

CHAPTER 26.

(S. F. No. 301.)

AN ACT TO AMEND CHAPTER FORTY-FIVE (45) OF THE SPECIAL LAWS OF THE STATE OF MINNESOTA OF THE YEAR A. D. ONE THOUSAND EIGHT HUNDRED AND SEVENTY-FIVE (1875), INCORPORATING THE BOROUGH OF HENDERSON, IN SIBLEY COUNTY.

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

SECTION 1. That chapter forty-five (45) of the special laws of the state of Minnesota for the year A. D. one thousand eight hundred and seventy-five (1875), be and the same is hereby amended so as to read as follows:

SEC. 2. That all the district of country known and described as lots one (1) and two (2) of section number one (1), lot four (4) and the south half ($\frac{1}{2}$) of the northwest quarter ($\frac{1}{4}$) of section number twelve (12), lot number four (4), and the southeast quarter ($\frac{1}{4}$) of the southeast quarter ($\frac{1}{4}$) and the west half ($\frac{1}{2}$) of the southeast quarter ($\frac{1}{4}$) of section number two (2), the east half ($\frac{1}{2}$) of the northeast quarter ($\frac{1}{4}$), and the east half ($\frac{1}{2}$) of the west half ($\frac{1}{2}$) of the northeast quarter ($\frac{1}{4}$) of section number eleven (11), all the foregoing described land being in town number one hundred and twelve (112) north, of range number twenty-six (26) west, shall be and the same is hereby created a borough, by the name of Henderson.

SEC. 3. That the people who now do, or hereafter may, reside within the said borough, are hereby created a corporation for municipal purposes, with perpetual succession, under the name and title of the "Borough of Henderson," and as such corporation shall possess and enjoy all powers, rights and privileges which are now or hereafter may be possessed and enjoyed by corporations for municipal purposes, under the constitution and laws of the state of Minnesota.

SEC. 4. That all subdivisions of said borough shall be termed districts, and be numbered in order of creation, and until the first (1st) subdivision thereof the whole of said borough shall constitute the first (1st) district, but no district having less than one hundred (100) legal voters therein shall be created by said corporation.

SEC. 5. The borough councilors, or any two of them, being present, shall act as judges of election, and the annual election shall be held on the first (1st) Monday in April in each year, and at such place as may be directed by the borough council after giving ten (10) days notice thereof, either by posting written notices in three (3) of the most public places in the village, or by publishing such notice in a newspaper printed in such village.

The polls shall be opened at ten (10) o'clock a. m., and close at four (4) o'clock in the afternoon of said day. At the close of the polls the votes shall be counted, and a true statement thereof proclaimed to the voters by some one of the judges of election, and the clerk shall make a true copy thereof in a book kept for such purposes, and within

five (5) days notify, in writing, the persons so elected, of their election. All elections shall be by ballot, and all votes for elective officers and all questions to be submitted to the people thereof at any election shall be upon one (1) ballot and be deposited in one (1) ballot box, a plurality of votes shall elect, and if two (2) or more persons receive an equal number of votes for the same office, the election shall be forthwith determined by lot in the presence of the judges of election in such manner as they shall elect; and every qualified elector, then actually resident in such borough, may vote at any election; *Provided*, That no candidate for office shall act as judge or clerk at such election.

The borough clerk shall act as clerk of election, but if the councilors and clerks are candidates at any election, so that there is not two of the councilors present who are qualified to act as judges, then the council shall appoint a clerk and judge or judges of election as may be required, and if council fail to appoint, the electors present at the opening of the polls shall appoint the necessary judges and clerk.

SEC. 6. Special elections may be ordered by the council, but no special election shall be held unless ten (10) days' notice thereof is given, nor shall any subject or question be considered or acted upon, unless its objects are clearly set forth and stated in the notice for the call of such meeting. All borough elections shall be, except as hereinafter provided, conducted and the result canvassed and certified as in the case of town meetings; and, except as modified in this chapter, every statute relating to holding town meetings, canvassing and certifying the result thereof, and relating or applicable to the duties of the judges of election and clerks, the challenging of votes, and to voting thereat, and every statute prescribing and punishing offenses for illegal voting, bribery, fraud, corruption, official delinquency, or any offense at or concerning elections which is applicable to town meetings, is hereby extended and applied to borough elections.

SEC. 7. That the officers of the corporation shall be one (1) mayor, three (3) councilors, one (1) attorney, one (1) treasurer, one (1) clerk, one (1) justice of the peace, one (1) street commissioner, one (1) assessor and one (1) marshal.

The mayor, councilors, treasurer, clerk, assessor, and justice, shall be elected from among and by the legal voters of said borough. All the other officers shall be appointed by the council. All officers shall qualify by filing a written acceptance with the clerk, and executing bond when required by council. The neglect to qualify within ten (10) days after election or appointment shall be deemed a refusal to serve, and the office shall be considered vacant.

