

CHAPTER XXXII.

An Act to incorporate the city of Rushford.

March 3, 1868.

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

SECTION 1. That all of the district of country known and described as the west half of section thirteen, the east

City boundary.

half of section fourteen, the south half of the south east quarter of section eleven, the south half of the south west quarter of section twelve, the south east quarter of the south west quarter of section eleven, the east half of the north west quarter of section fourteen, and the east half south west quarter of section fourteen, all of town one hundred and four north, range eight west, shall be and is hereby created a city, by the name of Rushford.

Incorporation of said city.

SEC. 2. That the people who now do or hereafter may reside within the said city are hereby created a corporation for municipal purposes with perpetual succession under the name and style of "the city of Rushford," and as such corporation shall possess and enjoy all the powers, rights and privileges which can now or hereafter be possessed and enjoyed by corporations for municipal purposes under the constitution and laws of the state of Minnesota.

All subdivisions termed districts

SEC. 3. That all subdivisions of said city shall be termed districts and be numbered in order of creation, and until the first subdivision thereof the whole of said city shall constitute the first division.

Elective officers.

SEC. 4. That the officers of said corporation shall be one mayor, three councillors, one treasurer, one clerk, one attorney, one city justice and one constable, all of whom shall be elected from among and by the legal voters of said city.

Who to constitute the Council — powers of Council.

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 city of Rushford," 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 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. 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, or any organized or unorganized force of armed citizens of said city, 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 said force or forces or any part 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 meet and proper.

Duties of Mayor

Duties of Clerk.

SEC. 7. That the clerk shall be the recording officer of the city 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 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 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 the 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 township surrounding or the county including said city. 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 Treasurer.

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 the payee therein and the party receiving the money therefor.

Duties of City Justice.

SEC. 9. That to the city 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 city justice, except as in this section hereinafter provided. Said city justice shall, within the county in which he shall reside and keep his office as such, also have and exercise all the powers and jurisdiction of 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 city justice. *Provided*, That in matters arising entirely and solely under this act or under the ordinances made in pursuance thereof, no change of venue shall be taken from the city justice except to another city justice whenever said city shall have more than one justice. *Provided further*, That all writs and processes of said city justice in relation to such of the matters arising solely under this act or such ordinances as shall be of a penal nature, may be issued to the sheriff of the county in which such city is situated. The city justice shall keep a record of all his official doings and he shall forthwith pay over to the clerk of said city all fines collected by him.

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 city and belong to the police force of said city; 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.

Duties of Constable—how compensated.

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

Relating to Chief of Police.

SEC. 12. That the attorney shall be the legal adviser of the officers and council of said corporation in all matters relating to their several official duties and he shall render such legal counsel 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 counsel is asked, and all 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 to all actions to which said corporation may be a party.

Duties of City Attorney.

SEC. 13. There shall be an annual election held in said city on the first Monday in April of each year, at which the electors of said city 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.

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

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 city. *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, and false swearing to any oath administered at the polls shall be perjury and punished accordingly. That for the purposes of the first election under this act, A. J. Stevens, C. G. Hurlburt and Gullek Olson, 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.

Terms of office.

SEC. 14. That the term of office of the respective officers of said corporation shall be as follows: of the councillors and clerk each three official years; of the city justice and constable each two official years and of all other officers each one official 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 city shall be elected for a short term to end with the first official year of said corporation, and one other councilor from said city 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.

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

SEC. 15. That no person shall be eligible to any office of said corporation, unless he shall have the qualifications of elector, and have been a resident of said city for one year next preceeding 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 Minne-

sota, 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 appertaining to said office, and (excepting the first mayor and councillors,) shall have given such official bond as may have been in that 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 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, express 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 such case the officer so interested shall forfeit the 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 city, or any court of record of the state of Minnesota, upon application sustained by sufficient testimony of any citizen of said city. The mayor, councilors, city justice, constables and every officer, police or otherwise, hereafter created under the provisions of section five of this act, shall within said city be conservators of the peace. 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. 16. The council shall prescribe by ordinance the place within the city where the annual elections shall take place. The councillors shall be the inspectors of such elections, 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 city, and the certificate of the clerk entered upon record of said city 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—

First—To license and regulate exhibitions of common

showmen and shows of all kinds, and the exhibition of circuses, concerts and theatrical performances, auction stores, lotteries, billiard tables, pigeon hole tables, nine or ten pin alleys, bowling saloons, butcher's shops, groceries, taverns, lager beer saloons, and persons vending, dealing in or disposing of spirituous, vinous, malt or fermented liquors.

Second—To restrain any persons from vending, giving or dealing in spiritous, vinous, malt or fermented liquors, unless duly licensed by the city council.

Third—To prevent and punish horse racing, immoderate riding or driving in the streets, to compel persons to fasten their horses or mules attached to vehicles while standing in the streets, and to regulate places of bathing and swimming in waters within the limits of said city.

Powers of the
Council.

Fourth—To prevent the incumbering of streets, side walks, lanes, alleys, public grounds, with carriages, carts, wagons, sleighs, boxes, lumber, firewood, posts awnings or any other materials, substances whatever.

Fifth—To restrain the running at large of cattle, swine, sheep, poultry and geese, and to impose penalties on the owners of such animals for violation of the ordinances.

Sixth—To prevent the running at large of dogs, and may impose a tax on the same, and to authorize the destruction of the same and in a summary manner when at large contrary to the ordinances.

