

special authority from the common council, and the said council shall by ordinance cause all officers having under their control any tools or other city property to make out a list of such tools or city property and file the same with the city recorder, and to account for such property from time to time as it in its discretion may think proper.

SEC. 12. All fines, penalties, judgments and moneys (except officer's fees), that may be imposed, levied or collected by the justices of the peace, or that may be collected by any other officers of said city, for any violation of any by-law or ordinance of said city, or of any of the laws of the state of Minnesota, shall be vested in and be the sole and exclusive property of said city.

SEC. 13. Notwithstanding the supercedure or repeal by this act of the act incorporating the city of Austin, and acts amendatory thereof, it is not intended that any rights vested shall be lost thereby; but in all cases effecting past taxes not yet collected, liens for the same, rules of evidence and rights of every kind inchoate or perfected, the provisions of such acts as are hereby suspended or repealed, and of all ordinances passed by the council of said city shall be deemed to continue in force.

SEC. 14. All accounts, claims or demands, of every kind whatsoever, against the city of Austin, shall first be presented to the common council of said city for their consideration and disposal, as to them shall appear just or lawful, before any suit, or action at law based upon such account, claim or demand, shall be commenced or prosecuted against said city.

SEC. 15. All moneys belonging to the city of Austin, including license money and fines, shall be paid in the first (1st) instance to the city treasurer, who alone is authorized to receipt therefor.

SEC. 16. This city charter shall be a public act and need not to be pleaded in any case, or action, or proceeding, in any of the courts of this state.

SEC. 17. All acts and parts of acts inconsistent herewith are hereby repealed, and this act shall take effect and be in force from and after its passage.

Approved Feb. 19, 1887.

CHAPTER 25.

[S. F. 397.]

AN ACT TO INCORPORATE THE CITY OF CHATFIELD.

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

SECTION 1. That all the territory in the counties of Fillmore and Olmsted embraced in the following boundaries, to-wit: The south one-half ($\frac{1}{2}$) of section thirty-one (31) in town one hundred and five (105), north, range eleven (11) west, in Olmsted county, Minnesota, and the east one-half of section six (6) in town one hundred and four (104), north, range eleven (11), west, and the east one-half ($\frac{1}{2}$), of

southwest quarter ($\frac{1}{4}$), of said section six (6), and the northwest quarter ($\frac{1}{4}$) of section five (5), in town one hundred and four (104) north, range eleven (11) west, and the southwest quarter ($\frac{1}{4}$) of the northeast quarter ($\frac{1}{4}$) of said section five (5) and the north one-half ($\frac{1}{2}$) of the southwest quarter of said section five (5) in said town and range in Fillmore county, Minnesota, shall be a city and municipal corporation by the name of the city of Chatfield, and it shall have the powers generally possessed by municipal corporations at common law and in addition thereto shall have and possess the powers hereinafter specially 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 shall have a common seal and may change and alter the same at pleasure, and also to take, hold, purchase, lease and convey real, personal and mixed estate, within or without the limits of said city, as the purposes of the city may require and the authorities thereof shall have perpetual succession.

SEC. 2. The elective officers of said city shall be one (1) mayor, one (1) recorder, three (3) aldermen, one (1) treasurer, one (1) justice of the peace, and one (1) justice of the peace for the city whose title shall be city justice and one (1) constable. The mayor, recorder, aldermen, and treasurer shall hold their office for one (1) year, and until their successors are elected and qualified.

SEC. 3. There shall be a council to consist of a mayor, three (3) aldermen and one (1) recorder, which shall be styled the common council of the city of Chatfield, which shall be the governing body of said city.

SEC. 4. Said city shall comprise one (1) election district for all elective officers thereof.

SEC. 5. The inhabitants of said city having and possessing the qualifications of electors as provided by the general laws of the state of Minnesota shall elect one (1) mayor, three (3) aldermen, one (1) recorder, one (1) treasurer, one (1) justice of the peace and one (1) justice of the peace for the city whose title shall be city justice, and one (1) constable, who shall hold their respective offices for two (2) years and until their successors are elected and qualified all officers of said city shall possess the qualifications of an elector who, before entering upon the discharge of the duties of their respective offices, shall each take an oath or affirmation to support the constitution and laws of the state of Minnesota and the constitution of the United States, and to faithfully discharge the duties of his office according to law. The treasurer, constable and justices shall give such bonds as the common council may require, to be approved by the mayor. The treasurer shall keep a true account of all [the] moneys by him received by virtue of his office, and the time and manner in which and for what the same were disbursed, in a book provided for that purpose, and shall exhibit such account at the annual meeting of said city, or at any other time when called for by a resolution of the common council for examination and adjustment, and shall at the end of his term of office deliver all books and papers belonging to his office and all moneys in his hands as such treasurer to his successor in office.

