

CHAPTER XXIV.

AN ACT TO INCORPORATE THE VILLAGE OF WINDOM, IN COTTONWOOD COUNTY, MINNESOTA.

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

SECTION 1. All that part of the county of Cottonwood, in the state of Minnesota, contained within the limits and boundaries hereinafter described, shall be a village, and the inhabitants thereof shall be and form a municipal corporation, under the name and style of the village of Windom, and shall have the powers generally possessed by municipal corporations at common law, and in addition thereto, shall possess the powers hereinafter specifically granted, and 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 common seal, and may change and alter the same at pleasure, and also take, hold, purchase, lease and convey real, personal and mixed estate, within or without the limits thereof, as the purposes of the village may require.

SEC. 2. All that territory included within the following boundaries, shall constitute the village of Windom, to-wit: The east half of the northeast quarter, and the east half of the southeast quarter of section twenty-six; the northwest quarter of section twenty-five; the west half of the northeast quarter of section twenty-five; the southwest quarter of section twenty-five; the west half of the southeast quarter, and all those parts of the following described parcels as lie north and east of the south and west bank of the Des Moines river, to-wit: The northwest quarter of the northeast quarter; the northeast quarter of the southwest quarter, and the northwest quarter of the northwest quarter of section thirty-six, all in town one hundred and five, range thirty-six west, in Cottonwood county.

SEC. 3. The elective officers of said village shall be one president, three trustees, one recorder, one justice of the peace, one treasurer, one constable and one assessor, who shall each, except the justice of the peace, hold his office for the term of one year, and until his successor shall be elected and qualified. The justice of the peace shall hold his office for the term of two years, and until his successor shall be elected and qualified. No person shall be eligible to any village office, unless he be a legal voter of this state, and shall have resided within the limits of said village, at least six months next preceding his election.

SEC. 4. There shall be an annual election held on the first Tuesday of April in each year, the polls of which election shall be open from one o'clock in the afternoon to five o'clock in the afternoon, at which the electors of said village, qualified to vote at general elections, may elect by ballot and by plurality of votes, the elective offi-

cers of said village. The recorder shall give ten days' notice of such election, by posting up written notices thereof in three public places in the village, or by causing such notice to be published in one or more newspapers published in said village. All elections shall be conducted in the same manner as general elections.

SEC. 5. That for the purposes of the first election under this act, C. H. Smith, M. Grimes and H. M. Clark shall be inspectors of election and also the 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 or publish notice thereof ten days before the same. After the first election, the village council may make all needful regulations for holding elections not inconsistent with this act. In case of the death, removal, neglect or refusal of either of said persons to act as such inspectors at said first election, the other or others may perform all of the duties prescribed by this section up to the time of opening the polls of said election, when their places may be supplied by vote of those present.

SEC. 6. Any vacancy occurring in the common council shall be filled by the remaining members of the council and the village justice. Any vacancy occurring in any other office shall be filled by the common council. Any person appointed to fill a vacancy shall hold his office and discharge the duties thereof until the next annual election, with the same rights and subject to the same liabilities as though he had been regularly elected.

SEC. 7. Each of the officers of said village before entering upon the duties of his office, and within ten days after his election or appointment, shall give notice in writing of his acceptance of the same to the recorder of said village, and shall take and subscribe an oath of office, and in addition thereto the treasurer, assessor, constable and justice of the peace shall further qualify by entering into such bond as is by general statutes required of such term [town] officers, which bonds shall be approved by the president and filed with the recorder, excepting the bonds of the justice of the peace, which shall be filed in the office of the clerk of the district court.

SEC. 8. No officer except as hereinafter provided shall receive any compensation except the treasurer, recorder, assessor, justice of the peace and overseer of roads, and in all such cases compensation shall be fixed by law, when the laws of the state do not define such compensation, or it is not herein otherwise provided.

SEC. 9. The president, three trustees and recorder shall constitute the common council of said village, the president being the presiding officer a majority of whom shall constitute a quorum to do business. The common council shall have power to determine the rule of its proceedings and compel the attendance of its members under such penalties as it may prescribe. It shall meet once in three months, at such time and place as it shall prescribe. Special meetings may be called by the president or two trustees, whenever they shall deem it for the interest of the village. The common council shall have power to appoint such officers as may be in its opinion necessary for the government and welfare of said village, define their duties and fix their compensation.

