

CHAPTER XXXV.

AN ACT ENTITLED "AN ACT TO AMEND AN ACT ENTITLED AN ACT TO AMEND AN ACT ENTITLED AN ACT TO INCORPORATE THE VILLAGE OF BENSON, SWIFT COUNTY, MINNESOTA," THE SAME BEING CHAPTER SIXTY-ONE OF THE SPECIAL LAWS OF THE YEAR EIGHTEEN HUNDRED AND SEVENTY-EIGHT.

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

SECTION 1. That section five of section two of said act, relating to the recorder of said village, be amended so as to read as follows:

Section 5. The village council shall annually, in the month of May, appoint, by a majority vote of all the members of said council, a village assessor for said village of Benson, who shall have the same powers and authority and perform the same duties as are or may be required by the laws of this state of town assessors; and he shall qualify and receive his compensation in the same manner as town assessors. Said assessor shall, whenever the village council shall so determine, make and return a census of the population of said village, in the manner and form prescribed by said council.

SEC. 2. That section two of said act be further amended by adding thereto the following, under the head of section seven, enumerating the powers granted to said village council:

Fourth—To appoint a watchman for said village, and to prescribe his duties, term of office and compensation, and to provide and regulate the same.

SEC. 3. This act shall take effect and be in force from and after its passage.

Approved March 6, 1879.

CHAPTER XXXVI.

AN ACT TO AMEND THE LAW INCORPORATING THE VILLAGE OF SLEEPY EYE, BROWN COUNTY, MINNESOTA.

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

SECTION 1. That chapter sixteen of the special laws of the state of Minnesota for the year one thousand eight hundred and seventy-eight, entitled "an act to incorporate the village of Sleepy Eye, Brown county, Minnesota," be amended so as to read as follows:

SEC. 2. That part of Brown county, in the state of Minnesota, included within the following described territory, to wit: the west half of section twenty-nine, the east half of section thirty, the northeast quarter of section thirty-one, and the northwest quarter of section thirty-two, the same being in township number one hundred and ten north, of range number thirty-two west, shall be comprised within and form the boundaries of the village to be known as the village of Sleepy Eye, and shall have the powers generally possessed by municipal corporations at common law, and in addition thereto shall possess the powers hereinafter specially granted, and be capable of contracting and being contracted, suing and being sued, pleading and being impleaded in all the courts of law and equity, and may have a common seal, and may change and alter the same at pleasure, and may take, hold, purchase, lease and convey real and personal estate within or without the limits thereof as the village may require.

SEC. 3. That said village of Sleepy Eye shall be and constitute one election district for all purposes of general and special elections under the election laws of this state, and the president and councillors of said village shall be and act as judges at all elections held in said village (except such as may be held under section number thirty-one of the charter) and shall have power to appoint clerks of such election, and administer the necessary oaths. Such elections shall be held and conducted in the same manner and under the same penalties, and vacancies in the board of election filled, as required by the election laws of the state. The recorder of said village shall give notice of all elections in the same manner as required by law of town clerks, and councillors of said village shall perform all the duties pertaining to the registry list in the same way that township supervisors are required to do under the general laws of this state. Chapter one of the general statutes of this state shall apply to and govern the judges and clerks of elections in all cases wherein the same does not conflict with the provisions of this act. And the common council shall determine in what place in said election district elections shall be held, at least ten days before any election shall be held.

SEC. 4. The elective officers of said village shall be one president of the common council, one recorder, one treasurer, one justice of the peace who shall be styled police justice, three councillors, one assessor and one marshal, who shall each, except the justice of the peace, hold his respective office for the term of one year, and until his successor is elected and qualified: The justice of the peace shall hold his office for the term of two years, and until his successor is elected and qualified.

SEC. 5. The president, the three councillors and the recorder shall constitute the common council of the said village of Sleepy Eye, a majority of whom shall constitute a quorum to do business. The common council shall have power to determine the rules 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 shall be prescribed by rule. Special meetings may be called by the president or by any two councillors,

whenever they shall deem it for the interest of the corporation. The common council shall have power to appoint such officers as may be in their opinion necessary for the government of said village, and define their duties and fix their compensation.