He shall not pay out any moneys in his hands as such treasurer except upon the written order of the mayor of the city and attested by the recorder and the seal of said city. The treasurer shall, from time to time, draw from the county treasurer of Olmsted and Fillmore counties such moneys as may belong to said city for the use of said city and on receipt of said moneys give vouchers therefor to said treasurer.

SEC. 6. The annual meeting of said city for the election of officers, shall be held on the second (2d) Tuesday of April, A. D., one thousand eight hundred and eighty-seven (1887), and on the second (2d) Tuesday of April in each and every year thereafter. The common council or any two (2) of the aldermen being present shall act as judges of election and the recorder shall act as clerk thereof and said elections, shall be held at such place in said city as the common council shall direct after giving ten (10) days notice thereof, either by posting written notices in three (3) of the most public places in the city or by publishing such notice, in a newspaper printed and published in said city ten (10) or more days prior to such election.

SEC. 7. The polls shall be opened at ten (10) o'clock in the forenoon on that day and shall close at four (4) o'clock in the afternoon of the same day. At the close of the polls the votes shall be counted by the judges of election and the recorder, and a true statement thereof proclaimed by one of the judges, to the voters present, and therecorder shall make a true copy of said statement in a book, kept for that purpose, and within three (3) days thereafter notify in writing the persons elected of their election. All elections shall be by ballot, and all votes for elective officers, and all questions submitted to the electors of said city at any election shall be upon one ballot and be deposited in one ballot box. A plurality of all the votes cast shall elect to office, or determine any question submitted to the electors except as hereinafter otherwise provided. If two (2) or more persons receive an equal number of votes for the same office, the election shall be forthwith and without adjournment determined by lot in the presence of the judges of election and in such manner as they shall direct. Every qualified legal elector resident in said city and having resided there more than ten (10) days prior to said election, may vote at any election held under and by virtue of this charter, but no candidate for office shall act as judge or clerk at such election and in such case other judges and clerk shall be appointed who are not disqualified.

SEC. 8. Special elections may be ordered by the common council, but no such election shall be held unless ten (10) or more days notice thereof is given as is required for a general election under this charter, nor shall any subject or question be considered or acted upon unless its objects thereof are clearly set forth and stated in the notice for the call and in the written or printed notice to be published in a newspaper in said city. All city elections shall be (except as hereinbefore modified) conducted as nearly as may be, and the results canvassed and certified as in the case of town meetings, held under the

general laws of this state, and every statute relating to holding town meetings, canvassing and certifying the results thereof, and relating to or applicable to the duties of judges of elections and clerks, the challenging of votes and voting thereat and every statute prescribing and punishing offenses for illegal voting, bribery, fraud, corruption, delinquency, or other offenses at or concerning elections, which is applicable to town meetings, is hereby extended and applied to elections in said city.

SEC. 9. The city treasurer shall ten (10) days previous to the annual election of the city officers as herein provided, make a detailed statement in writing, of all the moneys received by him as such treasurer, and the sources from which the same were received and their respective amounts and also the amounts paid out by him and the purposes for which they were paid, such statements shall be verified by his oath or affirmation and filed with the recorder of the city in his office and kept on file for the inspection of any tax payer residing within or without the corporate limits of said city who pays taxes therein, and shall be exhibited on request by the recorder without fee or reward.

SEC. 10. The justice of the peace elected in said city shall have concurrent jurisdiction, with the city justice and the justices of the peace in the counties of Olmsted and Fillmore, in all civil actions and proceedings under the statutes of this state and none other than is hereinafter provided in cases of the disqualification of the city justice, but no jurisdiction under this charter, or the ordinances of said city, or the criminal laws of this state, except as provided in section eleven (11) of this charter. He shall keep a docket and make such entries therein as are required by law of justices of the peace in civil actions and in criminal actions transferred to him by the city justice in the cases hereinafter provided. In civil actions he may issue process to run into the counties of Olmsted and Fillmore and to be served therein and may hold his office at any place in said city for the trial of all such actions and the said city shall for all purposes in cases pending before him be deemed and taken to be a trial district.

