

ses specified in this section, but they are hereby authorized to contract with such owners in the name of said borough for such property, and to assess and return the amount necessary to carry such contracts out, which sums shall be raised and collected in the same manner as specified in this section for raising and collecting the taxes when the amounts are ascertained by commissioners. The said money in either case when raised, shall be drawn on orders signed by the mayor of said borough, as directed by ordinances of the council.

Repeal of section 29.

SEC. 2. That section twenty-nine (29) of the said act is hereby repealed.

Repeal of inconsistent acts.

SEC. 3. All acts and parts of acts inconsistent with this act are hereby repealed.

When act to take effect.

SEC. 4. This act shall take effect and be in force from and after its passage.

Approved March 6, 1868.

CHAPTER XXXVI.

March 5, 1868. *An Act to incorporate the borough of Belle Plaine, in the county of Scott.*

- SECTION 1. Boundary lines of the Borough of Belle Plaine.
2. Incorporation of the Borough of Belle Plaine.
 3. All subdivisions termed districts.
 4. Elective officers.
 5. Who to constitute the Council—powers granted to said Council—style of all ordinances—when Council to meet for transaction of business—quorum.
 6. Duties of Mayor.
 7. Duties of Clerk.
 8. Duties of Treasurer.
 9. Jurisdiction of Borough Justice.
 10. Duties of Constable—compensation.
 11. Who to be Chief of Police.
 12. Duties of Attorney.

13. When annual election to be held—how conducted—who to be inspectors of first election.
14. Terms of office of Elective officers.
15. Eligibility to office—to take oath conditioned for faithful performance of duties—also to give bond—how compensated for services.
16. Council to prescribe place of holding elections—who to be inspectors of elections.
17. Council may fix penalties for violation of ordinances—when ordinances, &c., may be deemed published.
18. Powers of Council.
19. To prevent construction of dangerous chimneys, &c.
20. Expense of surveying streets, alleys, &c., how paid.
21. What property subject to taxation.
22. Council to report to County Auditor—what report to contain—duty of County Auditor.
23. How actions brought to recover penalties or damages—qualifications of judges, justices, &c.—how punished for non-payment of penalties.
24. Said Borough to constitute a portion of the Town of Belle Plaine.
25. Council to have power to levy tax—for what purpose.
26. All books, papers, &c., belonging to the Town of Belle Plaine, to be delivered up to Clerk of Borough.
27. All trusts conferred upon the Town of Belle Plaine transferred and vested in the Council of the Borough of Belle Plaine.
28. Disposition of suits pending previous to passage of this act.
29. Authorized to plant shade trees.
30. Repeal of inconsistent acts.
31. When act to take effect.

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

SECTION 1. That all the district of country known and described as section one, in township one hundred and thirteen north, of range twenty-five west, and section six, in township one hundred and thirteen north, of range twenty-four west, shall be and the same is hereby created a borough by the name of Belle Plaine.

Borough of Belle Plaine boundary.

SEC. 2. That the people who now do, or hereafter may reside within the said borough, are hereby created a corporation for municipal purposes, under the constitution and laws of the state of Minnesota.

Borough incorporated.

SEC. 3. That all subdivisions of said borough shall be termed districts, and be numbered in order of creation, and until the first subdivision thereof the whole of said borough shall constitute the first division; but no district having less than one hundred legal voters therein shall be created by said corporation.

All subdivisions termed districts.

SEC. 4. That the officers of said corporation shall be

Elective officers. one mayor, and three councillors, one treasurer, one clerk, one attorney, one borough justice, and one constable, all of whom shall be elected from among, and by the legal voters of said borough.