SEC. 6. Every person elected or appointed to any office under this act, shall, before entering upon the duties of his office, take and subscribe to the oath of office prescribed by general law, and file the same with the recorder of the village. The treasurer, recorder and marshal shall execute to the village of Sleepy Eye a bond in the sum of one thousand dollars, with sufficient surety, to be approved by the common council, conditioned for the faithful performance of the duties of their respective offices; which bond shall be filed with the recorder, except that the bond of the recorder shall be filed with the treasurer of said village, and the justice of the peace of said village shall qualify as prescribed for justices of the peace of the village under the general law of the state, except such bond shall be executed to said village of Sleepy Eye, and be approved by the president of the common council of said village, who shall endorse his approval thereon.

SEC. 7. It shall be the duty of the president to preside at all meetings of the common council, but in case of his absence or inability to act, the members present shall choose one of their number to preside during his absence.

SEC. 8. That the recorder shall be the recording officer of said village and of the common council, and he shall have the custody of the seal of said corporation (if any,) and of all the records thereof not necessarily and specially appertaining to the other officers thereof. He shall receive all moneys payable to said corporation, except as hereinafter provided, and shall immediately pay the same over to the treasurer, charging him therewith and taking his receipt therefor. He shall keep all accounts of the corporation, receive all claims against the same, and draw orders upon the treasurer for moneys payable by said corporation, but no such order shall be drawn by said recorder unless the same shall be in full or in part payment of a claim against said corporation previously audited and allowed by the common council. He shall also make to the common council at the close of each official year a condensed report of all his doings as such officer during the year, which report shall be published in such manner and to such extent as may be provided by ordinance, and he shall with all reasonable dispatch make such other reports and at such time as the common council may require, and said recorder shall also receive and file and keep record of all chattel mortgages and all other evidences of indebtedness which is made by law the duty of town clerks to receive, presented to him for such purposes in the same manner and way as prescribed by law for town clerks, and all chattel mortgages and such other papers filed in the office of said recorder shall have the same effect and be noticed to the same extent as chattel mortgages and such other papers filed in the office of the township clerk, and the election district herein created shall, so far as chattel mortgages and such other papers are concerned, be construed to mean town or village, and sections two, three and four chapter thirty-nine statutes of Minne-

sota shall apply to the election district herein created and mentioned, and the aforesaid recorder shall be governed by the next abovementioned sections in chapter thirty-nine in his official duties as to chattel mortgages and such other papers as may be filed with him in accordance with law, and the said recorder shall have power to administer oaths and affirmations and to take acknowledgments of deeds and all other writings in like manner and to the same extent that town clerks now are or may be hereafter authorized to do by general law.

SEC. 9. The treasurer shall be the depository of all moneys belonging to said corporation. He shall from such moneys pay, upon presentation, all orders therefor drawn by the recorder and countersigned by the president. Said treasurer shall make to the common council at the end of his official year, a condensed report of all moneys received and paid out by him during such year, and at such other times as the common council may direct, and the accounts and funds in the possession of said treasurer belonging to said corporation, shall be subject to the inspection of the common council at all times.

SEC. 10. The justice of the peace provided for and elected under the provisions of this act, shall have and possess, and may exercise all the powers and jurisdiction of justices of the peace provided for and elected under the general laws of the state; and in addition thereto shall have cognizance and 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 corporation, or under this act, for breach or violation of any such by-law, ordinance or regulation, and in all cases of offences committed against the same. All prosecutions and assaults, batteries and affrays not indictable, and for a breach or violation of any by-law, ordinance or regulation, shall be commenced in the name of the village of Sleepy Eye, and the same proceedings shall be had in civil or criminal actions or prosecutions before said justice of the peace, when not otherwise herein directed, as are established and required to be had in civil and criminal actions by the general laws of the state before justices of the peace, and in case of prosecution for a breach or violation of an ordinance, by-law or regulation of said corporation or of this act, or for an assault, battery or affray not indictable, committed within the limits of said corporation, no appeal shall be allowed when the judgment or fine imposed, exclusive of costs, is less than ten dollars. All fines, forfeitures and penalties imposed by or recovered before said justice, in any suit, prosecution or proceeding had or commenced in the name of said village, shall be promptly paid by said justice to the recorder of said corporation, for the use thereof.