SEC. 11. The city justice shall have concurrent jurisdiction over civil actions and criminal proceedings under the statutes of the state of Minnesota as justices of the peace have and his jurisdiction in such actions shall be concurrent with the justice of the peace in said city and shall extend to and include the counties of Olmsted and Fillmore in said state and process issued by him both civil and criminal shall run into said counties and may be served by any officers in either county and he shall have and possess all the power and authority that justices of the peace now have in either of said counties to hear, try and determine any such actions and may keep his office at any place in said city, and such actions may be removed in the cases and manner provided by law, except he shall transfer the same to the justice of the peace of said city unless he be disqualified to try the action and in that case he shall transfer the same to some justice of the peace in Olmsted or Fillmore counties who is not disqualified and in a town adjacent to said city and

whom he deems best qualified to do justice between the parties. And in addition to such powers hereinbefore defined, said city justice shall have sole and exclusive jurisdiction to hear all complaints and conduct all examinations and trials in criminal cases within the city, cognizable before a justice of the peace in said state. And said city justice shall have sole and exclusive jurisdiction in all cases cognizable before a justice of the peace in which the city is a party, either plaintiff or defendant or the moving party and shall have cognizance and exclusive jurisdiction of all actions, suits, proceedings, or prosecutions for the recovery of any fine, forfeiture or penalty under any by-law, ordinance or regulation of said city of Chatfield, or its charter, or for the breach or violation of any such by-law, ordinance or regulation and in all cases of offenses against the same. All prosecutions for a breach or violation of any such by-law, ordinance or regulation shall be commenced in the name of the city of Chatfield, and the same proceedings shall be had in civil and criminal cases, suits or proceedings before said city justice when not otherwise provided herein or directed as are established and required to be had in civil and criminal actions by the laws of this state before a justice of the peace and he shall keep a docket and make such entries therein as are required to be entered by statute:

Provided: That in case of prosecutions for a breach or violation of an ordinance, by-law or regulation of the charter of said city or for an assault, battery or affray not indictable committed within the limits of said city, no appeal shall be allowed, had or taken when the judgment or fine imposed exclusive of costs shall not exceed twenty-five (25) dollars. In all cases of a conviction for assaults, batteries and affrays within said city and in all cases of conviction under any ordinance of said city for a breach of the peace, disorderly conduct, keeping houses, room or rooms of ill fame or frequenting the same and of keeping or maintaining disorderly or ill governed houses or gambling houses or room or rooms, or where intoxicating liquors are sold, bartered, given away or furnished without license from the common council; and in all other cases the said city justice shall have power, and it shall be his duty, in addition to the fine or penalty imposed to tax and enforce the payment of the costs of prosecution including a jury fee against the defendant, and to compel such offenders to give security for their good behavior and to keep the peace for a period not exceeding six (6) months, in any sum not exceeding five hundred dollars (\$500) with surety or sureties, as said justice may require and in default thereof to commit such offenders to the city prison for a term not exceeding sixty (60) days. No removal of any such proceeding over which said city justice has exclusive jurisdiction under the charter and ordinances and the statutes of the state of Minnesota and offenses against the same shall be allowed or taken to any other justice. *Provided,* That when it shall be made to appear or be shown by affidavit that the said city justice is of kin to the defendant, or when it shall be made to appear by affidavit that said city justice is a necessary and material witness without whose evidence either party cannot safely proceed to trial of

said action or the examination of the offense charged in the complaint the relationship of said city justice or the evidence to be elicited from said city justice shall be set out in full in said affidavit; thereupon the said city justice shall cease further proceedings therein and transfer said action, examination or proceeding with the warrant, complaint, recognizance and all other papers relating to said matter with the defendant to the justice of the peace in said city and said justice of the peace shall, upon such transfer have and obtain jurisdiction to hear, examine, try and determine said matter as said city justice might have done but for his said disqualification. *Provided*, But one (1) removal shall be allowed or had in any case and the making or procuring to be made a false affidavit to obtain the removal of any cause shall be deemed and taken to be perjury on the part of the person or persons so making or procuring it to be made, and shall be liable to all the pains and penalties of perjury. In case of the continued absence, sickness, or other disability of said city justice or for any other good and sufficient cause, the common council may appoint, the justice of the peace in said city, city justice who shall take the oath required of judicial officers and give the bond, and thereupon the said justice of the peace shall be invested with all the powers, duties, and responsibilities of the elected city justice until the next annual meeting, or until the disability of the elected city justice is removed or until his successor is elected and qualified. All fines, forfeitures, and penalties imposed by the city justice, or the acting city justice for offenses committed or triable within the city of Chatfield or for a violation of an ordinance, by-law or regulation of said city, shall belong to and be a part of the finances of said city. The said city justice shall report quarterly to the common council all proceedings instituted before him in which the city is a party or interested, and shall at the same time pay over to the treasurer all moneys collected by him belonging to said city.

