recover any penalty or forfeiture under this act or the ordinances, by-laws, or police or health regulations, made in pursuance thereof, shall be brought in the corporate name of the town; and all such actions which are properly brought before a justice of the peace shall be brought before a justice of the township in which the town is situated.

Qualifications of
judge, justice, &c

SEC. 2. No person shall be an incompetent judge, justice, juror, witness or commissioner, by reason of his being an inhabitant of the town, in any action or proceeding in which the town shall be a party in interest.

Property exempt
from levy and
sale

SEC. 3. The following property now or hereafter belonging to the town, shall be exempt from levy and sale under or by virtue of any execution, to wit: All engine houses, hook and ladder houses, and the ground on which they are situated; all fire engines, carriages, hooks, ladders, buckets, hose, or any other fire apparatus used by the fire company, erected or otherwise by the town council; school houses and the furniture thereof, and the furniture of the town council and office rooms of the other officers of the town.

What shall not be
a reason for sus-
pending said cor-
poration

SEC. 4. If any election for town officers for any cause, shall not be held in the manner and at the time herein prescribed, it shall not be considered a reason for ousting, suspending or absolving said corporation, but such election may be held upon any subsequent day, and if any of the duties enjoined by this act, as the ordinances, by-laws, rules or regulations of the town, to be done by any officer at any specified time, be not done and performed at that time, the town council may appoint another time at which the said acts may be done and performed.

SEC. 5. On and after the passage of this act, the present town council of the town of Saint Cloud, shall act under the provisions herein contained, and shall have the same powers, rights and privileges, and shall have the same duties enjoined upon them as are imposed on the town council to be elected under the provisions of this act; the president shall perform all the duties of the mayor, the trustees of the aldermen, and the recorder of the recorder, to be elected as provided herein.

Present town council to act under provisions herein contained

SEC. 6. The town council elected under the provisions of this act, shall have all the powers and shall perform all the duties possessed by and enjoined upon the present town council of the town, as trustees of the trust created by virtue of the entry of the town site of Saint Cloud, under the act of congress, entitled "an act for the relief of citizens of towns upon the lands of the United States under certain circumstances," passed May 23d, 1844, and shall execute deeds to the owners or occupants of lots in said town, so held in trust by the present town council; shall collect the assessments on said lots, and shall pay all liabilities incurred by the present council, in the exercising and carrying out the trust aforesaid.

Duties of present town council

SEC. 7. That the amounts assessed upon the lots in said town for the expenses incurred by reason of the exercising and carrying out the trust mentioned in the foregoing section, shall be a lien on each lot to the amount of expense assessed upon such lot, and no sale of such lot or lots for any tax assessed thereon, shall pass any title to the purchaser or purchasers thereof, until the purchaser or purchasers shall pay to the treasurer of said town, the amount assessed against said lot, as its proportional share for the expenses of the entry of the town site of Saint Cloud.

Amount assessed on lots to be a lien on said lots

SEC. 8. That all lots, parcels of the lands purchased from the United States, by the corporate authorities of Saint Cloud, as the town site of said town, to which there is no claimant, or to which there is but one claimant, if such lot shall remain unclaimed, or if the claimant shall not pay the amount assessed thereon for the expenses mentioned in the foregoing section, on or before the first day of May, 1862, the recorder shall make a list of such lots, giving an accurate description of each lot, and the amount assessed thereon, and the mayor and recorder shall attach thereto their warrant directed to the marshal

When collection of taxes may be enforced

of the town, requiring and commanding him to proceed to collect such assessment; and on receiving such warrant, it shall be the duty of the marshal to collect such assessment in the manner provided in Chapter V, of this act, for the collection by him of tax assessed on real estate; and in all cases, where there shall be adverse claimants to lots on which an amount is due for expenses incurred, as aforesaid, whenever the controversy shall be settled, either by agreement of parties, by arbitration, or by decision of a court of competent jurisdiction, if the amount assessed on said lot for the expenses as aforesaid shall not be paid within thirty days after such settlement or decision, then it shall be lawful for the town council to cause the same to be collected in the same manner provided in this section for lots to which there is but one claimant.

Town council
may assess addi-
tional expenses
on lands held in
trust

SEC. 9. If either from the failure or neglect of the person or persons entitled to the right of possession or occupancy of any of the lots or parcels of land so held in trust as aforesaid by corporate authorities of the town, to claim said lots or parcels of land, and pay the amount assessed for expenses thereon, or from any proceedings had at law to ascertain who is entitled to receive a deed for the same from the town council or from any other cause, the town council of the town, acting as trustees of the trust heretofore mentioned, shall have incurred or shall hereafter incur any additional expense in the carrying out of such trust, which expense shall not heretofore have been assessed upon the lots or parcels of land so held in trust, the town council shall have power to assess such additional expense upon the lots or parcels of land which they still hold as trustees of said trust, and for the enforcement of and collection of such amount so assessed the said lots or parcels of land, shall be subject to the provisions of the foregoing sections, six, (6) seven, (7) and eight, (8).

No general laws
considered re-
pealing the "same"

SEC. 10. No general laws of this State contravening the provisions of this act, shall be considered as repealing, amending or modifying the same, unless such purpose be expressly set forth in such law.

Appeals may be
taken

SEC. 11. Appeals shall be allowed from decisions in all cases arising under the provisions of this act, or any ordinance, passed in pursuance thereof, to the district court of Stearns county, and every such appeal shall be taken and granted in the same manner and with like ef-

fect as appeals are taken from and granted by justices of the peace to the district court, under the general laws of this State.

SEC. 12. All acts and parts of acts relating to the incorporation of the town of Saint Cloud, are hereby repealed, but the repeal of said acts shall not effect, any act done, or right accrued or established, or any proceeding, suit or prosecution, had or commenced previous to the time when such repeal shall take effect, but every such act, right or proceeding, shall be as valid and effectual as if said acts had remained in force.

Repeal of acts inconsistent with this act

SEC. 13. This act is hereby declared to be a public act, and may be read in evidence in all courts of law in this State.

Declared a public act

SEC. 14. This act shall take effect and be in force from and after its passage.

Approved March 8th, 1862.

CHAPTER II.

An Act to Incorporate the Town of New Ulm, and to Repeal its Present Act of Incorporation.

- SECTION 1. Establishing the town of New Ulm.
 2. Boundary lines of New Ulm.
 3. Power of the inhabitants of said town.
 4. Repeal of former acts.
 5. Act, when to take effect.

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

SECTION 1. That all that territory in the county of Brown, contained within the limits and boundaries hereinafter described, shall be a town known by the name of New Ulm, and the people now inhabiting and those who shall hereafter inhabit within the district of country here-

Establishing the town of New Ulm