SEC. 8. That the term of office of the respective officers of said corporation shall be as follows: Of the councilors and clerk, each three (3) official years; of the borough justice two (2) official years; and of all other officers, each one (1) official year; and all official terms shall succeed each to its preceding year, without lapse of time from any cause; *Provided*, that every officer shall hold over his official term until his successor is elected or appointed and qualified.

SEC. 9. That no person shall be eligible to an election 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 (1) year next preceding the day of his election to such office, and no person elected or appointed 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 collectively given by or under this act as necessarily appertaining to said office, and shall have given such official bonds 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 bonds 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 ordinance of the council, except as otherwise in this act especially 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 in his own behalf or on behalf of any member or members thereof; and in every such 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

SEC. 10. The mayor, councilors, borough justices, marshal and every officer, police or otherwise, hereafter created, under the provisions of section five (5) of this act, shall within said borough be conservators of the peace.

SEC. 11. All officers of said corporation 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. 12. The council shall meet for the transaction of business, on the first (1st) Monday of each month, and a majority of the council shall be a quorum for business, and may remove the other officers for sufficient cause and the council or the remaining members thereof shall fill by appointment any vacancy which shall occur in any of the offices provided for in this act, and the council 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.

SEC. 13. The mayor shall preside at all 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 upon shall be entered therein.

SEC. 14. 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 which form the nature of their several offices, necessarily appertain to the other executive officers of said corporation, whether said officers are created by this act or hereafter shall be. 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, or any organization or unorganized posse of armed citizens of said borough, or the whole or any part thereof, whenever he may deem the same necessary to quiet or prevent riot; but he shall forthwith report to the council the fact of such call or use, or both, together with the reasons therefor, and the circumstances connected therewith; and upon the action of the council on such report, shall depend the length of time which said force or forces, or any party thereof, shall continue on such duty. 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 mete and proper.

SEC. 15. That the clerk shall be the recording officer of the borough and 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 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 money 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 uncalled for sufficient to pay said order. Every order shall bear the seal of said corporation.

The clerk shall levy or assess all taxes or assessments authorized by order of the council, (and) for that purpose, or in connection therewith, shall have access to and the right to make copy of all and every record appertaining to taxes kept or made by the several officers, or any of them, in and for the townships surrounding, or of the county in which said borough is situate.

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.

SEC. 16. That the treasurer shall be the depository of all moneys belonging to said corporation, and he shall receipt to the clerk therefor.

He shall pay out such moneys only upon the written order of the mayor attested by the clerk; *Provided*. That no order shall be paid by him unless first endorsed with the name of the payer therein and the party receiving the money therefor.

SEC. 17. The treasurer shall, one week previous to the annual election of borough officers, make to the council a detailed statement in writing of all moneys received by him, and the sources from which received, and the respective amounts, and also the amounts paid out by him, to whom paid, and the number of the order paid. Such statement shall be filed by him with the clerk for the inspection of any taxpayer residing within the corporate limits of said borough.

SEC. 18. The borough justice shall have all the authority, rights and powers of justices of the peace under the general laws of this state, and both civil and criminal jurisdiction, and in addition thereto, shall have sole and exclusive jurisdiction to hear all complaints, examinations and trials, civil and criminal, arising within the limits of the borough of Henderson, cognizable before a justice of the peace, in which the said borough of Henderson shall be a party, and of all suits, actions, prosecutions and proceedings for the recovery of any fine, forfeiture or penalty, under any by-laws, ordinances or regulations of said borough, and in cases of absence, sickness or inability of said justice, the council, on recommendation of the mayor, may authorize any other justice of the peace in the county of Sibley to perform the duties of such borough justice, and said justice shall possess, for the time being, all the power, authority and rights of said borough justice.

The justice shall pay to the clerk all fines within twenty-four (24) hours after collected.

SEC. 19. The marshal shall have the same powers and is invested with the same authority at law and under the statutes anywhere in the county, as constables. He shall give a bond similar to that required of constables elected by towns and shall be deemed included in and governed in every respect by the law prescribed to them. It shall be his duty to obey all lawful orders of the borough council, to arrest with or without process, and with reasonable diligence to take before the borough justice every person found in such borough in a state of intoxication, or engaged in any disturbance of the peace, or violating any law of the state or ordinance of such borough. He may command all persons present in such case to assist him therein, and if any person being so commanded shall refuse or neglect to render such assistance, he shall forfeit not exceeding ten (10) dollars. He shall be entitled to the same fees allowed to constables for similar services; for other service rendered the borough such compensation as the council may fix.