The justice of the peace shall take judicial notice of the by-laws, ordinances and regulations of said corporation, 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 whatever, in any pleading or complaint, but said by-laws, ordinances or regulations shall, in said justice court, be held and deemed to be public laws. The justice of the peace shall, at least 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 recorder, taking his receipt therefor. The fees of the justice of the peace shall be the same as are allowed and fixed by the general laws of the state for justices of the peace, and all warrants, summons, writs and processes of every nature, issued by such justice of the peace, shall be directed to the sheriff or any constable of Brown county, and may be executed and served by the marshal elected under the provisions of this act, or by the sheriff or any constable of said county, and for such purposes said sheriff or constables of said county shall have and possess the same powers and authority which by the general laws of the state they have and possess in the execution or service of warrants, summons, writs and other process issued by justices of the peace elected under the general laws of the state. In all actions arising entirely and solely under this act, or under the ordinances made in pursuance thereof, no change of venue shall be taken from the village justice, except to another village justice, when the village shall have more than one such justice.

SEC. 11. The marshal elected under the provisions of this act shall be the ministerial officer of the council, and shall have and possess and may exercise all the powers belonging to constables elected under the general laws of the state, and said marshal shall, within the county wherein he resides, also have and exercise all the duties of, and when acting as such receive the same compensation as constables elected under the general laws of the state, and shall be chief of the police force of said village and receive such compensation therefor as may be allowed by the common council, but as such (chief of police) shall be subordinate to the president. And the marshal, and any other police officers of said village, are hereby vested with all the powers of a constable in the service of writs, as granted them by law of the state, and may pursue into any county of this state, and take and bring back for trial any offender against any of the ordinances of said village.

SEC. 12 The assessor of said village shall qualify in the same manner and will perform the same duties within the limits of said village as are prescribed for town assessors by general law.

SEC. 13. The term of all officers elected under the provisions of this act shall commence on the second Tuesday of January of each year (unless elected or appointed to fill a vacancy). All officers shall be residents of the village, and there shall be an annual election for the election of officers herein provided for on the first Tuesday of January in each year, and the polls shall be kept open from one until four o'clock in the afternoon, and ten days' previous notice shall be given by the recorder of the time and place of holding such election, by posting notices in three public places in said village, or by advertising the same in a newspaper published in said village. At the close of the polls the vote shall be counted and a true statement thereof proclaimed to the voters present by one of the judges, and the recorder shall make a true record thereof, and shall without delay notify all persons so elected of their election.

SEC. 14. Whenever any vacancy occurs in any office of said village it shall be the duty of the common council to fill such vacancy by appointment until the next annual election. Any person so appointed shall have the same rights and be subject to the same liabilities as if duly elected by the voters of said village.

SEC. 15. All persons entitled to vote for county and state officers, and who shall have a permanent residence and shall have resided in said village for sixty days next preceeding the day of election, shall be entitled to vote for any elective officer under this act, and to hold any office hereby created.

SEC. 16. The treasurer of Brown county shall retain in his hands all taxes collected off from property within the corporate limits of said village, and pay over the same to the treasurer thereof, except such taxes as are assessed for state, county and school purposes.

SEC. 17. The common council shall have the mangement and control of the finances and all the property of the corporation, and shall also, in addition to the powers herein vested in them, have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify and repeal all such ordinances, orders, by-laws and regulations for government and good order of the village, for suppression of vice and intemperance, and for the prevention of crimes, as they shall deem expedient. The common council shall have full power and authority to declare and impose fines, penalties and punishments, and to enforce the same against any person or persons who may violate any of the provisons of any rules, ordinances, by-laws and regulations which are hereby declared to be and have force of law, and for those purposes shall have authority by ordinance, rules, by-laws or resolutions.