Sec. 10. The recorder shall keep the corporate seal and all the papers and records of the village, and keep a record of all the proceedings of the common council, and keep a full and accurate account thereof in a book provided for that purpose, and make a full and fair record of all by-laws, rules or ordinances made or passed by said common council. The recorder shall have power to administer oaths or affirmations, and copies of all papers filed in his office, and transcripts of the records of said village, certified by the recorder, under the corporate seal, shall be evidence in all courts in like manner as if the original was produced. He shall report annually on the first day of June to the council, an estimate of the expenses of the village for the current year, and the revenues necessary to be raised therefor, and the fiscal year of the village shall commence on the first Tuesday of June in each year. He shall countersign all contracts made in behalf of the village, and all certificates of work done by order of the common council. He shall examine the reports, books, papers, vouchers and accounts of the treasurer, and from time to time shall perform such other duties as the council may direct.

Sec. 11. The treasurer shall receive all moneys belonging to the village, and keep an accurate and detailed account thereof, and on the first Tuesday of June, and quarterly thereafter, he shall exhibit to the common council a full and detailed account of all receipts and expenditures after the date of the last quarterly report, and also the state of the treasury, which account shall be filed by the recorder.

Sec. 12. The constable shall perform such duties and execute such orders as are prescribed by the common council for the collection of tolls, license money and fines, for the preservation of the public peace, for the good order, cleanliness and government of the village, and for all other purposes. He shall possess the power of a constable at common law, and under the statutes of the state, and receive like fees.

Sec. 13. The village of Windom shall constitute one or more road districts, to be defined by the common council, and the highway labor and taxes shall belong to said road district.

Sec. 14. The common council shall appoint one overseer of highways for 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 said warrant shall be returned by him to the recorder of said village. The laws of this state shall apply to the levying, warning, working, suing for and collecting highway taxes, and to returning delinquent taxes. The common council shall have full power to direct the overseers when, where and how to expend the labor in the manner to be directed by them, at any point within the limits of the village. The common council shall perform the duties imposed by law upon the supervisors of towns in levying highway taxes, and shall be governed and restricted in the amount so levied by the same laws applicable to supervisors of towns in levying highway and labor taxes.

Sec. 15. The common council may designate a newspaper printed in the village, if any such there be, in which shall be published

all ordinances and other proceedings, and other matter required by this act, or by the by-laws or ordinances of the common council, or in the discretion of said council, said ordinances and other proceedings and other matter may be published by having copies of said by-laws, ordinances or other matter posted up in public places in said village, by the recorder of said village, under the direction of the common council. All printing that may be done by order of said common council shall be done for a compensation not exceeding legal rates.

SEC. 16. The village printer or printers, immediately after publishing any notice, ordinance, resolution or other matter, authorized by this act or the common council to be published, shall file with the village recorder a copy of such publication, which shall be *prima facie* evidence of the due publication of such notice, ordinance, resolution or other matter.

SEC. 17. No officer of said village or member of the common council, shall be either directly or indirectly a party to or interested in [any] job or contract with the village, and any contract in which any officer or member may be interested, shall be null and void, and no compensation shall be received [recovered] for any such services rendered or performed for or on behalf of said village, by any such officer.

SEC. 18. The president, sheriff of Cottonwood county and his deputies, constables and justices of the peace, and all other peace officers of this state residing within said village, shall be officers of the peace, and suppress in a summary manner all disorderly behavior within the limits of said village, and for that purpose shall possess all the authority and power of a constable under the statutes of this state.

SEC. 19. The justice of the peace shall have all the powers and jurisdiction of justices of the peace provided and elected under the general laws of this state, and in addition thereto shall have cognizance and exclusive original jurisdiction of all suits, prosecutions or proceedings for the recovery of any fine, forfeiture or penalty, under any by-law, ordinance or regulation of said village, or under this act, or for the breach or violation of any such by-law, ordinance or regulation, and in all cases of assault, batteries and affrays, not indictable, shall be commenced in the name of the village of Windom, and the same proceedings shall be had in all civil and criminal suits or prosecutions before said justice, when not otherwise herein directed, as are established and required to be had in civil and criminal actions by the general laws of this state, before justices of the peace, except that no change of venue can be taken in any action in which said corporation is a party. The justice of the peace shall take judicial notice of the by-laws, ordinances and regulations of said village, and it shall not be necessary in any action, civil or criminal, before said justice, to plead or refer to the same in any manner in any pleading or complaint, but said by-laws, ordinances and regulations shall, in said justice court, be held and deemed public law. The justice of the peace shall, once in three months, make to the common council a full report of all moneys received by him for fines, forfeitures and penalties, and shall pay them into the