SEC. 20. The borough assessor shall perform all the duties in relation to the assessing of property for the purposes of levying, of all borough, town, county, state and other taxes, and upon the completion of the assessment roll he shall return the same to the borough council who may alter, revise and equalize the same, and all laws applicable to town assessors and supervisors relative to assessments shall apply to the borough assessor and council. The assessor shall hold his office one (1) year and until his successor is appointed and qualified.

SEC. 21. The mayor, councilors and clerk shall constitute the council, any three (3) of whom shall constitute a quorum for the transaction of any business and shall have full power and authority to enact, adopt, modify, enforce and from time to time, amend or repeal all such ordinances, rules and by-laws as they shall deem expedient, for the following purposes, viz:

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

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

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

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

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

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

Seventh—Every street commissioner, when, by resolution, the borough board shall require it, shall take and file his oath of office, and execute a bond conditioned for the faithful discharge of his duties and the proper application and payment of all moneys that may come into his hands by virtue of his office.

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

Ninth—To re-number the lots and blocks of the borough or any part thereof, and to cause a revised and consolidated plat of the same to be recorded in the office of the register of deeds.

Tenth—To establish a fire department, and prescribe and regulate the duties of the members; to provide protection from fire by the purchase of fire engines and all necessary apparatus for the extinguishment of fires, and by the erection or construction of pumps, water mains, reservoirs or other water works; to erect engine houses; to compel the inhabitants of the borough to aid in the extinguishment of fires, and to pull down and raze such buildings in the vicinity of fires as shall be directed by them, or any two (2) of them who may be at the fire for the purpose of preventing its communication to other buildings; to establish fire limits or the limits within which wooden or other combustible buildings shall not be erected; to require the owners or occupants of buildings to provide and keep suitable ladders and fire buckets, which shall be appurtenances to the realty and exempt from seizure and forced sale; and after reasonable notice to such owner or occupant, and refusal or neglect by him, to procure and deliver the same to him, and in default of payment therefor, to levy the cost thereof as a special tax upon such real estate, to be assessed and collected as other taxes in such borough; to regulate the storage of gunpowder and other dangerous material; to require the construction of safe places for the deposit of ashes; to regulate the manner of put-

ting up stove pipes, and the construction and cleaning of chimneys, to prevent bonfires and the use of fireworks and firearms in the borough, or any part thereof; to authorize fire wardens at all reasonable times to enter into and examine all dwelling houses, lots, yards, inclosures and buildings of every description, in order to discover whether any of them are in dangerous condition, and to cause such as may be dangerous to be put in a safe condition; and generally to establish such necessary measures for the prevention or extinguishment of fires as may be necessary and proper.

Eleventh—To lay out, open, widen or extend streets, lanes, alleys, sewers parks, squares or other public grounds, and to grade, pave, improve, repair or discontinue the same, or any part thereof, or to establish and open drains, canals or sewers, or alter, widen or straighten water courses; to make, alter, widen or otherwise improve, keep in repairs, vacate or discontinue sidewalks and crosswalks; to prevent the incumbering of streets, sidewalks and alleys with carriages, carts, wagons, sleighs, sleds, buggies, railway cars, engines, boxes, lumber, forewood or other substances or materials; to prevent horse racing or immoderate riding or driving in the streets of the borough, to prevent the riding or driving of animals or the driving of vehicles of any kind on the sidewalks of the borough, or the doing of any damage in any way to such sidewalk; and to require the owners or occupants of buildings to remove snow, dirt or rubbish from the sidewalks adjacent thereto; and in default thereof, to authorize the removal of the same at the expense of such owner or occupant, and charge the same against the lot.

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

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

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

and around the cemeteries and public parks and walks of the borough; and for the protection thereof.

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

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

Seventeenth—To restrain and prohibit gift enterprises, all descriptions of gaming, and all playing of cards, dice and other games of chance, for the purpose of gaming; and to license, or restrain and prohibit any person from selling, bartering, disposing of or dealing in spiritous, malt, fermented, vinous or mixed intoxicating liquors of any kind, and to punish any violation of law or of the borough ordinances relating thereto, and to revoke, for any cause, any license for the sale of intoxicating liquors granted by the borough council, whenever the council, after a hearing of the case shall deem proper.

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

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

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

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

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

Twenty-third—To appoint a board of health, which shall have all the powers of such boards under the general laws of the state; to provide hospitals, and to regulate the burial of the dead, and return of bills of mortality; to declare what are nuisances, and to prevent or abate the same; to require the owner or occupant of any grocery, cellar, tallow chandler's shop, factory, tannery, stable, barn, privy, sewer or other unwholesome or nauseous house, building or place to remove or abate the same, or to cleanse it as often as may be deemed necessary for the public health; to direct the location and management of slaughter houses, and to prevent the erection, use or occupation of the same, except as authorized by them, to prevent persons from bringing, depositing or leaving within the borough any putrid

carcass, or other unwholesome substance; to require the owners or occupants of lands to remove dead animals, stagnant water or other unwholesome substances from their premises and to provide for the cleaning and removal of obstructions from any river, stream, slough or watercourse within the limits of the borough, and to prevent the obstruction or retarding of the flow of the waters therein, or the putting of anything into the same which may be prejudicial to the health of the borough.