Who to constitute the Council—style of ordinances—quorum

SEC. 5. That the mayor and councillors shall constitute the council, to which body shall belong the exclusive right to exercise all the legislative powers granted by this act to said corporation except as otherwise therein specially provided. All actions of the council intended to have the force of rules, or law, or authority for contract, shall be by ordinance under the style of "be it ordained by the council of the borough of Belle Plaine," but no ordinance shall embrace more than one subject, which shall be expressed in its title. And no ordinance shall be amended unless the ordinance or section thereof as so amended shall be stated in full in the ordinance making such amendment. The council shall meet for the transaction of business at least once in three months, and a majority of the council shall be a quorum for business, and may remove the other officers, for sufficient cause, and fill vacancies by appointment, and may, by ordinance, prescribe the kind of security and the mode of giving the same for the other officers, and may prescribe by ordinance the duties of all officers. The mayor shall preside at all the meetings of the council unless unable to attend from any cause, in such case one of the council may be chosen by the rest, to preside during his absence, but no ordinance shall be made except by a vote of the majority of all the members of the council present. A record in book form shall be kept by the clerk, in which he shall record all the proceedings of the council, and the ayes and noes on every ordinance voted thereon shall be entered therein.

Duties of Mayor

SEC. 6. That to the mayor shall belong the exclusive right to exercise all the executive powers granted by this act to said corporation, except such of said powers as are thereby specially vested in, or must, from the nature of their several offices, necessarily pertain to the other executive officers of said corporation, whether said officers are created by this act, or hereafter shall be, under section five thereof. He shall have power, and it shall be his duty, to call out and use in such manner as to him may seem most proper, all the constabulary or police force of said borough when he may deem it necessary to quiet or prevent riot. He shall have power to call a meeting of the council by giving such notice thereof as may have been

provided therefor by ordinance, or in default of such provision, as he may deem meet and proper.

SEC. 7. That the clerk shall be the recording officer of the borough and the council, and shall attend at all meetings thereof. He shall have the custody of the seal of said corporation, and of all the records thereof, not necessarily and specifically appertaining to the other officers thereof. He shall receive all moneys payable to said corporation, and shall immediately pay the same over to the treasurer, charging him therewith, and taking his receipt therefor. He shall keep all the accounts of the said corporation, and shall audit all claims against the same, but no claim shall be allowed by him, unless he shall have authority to do the same by some general or special ordinance. He shall draw all orders upon the treasurer for moneys payable by said corporation, but no such order shall ever be drawn by said clerk unless the same shall be in full or part payment of a claim against said corporation previously audited and allowed, and there shall be in the hands of said treasurer moneys belonging to said corporation otherwise unappropriated and undrawn for, sufficient to pay said order. Every order shall bear the seal of said corporation, and be endorsed by the clerk, over his official signature, as follows: "Authorized by an ordinance entitled (here insert title) ordained on the (here insert the day and year of the passage of said ordinance)". The clerk shall levy or assess all taxes or assessments authorized by ordinance of the council and for that purpose or in connection therewith shall have access to, and the right to make copy of all and any records pertaining to taxes kept or made by the several officers or any of them, in and for the townships surrounding or the county including said borough. He shall make at the close of each official year, to the council, a condensed report of all his doings as such officer, during such year, which report shall be published in such manner and to such extent as may be provided by ordinance of the council, and he shall, with all reasonable dispatch, make such other reports, and at such times, as the council shall require.

Duties of Clerk.

SEC. 8. That the treasurer shall be the depository of all moneys belonging to said corporation, and he shall receipt to the clerk therefor. He shall from such moneys pay, upon presentation, all orders therefor drawn by the clerk: *Provided*, That no order shall be paid by him unless first endorsed in writing thereon, with the name of

Duties of Treasurer.

the payee therein, and the party receiving the money therefor.

Jurisdiction of
Justices.

SEC. 9. That to the borough justice elected under the provisions of this act, shall belong separately and exclusively, as to all other officers and courts, the right to exercise originally all the judicial powers granted to said corporation by this act, except as elsewhere therein specially provided for; but the council shall fix the kind and amount of compensation of said borough justice, except as in this section hereinafter provided, said borough justice shall within the county in which he shall reside, keep his office as such, also have and exercise all the powers and jurisdiction of justices of the peace, and when acting as such receive the same compensation as justices of the peace, elected under the general laws of the state of Minnesota, but all portions of general laws relating to trial by jury, change of venue, appeals, writs of certiorari, in and from justices courts, shall apply to the entire jurisdiction of said borough justice: *Provided*, That in matters arising solely under this act, or under the ordinances made in pursuance thereof, no change of venue shall be taken from the borough justice, except to another borough justice, whenever said borough shall have more than one justice: *Provided further*, That all writs and processes of said borough justice in relation to such of the matters arising solely under this act, or such ordinances as shall be of a personal nature, may be issued to the sheriff of the county in which said borough is situated. The borough justice shall keep a record of all his official doings, and he shall forthwith pay over to the clerk of said borough, all fines collected by him.