hands of the treasurer, taking his receipt therefor. The fees of the justice of the peace shall be the same as are allowed and fixed by the general law[s] of this state. All warrants, [writs] and processes of every nature issued by said justice shall be directed to the sheriff or any constable of the county of Cottonwood, and may be executed or served by the constable elected under this act, or by the sheriff or any other constable of said county, and for such purpose such sheriff or constable shall have and possess the power and authority which, by the general laws of this state, they have and possess in the execution of warrants, writs and processes. In case of prosecutions for a breach or violation of any ordinance, by-law or regulation of said village, or of this act, or for an assault, battery or affray, not indictable, committed within the limits of said village, no appeal shall be allowed when the judgment or fine imposed, exclusive of costs, shall not exceed ten dollars. In case of the absence, sickness or other disability of said justice of the peace, the common council may appoint and authorize any justice of the peace of the town of Great Bend, in said Cottonwood county, to exercise and perform the duties of the justice of the peace of said village during his absence, sickness or other disability.

Sec. 20. The assessor of said village shall qualify in the same manner, and perform the same duties within said village as are prescribed for town assessors by general law.

Sec. 21. The common council shall have control and management of the finances and of all the property of the village, and the said council shall likewise have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify, correct and repeal all such ordinances, rules and by-laws, for the government and good order of the village and for the suppression of vice, as they shall deem expedient, and declare and impose penalties by fine and imprisonment, or both, and to enforce the same against any person or persons who may violate any provisions of such ordinances, rules and by-laws; and such ordinances, rules and by-laws are hereby declared to be and have the full force of law, and for these purposes shall have authority, by ordinances, resolutions or by-laws; *Provided*, They be not repugnant to the constitution of the United States or of this state.—

First.—To restrain, or license and regulate the exhibition of common showmen, and shows of all kinds, and the exhibition of circuses, caravans, concerts and theatrical performances, and also to license and regulate all auctioneers, billiard tables, pigeon-hole tables, nine or ten pin alleys, bowling saloons, butchers' shops and butchers' stalls, and venders of butcher's meat, pawn brokers, taverns, lager beer saloons and victualing houses; and also to restrain or license and regulate the vending, dealing in or disposing of, and all persons vending, dealing or disposing of spirituous, vinous, fermented or malt liquors; *Provided*, That not less than fifty nor more than three hundred dollars shall be required to be paid per annum for any license for the sale of spirituous, fermented or malt liquors; and for any other license, not less than one dollar nor more than fifty dollars, and the fee for issuing licenses shall not exceed one dollar. The said common council may at any time revoke any license grant-

ed under this act, for any violation of the general laws of this state, this act, or any by-law, rule or ordinance of said village, and upon such revocation all moneys paid for such license shall be absolutely forfeited to said village. The said common council may also regulate or restrain the sale of fresh or butcher's meat within the corporate limits of said village; *Provided further*, That said common council shall have exclusive jurisdiction and control of all the matters in this subdivision specified, to the entire exclusion of any control or right to regulate or restrain, in said matters, by any board, officer, person or municipality of this county, and that nothing herein contained shall be so construed as to prevent the voters of said village from deciding for themselves whether licenses shall be granted in said village, to such persons and in such number as the village council may think proper, for the sale of spirituous, vinous, fermented or malt liquors in less quantities than five gallons. And the village recorder is hereby required upon the petition of ten or more legal voters of said village, at any time not less than twenty days before any annual village election to give notice, at the time of giving notice of such election that the question of license will be submitted at said election, which question shall be determined by ballots containing the words "*in favor of license*," or "*against license*," as the case may be, which ballots shall be determined and canvassed, as by this act prescribed for canvassing and determining the votes cast at said election for village officers, and if upon such canvass it is found that a majority of the votes cast at such election on that question shall be against license, a certificate of such result shall be filed with the recorder, and said common council shall not thereafter, until some subsequent contrary vote, grant any license for the sale of spirituous, vinous, fermented, malt or intoxicating liquors.