The city justice and the justice of the peace are authorized and empowered to have, take and receive such fees as are provided by the general statutes of Minnesota for the same or similar services as other justices of the peace, as near as may be, but no other fee whatever.

SEC. 12. The mayor, the three (3) aldermen, and the recorder, shall constitute the common council of said city as aforesaid, 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, and for the following purposes:

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 city any real estate and personal property and to sell and convey the same.

Fourth—To limit and define the duties and powers of officers and agents of the city and fix their compensation and fill vacancies when

no other provision is made by law; to call special elections, and to designate aldermen to act as judges of elections other than those who may be disqualified.

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

Sixth—To provide for the prosecution or defense of all actions or proceedings in which the city is a party or is interested and employ and pay counsel therefor from the funds of said city.

Seventh—To appoint a city attorney, a pound master, one (1) or more sextons or keepers of cemeteries, one (1) or more fire wardens, and one (1) or more street commissioners whenever they deem necessary.

Every street commissioner, when by resolution the common council shall require it, shall take and file with the recorder his oath of office, and execute a bond with sureties to be approved by the council 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 to insure the same.

Ninth—To establish a fire department, to appoint officers and members thereof, and prescribe and regulate their duties; 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 city to aid in the extinguishments of fires and to pull down and raise such buildings in the vicinity of fire as shall be directed by 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 therefor as a special tax upon such real estate to be assessed and collected as other taxes in said city; to regulate the storage of gunpowder and other dangerous and explosive materials, such as dynamite, kerosene, benzine, naphta and the products thereof; to require the construction of safe places for the deposit of ashes; to regulate the manner of putting up stove pipes and the construction and cleansing of chimneys; to prevent bonfires and the use of fire-works and firearms in the city 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 a dangerous condition and to cause such as may be dangerous to be put in safe condi-

tion, and generally to establish such necessary measures for the prevention of property, or the extinguishment of fires as may be necessary and proper.

Tenth—To lay out, open, change 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 or portion thereof and to establish, and open drains, canals, sewers or alter, widen, straighten water courses; to make, alter, widen, or otherwise improve, keep in repair, vacate or discontinue sidewalks or crosswalks; to prevent the incumbering of streets, sidewalks and alleys with carriages, carts, wagons, sleighs, sleds, buggies, railway cars, engines, boxes, lumber, firewood, or any other substances or materials; to prevent horseracing or immoderate riding or driving of animals or the driving of vehicles of any kind, including bicycles, on the sidewalks of the city, or the doing of damage in any way to such sidewalks and to require the owners or occupants of buildings to remove snow, dirt, rubbish or other things from the sidewalks adjacent thereto and in default thereof to authorize the removal of the same at the expense of such owner or occupants and to cause such persons, who, after notice refuse or neglect to comply with the order of the common council to be complained of and punished by fine and costs for such neglect or refusal.

Eleventh—To prevent and restrain the running at large of cattle, mules, sheep, swine and other animals and poultry, and to authorize the distraining impounding and sale of the same, to establish pounds and to regulate and protect 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 said city; to prohibit the hitching of horses, teams or animals to any fence, tree or pump and to prevent injury to the same and to prevent the hitching of animals, horses and teams in the streets and alleys during inclement weather, to regulate and control the running of engines and cars in or through the city and the rate of speed of the same; to prevent the running at large of dogs and authorize the destruction of the same in a summary manner when at large contrary to the ordinances; and to license and regulate public porters, drivers, 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 or at any other time and regulate the charges of all public carriages, porters, guides, hack or omnibus drivers and to compel them to observe the laws and regulations and impose fines and costs for noncompliance therewith.

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

Thirteenth—To purchase and hold cemetery grounds within or without the city limits, inclose, lay out, and ornament the same and to sell and convey lots therein by deed in the name of the city, to establish public parks and walks, inclose and improve, and ornament the same, and to prevent the incumbering obstruction thereof and pro-

vide for and regulate the setting out of shade and ornamental trees in the streets and in and around the cemeteries, and public parks and walks of the city, and for the protection thereof.

Fourteenth—To prevent or license and regulate the exhibition of caravans, circuses, theatrical performances and shows of any kind, to prevent or license, and regulate the keeping of billiard tables, pigeon hole tables, and bowling saloons, and auctioners, to suppress monte-banks, and in all such cases they may fix the price of license and prescribe the term of its continuence, provided it shall not continue beyond the thirteenth (13) day of April after the annual election of officers following their issue, but they may revoke the same at pleasure.

Fifteenth—To restrain and prohibit gift enterprises, all kinds and descriptions of gaming and all playing of cards, dice, and all games of chance or skill for the purpose of gaming, and cause all offenders to be prosecuted and punished for a violation of the ordinances of the city.