Duties of Con-
stables—fees.

SEC. 10. The constable elected under the provisions of this act shall be the ministerial officer of the council, and of the court in and for said borough, and belong to the police force of said borough, but the kind and amount of compensation for his services as such, except as in section ten of this act, is otherwise provided, shall be fixed by ordinance of the council, and said constable shall, within the county in which he resides, also have and exercise all the powers, and perform all the duties of, and when acting as such, receive the same compensation as constables elected under the general laws of the state of Minnesota.

Who to be Chief
of Police.

SEC. 11. That the constable shall be chief of the entire police force of the borough, but as such he shall be subordinate to the mayor.

SEC. 12. That the attorney shall be the legal adviser of the officers and council of said corporation in all matters pertaining to their several official duties, and he shall render such legal council to them, or any of them, whenever, but only when the application therefor is made in writing, signed by the applicant, which writing shall contain the points upon which said council is asked, and all the opinions by him shall be made in writing, copies of which together with the original application therefor, shall be preserved in his office, and delivered by him to his successor in office. He shall be and act as the attorney of said corporation, in all actions to which said corporation may be a party.

Duties of Attorney.

SEC. 13. There shall be an annual election held in said borough on the first Monday in April of each year, at which electors of said borough, qualified to vote as hereinafter specified, may elect by ballot and plurality of votes all or any of the officers mentioned in section four of this act. The clerk shall give ten days notice of the time and place of holding such election, by posting up written notices thereof, in three of the most public places in said borough. *Provided*, That the first election shall be held on the first Monday in April, eighteen hundred and sixty-eight. The election shall be held and conducted in the same manner as town elections, and the laws of this state applicable to elections generally, shall apply as far as consistency will admit, and the oath of a voter shall be the same as at town meetings. That for the purpose of the first election and also under this act, Robert H. Rose, Charles T. Metzner and James Clarke, shall be the inspectors of election, and also a board of canvassers for such election, and shall perform all the duties, and possess all the powers of inspectors of election, and board of canvassers prescribed by this act, they shall appoint the place of holding the polls of such election, and post public notices thereof, ten days before the same: *Provided*, In case any of the foregoing board of inspectors and canvassers should not be present or should fail to act as above, then and in that case it shall be lawful for the bystanders to fill any such vacancy that may occur in said board.

When elections held—how conducted—who to be inspectors of first election.

SEC. 14. That the term of office of the respective officers of said corporations shall be as follows: of the councillors and clerk, each three official years, of the borough justice and constable each two years, and of all other offi-

Terms of office.

cers, each one year, and all official terms shall succeed each to its preceding year, without lapse of time from any cause; *Provided*, That at the first general election under this act, one councillor from said borough shall be elected for a short term, to end with the first official year of said corporation, and one other councillor from said borough for a short term, to end with the second official year of said corporation; *And provided further*, That every officer shall hold over his official term until his successor is elected and qualified.

SEC. 15. That no person shall be eligible to any office of said corporation, unless he shall have the qualifications of an elector, and have been a resident of said borough for one year next preceding the day of his election to such office, and no person elected or chosen to any office under this act, shall enter into possession of the same, until he shall have taken an oath in writing to support the constitution of the United States, and the constitution of the state of Minnesota, and to faithfully and impartially discharge all and singular, the duties of such office, whether the same be directly or collaterally given by or under this act, or necessarily appertain to said office, and (excepting the first mayor and councillors) shall have given such official bond as may have been in the manner previously prescribed by ordinance of the council, all of which official bonds shall be filed with the clerk, save and except the official bond of the clerk, which shall be filed with the treasurer, and all officers of said corporation shall receive for their services, as such, only the kind and amount of compensation which may be prescribed and provided for by the ordinance of the council, except as otherwise in this act specially provided for, and no officer thereof shall be directly or indirectly interested in any contract, expressed or implied, to which said corporation shall be a party, either on its own behalf, or on behalf of any member or members thereof, and in any case, the officer so interested shall forfeit his office, and the contract in which he is so interested shall be void, and may be so declared by any court in and for said borough, or any court of record of the state of Minnesota, upon application sustained by sufficient testimony of any citizen of said borough. The mayor, councillors, borough justice, constable, and every officer, police or otherwise, hereafter created under the provisions of section five of this act, shall within said borough be conservators of the peace. All officers of said corporation