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

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

Fourth.—To compel the owner or occupant of any grocery, cellars, tallow chandler shop, soap factory, tannery, stable, barn, privy, sewer or other unwholesome or nauseous houses or places; to cleanse, remove or abate the same; to remove or abate any nuisance injurious to the public health and safety, or repugnant to morality, decency or good order, and to provide for the punishment of all persons who shall cause or maintain such nuisance; to prescribe what shall constitute nuisances, and provide for the removal or abatement thereof, either under the ordinance or at common or statute laws.

Fifth.—To direct the location and management of slaughter houses and markets in said village, and to regulate the storage, keeping and

conveying of gunpowder, inflammable oils or other combustible material.

Sixth.—To prevent the encumbering of streets, sidewalks, lanes and alleys.

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

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

Ninth.—To prevent any person from bringing, depositing or having with the village any putrid carcass or unwholesome substance and to require the removal of the same by a competent officer at the expense of such person or persons.

Tenth.—To make, establish and improve public grounds.

Eleventh.—To prevent damage to sidewalks.

Twelfth.—To prevent the shooting of fire arms, crackers or any other projectiles, and to prevent the exhibition of any fireworks in any place which may be deemed by the village council dangerous to the village or any property therein, or dangerous or annoying to any citizen thereof.

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

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

Fifteenth.—To prevent the introduction of contagious diseases into the village.

Sixteenth.—To appropriate money and provide for the payment of the debts and expenses of the village.

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

Eighteenth.—To prevent the dangerous construction, placing or continuance of smoke houses, chimneys, fire places, stoves, or any pipe or instrument for the conducting of fire, heat or smoke, to authorize the inspection of the same by the fire warden and to cause the same to be removed or made secure and safe at the expense of the owners, and to prosecute for the keeping or continuance of the same, to prevent the deposit of ashes in the streets or in any unsafe place, and to regulate or prevent the carrying on of manufactories dangerous in causing or promoting fires.

Nineteenth.—To license and regulate butcher shops and stands for the sale of game, poultry, butchers' meats, butter, fish and other provisions.

Twentieth.—To regulate the place and manner of weighing and selling hay, and measuring and selling fire wood, coal, peat and lime, and to appoint suitable persons to superintend and conduct the same.

Twenty-first.—To compel the owners or occupants of buildings or grounds, to remove from the lot owned or occupied by him, all such substances as the board of health shall direct, and in his default, to

authorize the removal or destruction thereof by some officer at the expense of such owner or occupant.

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

Twenty-third.—To provide for the enclosing, improving and regulating of the public grounds belonging to the village, and for the adorning of the streets thereof with shade trees.

Twenty-fourth.—To provide for the taking from time to time of the enumeration of the inhabitants of the village.

Twenty-fifth.—To restrain and punish vagrants, mendicants, street beggars and prostitutes.

Twenty-sixth.—To provide a suitable place in which to confine those who, for the violation of any ordinance, rule or by-law enacted by said council, may be liable to such confinement.

SEC. 22. All laws, ordinances, regulations and by-laws shall be passed by an affirmative vote of the majority of the village council, and be signed by the president and recorder, and shall be published in the official paper of the village, if any, or posted for ten days in three of the public places in the village.

SEC. 23. The village council shall examine and adjust the accounts of all village officers and agents, at such time as they may deem proper, and if any such officer or agent shall refuse to comply with the order of said council in the discharge of their duties in pursuance of this section, the council shall declare the office of such person vacant, and may commence suit or proceeding at law against any such officer or agent who may be found delinquent or defaulting in his accounts, or in the discharge of his official duties. The council shall make full record of all such settlements and adjustments.

SEC. 24. The costs and expenses of surveying streets, lanes, alleys, sidewalks, sewers, public grounds, reservoirs, cisterns, drains and the erection of buildings for village purposes, may be paid out of the general fund, but the expense of sidewalks, sewers and drains shall be chargeable to the lots fronting on such improvements. Street crossings and crosswalks shall be paid for from the general fund. The village council shall not construct sidewalks except by a petition in writing signed by two-thirds of the owners and occupants that are living opposite such improvements. Such petition may be signed by the agents or legal representatives of such owners. Sewers may be built, and the expense apportioned by the village council, among the lots and parcels of land benefited thereby. All resolutions or orders directing such improvements shall be filed and recorded by the recorder.