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

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

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

Twenty-seventh—To levy and provide for the collection of taxes, including poll tax and assessments, audit claims and demands against the borough, and direct orders to issue therefor in the manner prescribed in this chapter; to refund any tax or special assessment paid, or any part thereof, when satisfied that the same was unjust or illegal; to authorize bonds of the borough to be issued in the cases provided by law, and generally to manage the financial concerns of the borough.

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

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

SEC. 22 No account or demand against such borough shall be paid until it has been audited and allowed, and an order drawn on the treasurer therefor. Every [such] account shall be made out in items, and verified by affidavit indorsed or annexed that the same is just and correct and no part thereof paid. After auditing the board shall caused to be indorsed by the clerk, over his hand, on each account, the words "allowed" or "disallowed," as the fact is, adding the amount allowed, if any, and specifying the items or parts of items disallowed,

if disallowed in part only. The minutes of the proceedings of the board shall show the amount. Every such account or demand allowed, in whole or in part, shall, with the affidavit thereto, be filed by the clerk, and those of each year consecutively numbered and have indorsed the number of the order on the treasurer issued in payment; and the clerk shall take a receipt thereon for such order. Neither the borough nor any officer thereof, shall have power to issue at any time any negotiable order or borrow money, except in the manner and for the purposes expressly declared by the statute. *Provided, however,* that orders may be drawn by the clerk for the different borough officers' salaries when such salaries are fixed by ordinance.

§ C. 23. Whenever the borough council shall intend to lay out and open, change, widen or extend any street, lane, alley, public grounds, square or other places, or to construct and open, alter, enlarge or extend drains, canals or sewers, or alter, widen or straighten water-courses therein, or take ground for the use or improvement of a harbor, and it shall be necessary to take private property therefor, they shall cause an accurate survey and plat thereof to be made and filed with the recorder, and they may purchase or take by donation such grounds as shall be needed, by agreement with the owners, and take from them conveyances thereof to the borough for such use or in fee; but otherwise they shall by resolution declare their purpose to take the same and therein describe by metes and bounds the location of the proposed improvements, and the land proposed to be taken therefor, defining separately each parcel and the amount thereof owned by each distinct owner, mentioning the names of owners or occupants so far as known, and therein fix a day, hour and place, when and where they will apply to a justice of the peace, resident in such borough, for a jury to condemn and appraise the same. They shall thereupon cause to be made by the clerk, a notice of the adoption of such resolution embracing a copy thereof and notifying all parties interested, that the council will, at the time and place named, apply to the justice named for the appointment of a jury to condemn and appraise such land. A copy of such notice shall be served by any constable on the owner of each such parcel of land to be taken, if known and resident within the county; such service to be made in the manner prescribed for serving a summons in justice court, and the return of the officer shall be conclusive evidence of the fact stated therein. If the notice cannot be so given as to all the parcels, then the same shall be also published once in each week for three (3) successive weeks, in a newspaper published in such borough or county; and the affidavit of the printer or foreman of such newspaper shall be conclusive evidence of such publication. Such notice shall be served, and such publication made for three (3) weeks, complete at least one (1) week before the time fixed therein for such application. If any person so served with notice shall be a minor, or of unsound mind, the justice, before proceeding, shall on the day fixed for application, appoint for him a guardian for the purpose of such proceeding, who shall give security to the satisfaction of the magistrate, and act for such ward.

SEC. 24. At the time and place fixed for such hearing, the application

accompanied by a copy of such resolution and such survey, and by proof of service of the notice, as provided in the last section, shall be filed with the justice, who shall thereupon make a list of twenty-four (24) competent jurors, not interested, but residents of the borough shall not be disqualified. He shall hear and decide any challenge for cause or favor, made to any one, and, if sustained, shall replace his name with an objectionable juror, until the list shall be perfected. Thereupon, under direction of such magistrate, each party—the borough council by its representative on one side, and owners of land or their agents present, or if none be present, or they disagree, a disinterested person appointed by the justice, on the other—shall challenge six (6) names, one (1) at a time, alternately, the borough council beginning. To the twelve (12) jurors remaining, such justice shall issue a venire, requiring them at an hour on a day named, not more than ten (10) nor less than three (3) days thereafter, to appear before him to be sworn and serve as a jury to view lands and appraise damages, and at the same time, shall publicly adjourn the proceedings to the time and place so named; such venire shall be served by any constable, at least one (1) day before such appointed time, by reading the same to each such juror, or by leaving a copy at his usual place of abode in the presence of a member of his family. The jurors summoned shall appear at the time and place named; and if any be excused by the justice, or fail to attend, he shall direct other disinterested persons to be forthwith summoned in their stead until twelve (12) be obtained. The magistrate shall then administer to them an oath that they shall well and truly inquire into and determine the necessity for taking the lands mentioned in the resolution, and if found necessary, the damages occasioned thereby, and faithfully discharge their duties as jurors according to law.