Eligibility to office—to take oath and give bonds—compensation.

shall, on demand, deliver each to his successor in office, all books, papers, and other property, in anywise appertaining to such officer, or belonging to said corporation.

SEC. 16. The council shall prescribe by ordinance the place within the borough, the place where the annual election shall take place. The councillors shall be the inspectors of such election, and shall constitute the board of canvassers at the closing of the polls.

Council to prescribe place of holding elections—who to be inspectors.

SEC. 17. The council may enact ordinances for all purposes contemplated by this act, and may fix penalties for violating the same, and they shall have the force of law. *Provided*, That no such ordinance shall be in force until the same shall have been posted up for ten days in three of the most public places in said borough, and the certificate of the clerk, entered upon record of said borough, shall be deemed sufficient evidence of the publication of the same.

Penalties for violating ordinances—when considered published.

SEC. 18. The council shall have power to regulate, open, and improve the levees, streets and alleys in said borough, by contract to the lowest and most responsible bidder, to determine the width of sidewalks, to regulate the public ground, to erect a new market house, regulate the market, remove all nuisances and obstructions from the streets and commons of said borough, to license common showmen, or any public exhibition, peddlers, billiard tables, bowling saloons, auctioneers, and all persons to vend or deal in spiritous, vinous, fermented or malt liquors, to restrain the running at large of hogs, cattle or other animals of the brute creation, to prosecute immoderate driving in the streets, and riding or driving on the sidewalks, to prevent any damage to the sidewalks, crosswalks, fences, buildings, shade or ornamental trees, and any public improvement or property of said borough, and to establish or create pounds, pumps, water cisterns, reservoirs, drains, or ditches within the same.

Powers of the Council.

SEC. 19. To prevent the dangerous construction, placing or continuance of chimneys, fire places, stove pipes or any pipes or instruments for the conducting of fire, heat or smoke, ovens, boilers or appurtenances, and to cause the same to be removed or to be made secure, and to prosecute the depositing of ashes in any unsafe place, and to prevent the carrying on of any kind of business or manufactory dangerous in causing or promoting fires, or which might be dangerous to the health of the people of said borough.

To prevent dangerous construction of chimneys

Expense of surveying streets, &c., how paid.

SEC. 20. The cost and expenses of opening, grading, paving or repairing streets or alleys to the centre thereof, and also of sidewalks, shall be chargeable to the lots fronting on said improvement.

What property to be taxed.

SEC. 21. All property, real and personal, in the borough, except such as may be exempt by the laws of this State, or is borough property, shall be subject to taxation not exceeding two mills on the dollar each year, for general purposes; such property shall also be liable for such special taxes as the council shall be authorized to levy.

To report to Auditor—what to contain—duty of Auditor.

SEC. 22. The council shall report to the auditor of Scott county, the amount of general taxes levied on the borough, and the amount of special taxes levied upon any of the lots or portions of said borough, and shall certify to him the lots or portions of the property upon which such special taxes are so levied, and it shall be the duty of the auditor of Scott county to insert such taxes in the assessment roll of the town of Belle Plaine, and the same shall be collected by the county treasurer, or returned by him as delinquent, and all proceedings in relation thereto, including the selling, conveying or redeeming property, shall be the same as in proceedings on account of other taxes. The borough will be a town as far as the collection of taxes will admit. All residents of the borough shall pay a tax on their personal property, wherever situated, proportionately with their real estate tax.

How actions brought to recover penalties—qualifications of judges, &c.—how punished.