SEC. 25. All work by the village, except the highway taxes, shall be let by contract to the lowest bidder, and the village council may require a bond with sureties for the faithful performance of the contract. Not less than ten days' notice shall be given of the letting of the contract, by the posting of notices by the recorder in two public places in the village, to be signed by the president, and also filing said notice with the said recorder at the same time.

SEC. 26. All property, real or personal, in the village, except such as may be exempt by the laws of the state or is village property, shall be subject to taxation for general purposes. Property ex-

empt from taxation shall be liable to assessment for building and repairing sidewalks.

SEC. 27. The village council shall report to the auditor of Cottonwood county the amount of special taxes levied upon any of the lots or portions of said village, 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 county auditor to insert such taxes in the assessment roll of the village of Windom, 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. All residents of the village shall pay a village tax on their personal property wherever situated; *Provided*, No tax for general village purposes shall in any one year exceed five mills on the dollar of the assessed valuation as equalized by the boards of equalization.

SEC. 28. In all prosecutions of any violation of this act, or any by-law or ordinance of the village of Windom, the first process shall be a warrant; *Provided*, That no warrant shall be necessary in any case of the arrest of any person or persons while in the act of violating any law of the state of Minnesota, or any by-law, ordinance or resolution of the village of Windom; but the person so arrested may be proceeded against, tried, convicted and punished or discharged in the same manner as if the arrest had been by warrant.

SEC. 29. No person shall be an incompetent judge, justice, witness or juror by reason of his being an inhabitant of said village, in any proceeding or action in which the village of Windom shall be a party in interest.

SEC. 30. The village of Windom shall not be liable in any case for the board or jail fees of any person who may be committed by any officer of the village of Windom or any magistrate therein, for any offense punishable under the state laws, nor for the costs and fees in the prosecution of any such offense on the failure to convict thereof, or the discontinuance of any such prosecution.

SEC. 31. The common council, when acting as inspectors of election, shall receive the same compensation as fixed by the laws of the state.

SEC. 32. In any action brought to recover any penalty or damages under this act, or under any ordinance made by the common council, it shall be sufficient to complain that the defendant is indebted to the village to 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 in which the village shall be a party in interest, shall be under the control and direction of the common council; they shall have power to settle, compromise or prosecute all such actions on the part of the village, to employ or appoint an attorney for the village and fix his compensation. When any action or proceeding is begun against said village, the summons, writ or process shall be served on the recorder and he shall immediately notify the president thereof, and such measures shall thereupon be taken by the council as they deem proper.

SEC. 33. All fines, forfeitures and penalties imposed by or recovered before any justice of the peace residing within said village, and all moneys paid for licenses granted by the common council of said village, and all moneys collected from any source whatever under and by virtue of this act, or in virtue of any by-law, ordinance or resolution of the common council, not herein otherwise directed, shall be paid into the treasury and constitute and be the fund of said village.

SEC. 34. The village of Windom shall not be released from its proportion of any indebtedness heretofore incurred by the town of Great Bend, but shall be subject thereto in all respects as if this act had not been passed.

SEC. 35. The treasurer of said village shall receive for his services the same fees as are allowed by law to town treasurers, and the recorder of said village shall receive for his services the same fees as are allowed by law to town clerks, and the assessor of the village shall receive for his services the same fees as are allowed by law to town assessors, and each overseer of roads in said village, such compensation as is allowed by law to overseers in towns for similar services; *Provided*, the common council may make such other allowance for the services of the officers in this section named, as they may deem necessary.

SEC. 36. The said village of Windom and the remaining portions of the town of Great Bend outside of the limits of said village, shall, for general election purposes, be and constitute as heretofore, an election district or precinct of said Cottonwood county, and the officers of said town of Great Bend shall conduct such general elections, and make returns thereof, as is prescribed by the general election laws of this state; and the said town of Great Bend may hold their general elections and town meetings within the corporate limits of the village of Windom.

SEC. 37. No law of this state containing [contravening] the provisions of this act, shall be considered as repealing, amending or modifying the same, unless such purpose be expressly set forth in such law.

SEC. 38. This act shall be deemed a public act, and need not be pleaded nor proven in any court in this state.

SEC. 39. This act shall take effect and be in force from and after passage.

Approved February 20, 1875.