SEC. 25. Under the direction of such magistrate the jury shall view the lands to be taken, and shall then sit before him to hear such competent evidence as shall be produced by any party; and for such purposes such magistrate shall possess the same powers as a court in session with a jury, and if there be necessity, may adjourn the sitting from day to day. The jury shall render a separate verdict in writing, signed by them, in which they shall find whether it shall be necessary to take such lands or any part thereof for such purposes, describing such as they find necessary to be taken; and if any be found necessary to be taken, then a verdict or appraisement for damages, specifying therein the damages of each owner, and separately the value of the land taken for each, and the damage otherwise sustained by each by reason of the taking thereof, in estimating which they shall deduct therefrom any special benefit, if any, to be enjoyed by each from such improvements; and a majority of such jury may render such verdict or appraisement of damages and shall sign the same. Any technical error in such verdict may be immediately corrected, with the assent of the jury, and they shall be thereupon discharged and their verdict filed by the magistrate. In case the jury shall fail to find a verdict, another jury shall be selected, summoned, sworn, and proceed in the same manner.

SEC. 26. Within ten (10) days after verdict any land owner whose land has been found necessary to be taken may appeal from the award of damages to him, in such verdict, to the district court, and the borough may likewise appeal from the award of damages to any owner by filing with such magistrate a notice of appeal, specifying whether the appeal is from the whole award to him, or a part, what part, and therewith an undertaking with two (2) sufficient sureties, to be approved by the magistrate, to pay all costs that may be awarded against such appellant on the appeal, and paying the magistrate for his return thereof. Any party not so appealing shall be forever concluded by such verdict or appraisalment. Upon an appeal being taken, the magistrate shall transmit to the clerk of the district court within ten (10) days the notice of appeal and undertaking, and thereto annexed a copy of all papers and proceedings before him with his certificate thereof. He shall, after the time for appealing is expired, file with the borough recorder, annexed together, all the original papers, including the verdict, with a certificate by him thereof, and that no appeal has been taken from such verdict, except as the facts are, which he shall briefly specify, and the clerk shall record all such proceedings. Upon filing such transcript in the district court the appeal shall be considered an action pending in such court, and be so entered, the land owner as plaintiff, the borough as defendant, and be subject to trial and appeal to the supreme court. The case shall be tried by a jury, unless waived, and costs shall be awarded against the appellant if more favorable verdict be not obtained; otherwise against the respondent. Upon entry of judgment, the clerk of the district court shall transmit a certified copy thereof to the borough clerk.

SEC. 27. If the verdict of the jury first called find it necessary to take such land or any part thereof, the borough board may, upon return thereof to the clerk, enact an ordinance (in accordance) therewith, for laying out, changing, widening or extending and opening any such street, lane, alley, public ground, square or other public place, or constructing and opening, altering, enlarging or extending any such drains, canals or sewers, or altering, widening or straightening any such water course, or for the use of improvement of a harbor, but shall not enter upon any such land therefor until the owner be paid in full or the damages be set apart for him in the hands of the treasurer and an order therefor lawfully executed to him be deposited with the clerk, to permanently remain subject to his order.

At any time before causing any such land to be actually taken or put to public use, and before the rendition of a judgment in the district court for damages, the borough board may discontinue all proceedings theretofore taken, and the borough shall in any event be liable for the costs only. All the costs of every such proceeding shall be paid by the borough, except when it recovers costs in the district court.

SEC. 28. For the purpose of payment of the expenses, including all damages and costs incurred for the taking of private property and of making any improvement mentioned in the last preceding section, the borough council may, by resolution, levy and assess the

whole or any part not less than half ($\frac{1}{2}$) of such expenses, as a tax upon such property as they shall determine is specially benefited thereby, making therein a list thereof, in which shall be described every lot or parcel of land so assessed with the name of the owner thereof, if known, and the amount levied thereon set opposite. Such resolution, signed by the president and clerk, shall be published once in each week for two (2) weeks in a newspaper printed regularly in such borough; or if there be no such newspaper, three (3) copies thereof shall be posted by the clerk in three (3) of the most public places in such borough, and a notice therewith that at a certain time therein stated, the said council will meet at their usual place of meeting, and hear all objections which may be made to such assessment, or to any part thereof. At the time so fixed, the said council shall meet and hear all such objections, and for that purpose may adjourn from day to day, not more than three (3) days, and may, by resolution, modify such assessment in whole or in part. At any time before the first (1st) day of September, thereafter any party liable may pay any such tax to the borough treasurer. On such first (1st) day of September, if any such tax remains unpaid, the clerk shall certify a copy of such resolution to the county auditor, showing what taxes thereby levied remain unpaid, and the county auditor shall put the same upon the tax roll, in addition to and as a part of all other borough taxes therein levied on such land, to be collected therewith.