Seventh—To prevent all persons riding or driving any ox, mule, cattle, or other animals on the sidewalks in said city, or in any way doing any damages to such sidewalks.

Eighth—To direct and regulate the planting and preserving of ornamental trees in the streets or public grounds.

Ninth—To remove and abate any nuisance, obstruction or encroachment upon the streets, alleys, public grounds or highways of the city.

Tenth—To prevent the erection of slaughter houses within the limits of the city, and to regulate the storage or keeping of gunpowder or other combustible materials.

Eleventh—To compel the owner or occupant of any cellar, tallow chandler's shop, soap factory, tannery, stable, privy, sewers or any unwholesome nauseous house or place, to cleanse, remove or abate the same.

Twelfth—To establish and create pounds, pumps, water cisterns, reservoirs, drains or ditches.

Thirteenth—To lay out, alter, open, widen, extend,

establish, grade, repair or otherwise improve or keep in repair streets, avenues, lanes, alleys, commons, parks, sidewalks, culverts, and public grounds, and they may establish and record with the clerk, grades of streets or walks, to which buildings and erections shall conform.

Fourteenth—To prescribe the limits within which wooden buildings or buildings of other material, and not deemed to be fire proof, may or may not be erected, placed or repaired.

Fifteenth—To prevent the dangerous construction, placing or continuing of chimneys, fire places, hearths, stoves or 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 made secure or removed, and to prosecute the deposit of ashes in any unsafe place, and to regulate or prevent the carrying on of manufactories dangerous in causing or promoting fires.

Sixteenth—They may erect suitable buildings for city purposes.

Seventeenth—They shall have power to purchase fire engines and other fire apparatus, to organize fire, hose, hook and ladder companies and provide for the support and regulation thereof, and to order such companies to be discharged and apparatus to be delivered up, and they may appoint a chief engineer to take charge of the fire department, fire wardens to inspect chimneys and all places dangerous on account of fire, and perform such duties as may be prescribed by by-law, foreman and other officers of said companies, and they shall have power to compel citizens to work at fires.

SEC. 19. Members of all hook and ladder, hose, fire, engine and fire companies accepted by and under the control of said council, shall be exempt from serving on juries and from doing highway labor, except on property tax so long as they shall continue active members of such fire company.

Members of fire department exempt from serving as jurors, &c.

SEC. 20. The cost and expenses of surveying the streets, lands, alleys, sidewalks, sewers, public grounds, reservoirs, cisterns and drains, and the erection of buildings for city purposes and the cleansing and repairing the same, and constructing and repairing reservoirs, and sewers, street crossings, bridges and cross walks, may be paid out of the general fund, or reservoirs may be built by districts designated by the council, but the expense of opening, grading, graveling, paving or repairing streets,

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

alleys, to the center thereof, and also of sidewalks, shall be chargeable to the lots fronting on said improvements. The council shall not improve streets or walks except by a petition in writing signed by a majority of the owners and occupants that are living opposite said improvements, sewers may be built and the expense apportioned by the council among the lots and parcels of land benefited thereby. All resolutions or ordinances directing such improvements shall be filed and recorded by the clerk.

To be constituted one or more road districts.

SEC. 21. The city of Rushford may be constituted one or more road districts to be defined by the council, and the highway labor and taxes shall belong to the general fund.

To appoint overseers of road districts—his duties.

SEC. 22. The council shall appoint one or more overseers of each road district and they shall issue a warrant to him containing the whole amount of highway labor and taxes assessed and levied in his district, which warrant shall be returned by him to the clerk of the city. The laws of the state of Minnesota shall apply to warning, working, suing for and collecting highway taxes, and to returning delinquent taxes and in all other respects except as herein expressly provided. The council shall have power to direct the overseer when, where and how to expend said labor and tax and to remove him for cause. The council shall perform the duties imposed by law on the supervisors of towns in levying highway taxes and shall be governed and restricted in the amounts so levied by the same laws applicable in levying highway taxes and labor.

What property to be taxed.

SEC. 23. All property, real and personal, in the city, except such as may be exempt by the laws of the state, or is city property, shall be subject to taxation not exceeding two and one-half mills on the dollar per year for general purposes, such property shall also be liable for such special taxes as the council shall be authorized to levy. *Provided*, That the tax collected for general purposes shall constitute the general fund of the city, and the council shall have power to expend the general fund for repairing streets, bridges, and making other public improvements, and paying the city officers.

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

SEC. 24. The council shall report to the auditor of the county of Fillmore the amount of general taxes levied on the city, and the amount of special taxes levied upon any of the lots or portions of said city, and shall certify to him the lots or portions of said city, 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 Fillmore county to insert such taxes in the assessment roll of the city of Rushford, 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 and redeeming property, shall be the same as in proceedings on account of other taxes. The city shall be a town as far as the collection of taxes will admit. All residents of the city shall pay a tax on their personal property wherever situated proportionally with their real estate tax.

SEC. 25. 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 city for the amount of said penalty or 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 control and direction of the council, they shall have power to settle, compromise or prosecute all such actions on the part of the city when said city shall be a party to be interested in such action, and no person shall be an incompetent witness or juror by reason of being an inhabitant of said city in an action to which the city shall be a party. Every execution issued upon any judgment recovered thereon 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 exceed that sum.

How actions
brought to re-
cover penalties.

SEC. 26. In all respects not herein provided for, the city of Rushford shall constitute and be a part of the town of Rushford. This act shall be considered a public act and be in force from and after its passage.

What to consti-
tute the Town—
when act to take
effect.

Approved March 3, 1868.