First—To license and regulate the exhibitions of showmen and shows of all kinds, or the exhibitions of caravans, circuses, concerts or theatrical performances, billiard tables, ten-pin alleys, pigeon hole tables, bowling saloons; to grant licenses and regulate auctions and auctioneers, peddlers, hawkers and hucksters, and groceries and taverns, victualling houses, and all persons vending or in any way dealing in spirituous, vinous or fermented liquors.

Second—To prevent any riots, noise, disturbance and disorderly assemblages in said village, and to provide for the arrest and punishment of any person or persons who shall be guilty of the same; to suppress disorderly [houses] and houses of ill-fame, and to provide for the arrest and punishment of the keepers thereof, and to authorize the destruction of instruments used for the purpose of gaming.

Third—To restrain and prohibit all descriptions of gaming, and fraudulent devices and practices, and all playing of cards, dice, and other games of chance, for the purposes of gaming in said village, and to restrain any person from vending, giving or dealing in spirituous, fermented or vinous liquors, unless duly licensed by the common council.

Fourth—To compel the owner or occupant of any grocery, cellar, tallow chandler's shop, soap factory, stable, barn, privy, sewer, or other unwholesome, nauseous house or place, to cleanse, remove or abate the same from time to time, as often as may be deemed neces-

sary for the health, comfort, or convenience of the inhabitants of said village.

Fifth—To prevent encumbering the streets, sidewalks, alleys or public grounds with carts, carriages, wagons, sleighs, boxes, firewood, posts, awnings, or any other material or substance whatever.

Sixth—To direct the location and management of slaughter houses and markets, breweries, distilleries and pawnbrokers.

Seventh—To prevent and punish horse racing, immoderate riding or driving in the streets, to compel persons to fasten their horses or other animals attached to vehicles or otherwise, while standing in the streets.

Eighth—To restrain the running at large of cattle, horses, swine, sheep, poultry and geese, and to authorize the distraining and sale of the same, and to impose penalties on the owners of such animals and poultry for violation of the ordinance.

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

Tenth—To prevent any person from bringing, depositing, having or leaving within said village any putrid carcass or other unwholesome substance, and to require the removal of the same; to require the removal from the village of all putrid and unsound beef, pork, fish, hides or skins of any kind by the owner thereof, and in default to authorize the removal thereof at the expense of such owner.

Eleventh—To make and establish public grounds, pumps, wells, cisterns, hydrants and reservoirs, to provide for and control the erection of water works for the supply of water.

Twelfth—To establish and regulate boards of health.

Thirteenth—To prevent all persons riding or driving any horse, mule, ox, cattle or other animal on the sidewalks of said village, or in any way doing any damage to such sidewalks.

Fourteenth—To prevent the shooting of firearms or crackers and to prevent the exhibition of any fireworks which may be by the council considered dangerous to the village or any property therein or annoying to any citizen.

Fifteenth—To prevent drunkenness and obscenity in the streets or public places of said village, and to provide for the arrest, imprisonment and punishment of all persons who shall be guilty of the same.

Sixteenth—To regulate the place and manner of weighing hay and selling the same, and measuring of and selling firewood, and to appoint suitable persons to *superintend and conduct the same.*

Seventeenth—To compel the owner or occupant of any building or grounds to remove snow or rubbish from the sidewalk, street or alley opposite thereto, and to compel such owner or occupant to remove from the lot or lots occupied by him all such substances as the board of health may direct, and in his default to authorize the removal or destruction thereof by some officer of the village at the expense of such owner or occupant.

Eighteenth—To provide for watchmen and to prescribe their number and duties and regulate the same.

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

Twentieth—To do all acts and make all regulations which may be necessary for the preservation of health.

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

Twenty-Second—To raise money for opening, building, grading, paving or repairing streets or crosswalks, the expense of which shall be charged to all property alike, within the incorporated limits of said village, or to lands and lots fronting on said improvements.