SEC. 29. The council shall have power to open and grade streets and alleys, to build and repair sidewalks, bridges and levies, and to regulate creeks and brooks running through the borough limits and keep the channels in repair. The council shall notify the owners of where sidewalks are required; and give ample time for building or repairing such sidewalks, and if the owner or owners of such lot or lots does not comply with the request of the borough council within the time specified, then the council shall order said sidewalks to be built or repaired, and the cost for building or repairing said sidewalks shall be charged against such lot or lots, and the amount shall be collected as other taxes. *Provided*, That the building and the repair of sidewalks shall be provided for by the resolution of council and not by ordinance; and, *provided further*, that the said council may also appropriate and expend such sum or sums of money not otherwise appropriated, as they may deem proper, out of the treasury of said borough, for the purpose of maintaining and keeping in repair the public highway from and between the east end of the iron bridge across the Minnesota river at said borough, and the railroad depot at East Henderson, in the county of LeSueur. And the council may also appropriate and expend such sum or sums of money not otherwise appropriated, as they may deem fit and proper, out of the treasury of said borough for the purpose of maintaining and keeping in repairs any of the highways leading to the borough of Henderson in the townships of Henderson and Jessenland, in the county of Sibley and the state of Minnesota.

SEC. 30. The council shall have power to restrain any person from

vending or dealing in spirituous, vinous, malt or fermented liquors, unless duly licensed by the borough council. The sale of all intoxicating, vinous, spirituous, malt or fermented liquors within the limits of said borough, is hereby declared to be under the exclusive control of the council of said borough, and all fines imposed for a violation of any ordinances regulating such traffic, shall be paid into the treasury of the borough for the use thereof. *Provided*, That all licenses for so dealing in spirituous, vinous, and fermented liquors, shall not be less than one hundred dollars (\$100), nor more than two hundred dollars (\$200) per year, except as otherwise it may be provided by statute.

Provided, That persons so obtaining such license shall not be required to obtain a license from the board of county commissioners; *and provided further*; that the persons so obtaining such license shall comply with all the requirements and be subject to all the penalties as provided in the general statutes of Minnesota, and that previous to granting any such license, a bond shall be executed with the same conditions and with the same penal sum as required by the general act, and the moneys received for such licenses shall be paid to the clerk of said borough, and be used to defray the expenses thereof, and the council shall have full power to restrain any person from vending liquors unless duly licensed by the council of said borough.

Provided, further, All licenses granted by the borough council shall run and be in force from May 1st, and run for one (1) year.

SEC. 31. The borough council shall, on or before the fifteenth (15th) day of August in each year, by resolution, to be entered of record, determine the amount of corporation taxes to be levied and assessed on the taxable property in such borough, for the current year, which shall not exceed in any one (1) year two (2) per centum of the assessed valuation of such property. Before levying any tax for any specific purpose, the board may, in their discretion, submit the question of levying the same to the borough electors, at any special or general election, and in such manner as they may prescribe; when so submitted they shall be bound by the vote thereon. On or before the first (1st) day of September, in each year, the borough clerk shall deliver to the county auditor a copy of all such resolutions, certified under his hand and the corporate seal of such borough, and such auditor shall enter such taxes upon the tax book in the same manner as he is required to do in levying town taxes.

SEC. 32. All prosecutions for violating any of the ordinances, rules, or by-laws enacted under the provisions of this act, shall be brought in the corporate name of said borough, and shall be commenced by warrant, upon complaint being made as required by law in criminal cases before justices of the peace; and the same proceedings shall be had therein as are required to be had by the laws of this state in criminal or civil actions before justices of the peace; *Provided*, That no warrant shall be necessary in any case of the arrest of the person or persons while in the act of violating any law of the state of Minnesota, or ordinance of said borough, but in such cases a complaint shall be made, which the justice shall reduce to writing, and the party be required to plead thereto, as to warrant in

other cases; and the person or persons so arrested may be proceeded against in the same manner as if the arrest had been made by warrant. All processes issued by the justice of the peace of said borough shall be directed to the marshal of said borough. It shall be a sufficient pleading of the by-laws or ordinances of said borough to refer to the chapter and section thereof, which are hereby declared to have all the force and effect of general laws within the jurisdiction of said borough, and it shall not be necessary to read or give them in evidence upon the trial of any proceeding or action, criminal or civil.