SEC. 23. In any action brought to recover any penalty or damages under this act, or under any ordinance made by the council, it shall be sufficient to complain that the defendant is indebted to the borough for the amount of said penalty and damages, and to refer to the act or ordinance under which the same is claimed, and to give the special matter in evidence under it. All civil cases shall be under the direction and control of the council; they shall have power to settle, compromise or prosecute all such actions, on the part of the borough when said borough shall be a party, or be interested in such action, and no person shall be an incompetent witness or juror, by reason of being an inhabitant of said borough in an action to which the borough shall be a party. Every execution issued upon any judgment recovered therein, for any penalty, may contain a clause directing, in the event of the non-payment of the judgment, the imprisonment of the defendant in the county jail for thirty days if the

damages recovered by said judgment shall be ten dollars or less, and sixty days if such damages shall exceed that sum, and if there be no county jail, then the general laws of this state shall apply in such cases, and the defendant shall be dealt with according to them in the matter of improvement.

SEC. 24. In all respects not herein provided for, the borough of Belle Plaine shall constitute and be a part of the town of Belle Plaine.

To constitute a part of the Town of Belle Plaine.

SEC. 25. The council shall have full power to order and direct the levy and collection, within the limitation prescribed by law, of taxes sufficient to give full effect to the powers herein conferred.

Authorized to levy a tax—for what purpose.

SEC. 26. All books, papers, and records in the hands of the corporate authorities, or either of them, the town of Belle Plaine or the Belle Plaine town or either corporations heretofore existing within the limits of the corporation hereby created, and which books, papers and records pertain to such corporation as such, shall upon reasonable demand, be delivered up to the clerk of the borough of Belle Plaine.

All books, &c., to be delivered up to Clerk of borough.

SEC. 27. All trusts now conferred upon and existing by law in the corporate authorities of Belle Plaine town, and the town of Belle Plaine, or either of them as aforesaid, are hereby transferred to, conferred upon and vested in the council of the borough of Belle Plaine, as created by this act, and their successors in office, which said trusts shall be executed in all respects as by law provided, but when any deed of conveyance of real estate from said council shall be come necessary in the proper execution of its trust, the said council shall be the grantor in such deed of conveyance and the same shall be under the seal of the corporation, signed and acknowledged by the mayor and attested by the clerk of said borough.

Trusts conferred on the Town to be vested in the borough.

SEC. 28. All suits or actions, either in law or equity, that have been commenced and are now pending in any court of the state by or against the authorities of the above mentioned Belle Plaine town and town of Belle Plaine, or either of them, may be prosecuted or defended as the case may be, by such authorities in all respects as if this act had never been passed.

Disposition of suits prior to the passage of this act.

SEC. 29. It shall be the duty of the council of the borough of Belle Plaine, by contract or otherwise, to plant or cause to be planted, at the proper season in each year, for five years next ensuing after one thousand eight hundred

Authorized to plant trees.

red and sixty-eight, shade trees on the margin of the public streets in said borough, of such kind and at such places as the council shall deem fit. *Provided*, That not less than twenty-five or more than fifty dollars shall be expended in each of said years for such purpose, and to cause a tax to be levied on the property in said borough, to defray such expenditure.

Repeal of inconsistent acts.

SEC. 30. All acts and parts of acts inconsistent with this act, are hereby repealed.

When act to take effect.

SEC. 31. This act is hereby declared to be a public act and shall take effect and be in force from and after its passage.

Approved March 5, 1868.

CHAPTER XXXVII.

An Act to reduce the special laws relating to the town of Faribault, in the county of Rice, and State of Minnesota, heretofore passed, into one act and to amend the same.

March 5, 1868.

SECTION 1. Powers of the Board of Supervisors of the Town of Faribault.

2. To have full power to impose fines, penalties, &c., punishment for non-payment of penalties.
3. Boundary lines of the Town of Faribault.
4. Board of Supervisors to enact all ordinances, rules and by-laws—when to be deemed in force.
5. How actions may be brought for violation of ordinances, &c.—when appeal may be taken.
6. Disposition of fines collected.
7. Punishment for non-payment of fines imposed.
8. Qualifications of judge, justice or jurors.
9. When Town Marshal and Wood Inspector may be appointed—term of office—vacancies how filled.
10. Town Marshal to give bond conditioned for faithful performance of duties—duties of.