Twenty-Third—The style of all ordinances shall be "the common council of the village of Sleepy Eye do ordain," and no ordinance shall be passed except by a majority of all the members of the common council. The fines and imprisonment which the common council are authorized to impose for the violation of any ordinance or by-law, shall not exceed one hundred dollars, and imprisonment not to exceed ninety days, and commitment to prison under this act shall be to the county jail of Brown county, or to the village lock-up.

SEC. 18. All ordinances, regulations, resolutions and by-laws, shall be passed by a vote of a majority of the common council by ayes and noes, and any ordinance, regulation or resolution, rule or by-law imposing any penalty or forfeiture for a violation of its provisions, shall be published in some newspaper published in the village or county for one week before the same shall be in force. After such publication they shall be entered by the recorder of the village in a book provided for that purpose, which record shall be *prima facie* evidence in all courts and places of such publication and passage of such rules, regulations, resolutions, by-laws and ordinances.

SEC. 19. The power conferred upon the common council to provide for the abatement or removal of nuisances shall not bar or hinder suits, prosecutions or proceedings in the courts according to law. Gambling houses and houses of ill-fame, disorderly taverns, and houses or places where spirituous, vinous or fermented liquors are sold without licenses required therefor within the limits of said village, are hereby declared, and shall be deemed, public or common nuisances.

SEC. 20. The council shall examine, audit and adjust the accounts of the recorder, treasurer and justice, and all other officers and agents of the village, at such times as they may deem proper, and also at the end of each of official year, and before the term for which the officers of said village were elected or appointed shall have expired, and the common council shall require every such officer and agent to exhibit his books, accounts and vouchers for such examination and settlement.

SEC. 21. All actions brought to recover any penalty or forfeiture under this act, or the ordinances, police or health regulations, shall be brought in the corporate name of the village, and in all prosecutions for any violations of this act, or of any ordinance of the village, the first process shall be a warrant. *Provided*, that no

warrant shall be necessary in any case of the arrest or apprehension of any person or persons while in the act of violating any law of the state of Minnesota, or any ordinance of the village.

SEC. 22. When any suit or action is commenced against the village, the service therein shall be made by copy left with the recorder of the village, and in case of his absence with the president.

SEC. 23. The sale of all intoxicating, vinous, spirituous, malt or fermented liquors within the limits of said village, is hereby declared to be under the exclusive control of the common council of said village, and all fines imposed for violations of any ordinance regulating such traffic shall be paid into the treasury of the village, for the use thereof, and the common council may license persons vending, dealing in or disposing of spirituous, vinous, malt or fermented liquors within the limits of said village, and persons so licensed shall not be required to obtain a license from the board of county commissioners; *provided*, that no license shall be granted for less than fifty dollars, nor for a greater sum than two hundred dollars, and before such license shall be issued a bond shall be executed as required by the general act. *Provided further*, That all licenses granted shall expire within ten days after the next general election in said village.

SEC. 24. The common council shall have the power and authority to open, lay out and vacate streets and alleys within the limits of said village, which is conferred by the general laws of the state upon the board of supervisors of townships, to open, alter, discontinue or lay out roads, and in such laying out or vacating streets or alleys, and the assessment of damages therefor the common council shall be governed by the act under the general laws of the state providing for the altering, discontinuing and laying out roads; and appeals may be taken in the same manner as under the general laws of state governing appeals in such cases.

SEC. 25. The common council may prescribe the width of sidewalks, the kind of material of which they shall be constructed, and whenever the common council of said village shall deem it necessary to construct or repair any sidewalk in said village they shall by resolution, require the overseer of the road district in which such sidewalk is to be constructed or repaired, to notify all owners or occupants of lots or parcels of land adjoining such sidewalk to construct or repair so much of said sidewalk as adjoins their several lots at his or their own proper expense, within a certain time, to be designated in such notice, which shall not be less than twenty days after the service of such notice, and if such walk, or any part thereof is not done in the manner and time prescribed by ordinance and such notice, the common council may order the same to be done at the expense of the lots adjoining such sidewalk, and the expense thereof shall be assessed upon such lots in such manner that each lot shall be charged with the whole expense of the sidewalk adjoining thereto, and such assessment shall be a lien upon such lots as in cases of other taxes, and such assessment shall be returned to the auditor of Brown county, at the same time with the village taxes; and shall be collected in like manner as county taxes, and payment enforced.