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

SEC. 33. Appeal may be taken to the district court in the same manner as from judgments in civil actions by justices of the peace, except that if taken by the defendant, he shall, as a part thereof, execute a bond to the borough with surety to be approved by such justice, conditioned that if judgment be affirmed in whole or in part, he will pay the same and all costs and damages awarded against him on such appeal: and in case such judgment should be affirmed in whole or in part, execution may issue against both defendant and his surety. Upon perfection of such appeal, the defendant shall be discharged from custody.

SEC. 34. All fines and penalties imposed under or by virtue of the provisions of this act, shall belong to the borough, and shall constitute a fund to pay the expenses incurred under the provisions of its charter.

SEC. 35. The justice of the peace and marshal of said borough shall have and may exercise, in addition to the powers and authority herein specially granted to such officers, all the powers, authority and jurisdiction in any case possessed by a justice of the peace or a constable elected in the county or counties in which such borough is situated. The borough justices and constables shall take the same oath of office, and execute, before entering upon the discharge of their duties as such officers, the same bond as township justices of the peace and constables, and file their bonds with the same officers as justices of the peace and constables elected elsewhere in the state are now or hereafter may be required to do, and shall receive the [same] fees for their services as justices of the peace and constables

elected elsewhere in the state, are allowed under the general statutes of the state, nor or hereafter in force; and in all cases where a borough is situated in more than one county, the justice of the peace and constables of such borough shall have and possess all the powers and jurisdiction conferred by this act in each of the counties in which such borough is situated, and shall file their bonds in each of said counties.

SEC. 36. Should a vacancy occur in any of the offices provided for in this act, the borough council, or the remaining members thereof, may fill the same by appointment.

SEC. 37. The borough so organized shall constitute one (1) road district, and all taxes raised within the limits of said borough for road purposes, shall be expended under the direction of the borough council.

SEC. 38. The borough council shall constitute a board of auditors for the purpose of auditing all amounts payable by said borough. Said board shall draw up a report stating in detail the items of accounts audited and allowed, the matter of each account and the name of the person to whom the account was allowed, and also including a detailed statement of the financial concerns. Such report shall be filed with the recorder, and a copy thereof shall be posted at the time and place of holding the annual election, or published in a newspaper of general circulation in said borough two (2) weeks before such election.

SEC. 39. The legal voters of said borough may, at any annual or special meeting, authorize the borough to levy a tax for any legitimate object, but in no case shall the tax so levied exceed the sum of five (5) mills upon the dollar valuation in any (1) one year; and all taxes levied, except for improvement of streets, sidewalks and crossings, shall be levied and collected as prescribed by the statutes of this state for the levying and collection of township taxes; *Provided*, That the borough council shall, on or before the first (1st) day of September in each year, make and certify to the county auditor of the county in which any of the lands or borough lots within the corporate limits of such borough are situate, a statement of all taxes levied and assessed by them, and shall also, at the same time, make and certify to the auditor of the proper county, a list of the names of the owners of personal property subject to taxation within such borough, and the county auditor shall, upon the receipt of said statement and list, enter and carry out the said tax or taxes against the property within such borough; and the same shall be collected as other taxes are collected, and when collected, paid over to the village treasurer.

SEC. 40. The borough clerk may administer oaths and take acknowledgements. It shall be his further duty:

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

Second—To transmit to the clerk of the district court within ten (10) days after election and qualification, a certified statement of the name and term for which elected of all the officers elected at such

election; and in case of the appointment or election of any justice of the peace, constable, treasurer or clerk of said borough, to fill a vacancy, a like notice shall be so filed within ten (10) days after such election or appointment.

Third—To attend all meetings of the borough council, to record and sign the proceeding thereof, and all ordinances, rules, by-laws, resolutions and regulations adopted, and to countersign and keep a record of all licenses, commissions and permits granted or authorized by them, and for such purposes to keep the following books:

A minute book, in which shall be recorded in chronological order, all the papers mentioned in section twenty-one (21) of this act; full minutes of all elections, general or special, and the statements of the judges thereof; full minutes of all proceedings of the borough council; the titles of all ordinances, rules, regulations and by-laws, with a reference to the book and page where the same may be found.

An ordinance book, in which shall be recorded at length in chronological order, all ordinances, rules, regulations and by-laws.

A financial book, in which shall be kept a full and complete record of the finances of the borough, showing the receipts, the date, amount and source thereof, and the disbursements, with the date, amount and object for which paid out; and to enter in it such other matters as the council shall prescribe, and keep such other books as the council direct.

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

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

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

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

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

Ninth—To report births and deaths and all statistics, reports and returns required by law of town clerks and at same fees.

SEC. 41. The borough council shall have power and authority to declare and impose fines, penalties and punishments, and to enforce the same against one person or persons who may violate any of the provisions of any ordinance, rule or by-law enacted by them; and all such ordinances, rules and by-laws are hereby declared to have the force

of law. *Provided*, They are not repugnant to the constitution and laws of the United States and state of Minnesota.

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

SEC. 43. Every contract, conveyance, commission, liquor license, or other written instrument, shall be executed on the part of the borough by the mayor and clerk, sealed with the corporate seal, and in pursuance only of authority therefor from the borough council.

SEC. 44. Whenever an application, in writing, signed by one-third ($\frac{1}{3}$) as many electors of the borough as voted for borough officers at the last preceding election therefor, shall be presented to the borough council, praying for a dissolution of the borough corporation, such council shall submit to the electors of such borough, at an annual election or special election called by them therefor, the question whether or not such borough corporation shall be dissolved; the form of the ballot shall be, "For dissolution," or "Against dissolution;" said ballots shall be deposited in a separate box and such election shall be conducted, the votes thereat canvassed and a statement thereof made, filed and recorded as in other cases.

SEC. 45. If a majority of the ballots cast at such election, on such proposition, shall be for dissolution, such borough shall at the expiration of six (6) months from the date of such election, cease to be an incorporated borough. Within six (6) months the borough council shall dispose of the borough property, and settle, audit, and allow all just claims against the borough. They shall settle with the borough treasurer and other officers of the borough, and shall cause the assets of the borough to be used in paying the debts thereof. If anything remain after paying the borough debts, they may designate the manner in which the same shall be used. If they have not sufficiency of funds to pay the debts of the borough they may levy a tax to cover such deficiency, which shall be collected as other taxes, and shall be paid out by the town treasurer in payment of the outstanding borough orders or bonds.

SEC. 46. Compensation of all officers shall be in discretion of council, who shall regulate and fix the same by resolution or by law.

SEC. 47. All ordinances now in force shall remain in force so far as applicable notwithstanding this amendment, and the term of office of all officers of said borough shall not be affected by this amendment prior to the next borough election.

SEC. 48. All acts or parts of acts inconsistent with this act are hereby repealed.

SEC. 49. This act shall take effect and be in force from and after its passage.

Approved Feb. 9, 1887.

CHAPTER 27.

(S. F. 411.)

AN ACT TO CONSOLIDATE AND AMEND AN ACT ENTITLED "AN ACT TO INCORPORATE THE VILLAGE OF LITCHFIELD" APPROVED FEBRUARY 29, A. D. ONE THOUSAND EIGHT HUNDRED AND SEVENTY TWO, (1872,) AND THE SEVERAL ACTS AMENDATORY THEREOF.

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

SECTION 1. That the act entitled "An Act to incorporate the village of Litchfield" approved February 29th, A. D. one thousand eight hundred and seventy-two (1872), and the several acts amendatory thereof be consolidated and amended so as to read as follows:

CHAPTER I.

SECTION 1. All that territory embraced in the following descriptions and boundaries, to wit: The east half ($\frac{1}{2}$) and the east half ($\frac{1}{2}$) of the northwest quarter ($\frac{1}{4}$), and the east half ($\frac{1}{2}$) of the southwest quarter ($\frac{1}{4}$) of section eleven (11), and the west half ($\frac{1}{2}$) of section twelve (12), and the west half ($\frac{1}{2}$) of section thirteen (13), and the northeast quarter ($\frac{1}{4}$) and the east half ($\frac{1}{2}$) of the northwest quarter ($\frac{1}{4}$), and the northeast quarter ($\frac{1}{4}$) of the southeast quarter ($\frac{1}{4}$) and lots one (1), two (2) and three (3), of section fourteen (14), and lot one (1) of section twenty-three (23), all that part of the meandered lake known as "Lake Ripley" which is included within the meandered lake shore lines of section fourteen (14), fifteen (15), twenty-two (22) and twenty-three (23), and a straight line connecting the easterly extremities of said shore lines, together with a strip of land twenty (20) feet in width around the entire meandered lake shore lines of said section fourteen (14), fifteen (15), twenty-two (22) and twenty-three (23), all in township one hundred and nineteen (119) of range thirty-one (31) in Meeker county, Minnesota, shall be known as the village of Litchfield, and shall have the powers generally possessed by municipal corporations at common law, and in addition thereto shall have the powers herein specifically granted; and shall be capable of contracting and being contracted with, suing and being sued, pleading and being impleaded in all courts of law and equity; and may have a