SEC. 26. All property real and 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, not exceeding three mills on the dollar per year; such property shall also be liable for special taxes as the council may be authorized to levy.

SEC. 27. The common council shall have power to order and direct the levy and collection of the taxes above mentioned in section number twenty-six for general purposes; that all taxes for special purposes can only be levied upon a vote of the inhabitants of said village authorizing the same to be done, and fixing the amount thereof; *provided*, no person shall be allowed to vote for or against levying a tax in said village, except he be a male inhabitant of said village, over the age of twenty-one years, a resident, as required by section number fifteen herein, and who is subject to pay taxes upon real or personal property situated within the limits of said village.

SEC. 28. The common council shall have power to provide by ordinance for the manner of assessing and enforcing the collection of all taxes voted or levied under this act.

SEC. 29. In any action brought to recover any penalty or damage 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 for the amount of said penalty or damage and to refer to the act or ordinance under which the same is claimed and to give the special matter in evidence under it. All civil cases shall be under the direction and control of the common council. They shall have power to settle, compromise or prosecute all such actions on the part of the village, when said village shall be a party or be interested in such action.

SEC. 30. The corporation is vested with all the necessary powers to carry into full force, virtue and effect, all and every part of the charter of said village and all acts amendatory thereof, and to carry into execution the same shall have power to pass and ordain all and every ordinance necessary to carry out fully the meaning and intent thereof.

SEC. 31. The village of Sleepy Eye shall constitute one or more road districts, to be defined by the common council, and who shall appoint for each such road district one overseer, and they shall issue a warrant to him containing the whole amount of highway labor and taxes assessed and levied in his road district, which said warrant shall be returned by him with his doings thereon to the recorder of said village. The laws of the state shall apply to warning, working (except as to the time of performing the same) suing and collecting highway taxes and returning delinquent taxes and in all respects except as herein expressly provided. The common council shall have full power to direct the overseer where and how to expend said labor and tax, and to remove him, and may direct him to expend the labor and tax or any part thereof in a manner to be directed by them at any point beyond the limits of the village. The common council shall perform the duties imposed 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 the supervisors of said towns in levying highway labor and taxes, except as hereinbefore provided.

SEC. 32. General, special and town elections of the town of Home, may be held in the village of Sleepy Eye, at the discretion of the legal voters or supervisors of said town of Home, and all transactions of any public business, either at annual town meetings or by the officers of the town of Home, shall be equally valid when done within the village of Sleepy Eye, as though done without the limits thereof, and in the said town of Home.

SEC. 33. The village of Sleepy Eye shall not be liable in any case for board or jail fees of any person who may be committed by any officer or magistrate of the village, to the common jail of Brown county, under state laws, but may be liable therefor in cases of such commitment of violation of the village ordinance.

The sheriff and keeper of the common jail of Brown county, shall receive and safely keep all persons committed to said jail by a village justice of Sleepy Eye.

SEC. 34. The files, papers and records in the office of the village recorder, or copies thereof duly certified by him, shall be received and read in evidence in all courts and places in this state without further proof.

SEC. 35. All acts heretofore passed for the incorporation of the village of Sleepy Eye, which are in opposition, or in any manner conflict with this act, are hereby repealed, but all ordinances resolutions, regulations, rules, by-laws and orders of the council of said village, or parts thereof, not repealed, suspended or made void by this act, shall continue and remain in force and effect until altered, amended, repealed or suspended by the council, and all the present officers of said corporation shall hold their respective offices until others are elected and qualified under the provisions of this act, and shall discharge the duties and have and exercise all the duties, and have and exercise all the authority and powers conferred by this act.

SEC. 35. This act shall take effect and be in force from and after its passage.

Approved March 4, 1879.