Sixteenth—To license or restrain and prohibit any and all persons from selling, bartering, disposing of or dealing in spirituous, malt, fermented, vinous, mixed or intoxicating liquors of any kind or description, whether named herein or otherwise, and to punish any violation of the laws of this state, or the ordinances of the city relating thereto, and to revoke for any cause, any license granted for the sale thereof after a hearing of the case as the common council shall deem proper, *Provided*, That said council shall not grant any license for the sale of spirituous, malt, fermented, vinous, or mixed intoxicating liquor of any kind to any person, for a less sum than five hundred (500) dollars, and only when the common council by a majority vote, the yeas and nays being called and a record made thereof by the recorder, shall so determine and only to a person of good moral character, and who shall give a bond with sureties to be approved by the common council in a sum not less than one thousand (1000) dollars, conditioned that the person so licensed shall not sell, furnish, or give away any such liquor to any minor or permit minors to remain in his place of business, nor to a student in any school of any grade, nor to any person intoxicated, or to a habitual drunkard, or to a person under guardianship, or on Sunday, or on election day, or between the hours of ten (10) o'clock in the evening and six (6) o'clock in the morning, and that during that time he will keep his place securely closed and permit no person to be in or about said place during said time, and that he will not allow any playing of any games in or about said place for any purpose whatever, and that he will not keep or allow to be kept on his premises, any gaming implements of any kind or description, and that he will comply with all the ordinances of said city and the general laws of this state relating to the sale of liquors, in good faith and in the true intent and meaning thereof, and not permit brawling in his place of business.

Seventeenth—To appoint a city marshal and to remove him at will, to prescribe his duties, and to fix his compensation for services.

Eighteenth—To establish and maintain public libraries and reading

rooms, purchase books, papers and magazines therefor, and appropriate money to pay for the same, and make needful rules and regulations for the safe keeping and handling of the same.

Nineteenth—To appoint a street commissioner, regular and special policemen and a chief of police and fix their compensation and prescribe their duties and appropriate money to pay the same.

Twentieth—To remove any officer appointed or elected by said council whenever in the judgment of said council the public interests will thereby be promoted.

Twenty-first—To purchase, build or lease a city prison or place of confinement or detention of offenders against the ordinances and by-laws, and for temporary detention of persons accused of crime under the general laws of the state.

Twenty-second—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 regulate the burial of the dead and return bills of mortality; to declare what are nuisances and to prevent or abate the same; to require the owners or occupants 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 or leaving within the city any putrid carcasses or other unwholesome substances; to require the owners or occupants of lands to remove dead animals, stagnant water, or any other unwholesome substance from their premises, and to provide for the cleaning and removal of obstructions from any river, stream, slough or water course within the limits of the city, and to prevent the obstruction or retarding of the flow of waters therein, or putting of any thing into the same which may be prejudicial to the health of the inhabitants of the city.

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

Twenty-fourth—To erect lamp-posts and lamps, and to provide for lighting any portion of the city or streets thereof by gas or in any other way or manner.

Twenty-fifth—To levy and provide for the collection of taxes not exceeding one (1) per centum of the assessed valuation of all the property in said city for general expenses of the city; also, poll tax and special assessments for building sidewalks, cross-walks, and repairing, opening and improving streets and sidewalks and cross-walks in said city and repairing the same. To audit all demands against the city 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 is unjust or illegal; to authorize the bonds of the city to be issued in the cases provided by law, and generally to manage the financial concerns of the city, and they shall cause to be prepared and read at each annual city election a true, detailed and itemized statement by them of the finances of the

city, showing the amount in the treasury at the commencement of the year, when and from what sources all moneys paid into the treasury during the preceding year were derived, and the whole amount thereof, and when and to whom and for what purposes all money paid from the treasury during the same period was paid and the whole amount thereof; the balance then in the treasury; which statement shall be recorded in the minute book of the proceedings of said council and filed and preserved in the recorder's office.

Twenty-sixth—To ordain and establish all such ordinances and by-laws for the government and good order of the city, 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 or controverting 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 a violation of any ordinance.

Twenty-seventh—To prescribe penalties for the violation of any ordinance or by-law which shall not be less than three dollars (\$3) nor more than one hundred dollars (\$100) in any case, to which may be added the cost of prosecution in each and every case under this charter, and the ordinance of the city and in default of payment to provide for committing the person so convicted to the city prison or other place of confinement in the city or to the county jail in either county in which county the offense was committed, until payment be made with costs, of imprisonment not exceeding ninety (90) days in all, and to modify, amend or repeal any ordinance, resolution, by-law or other former determination of the common council.

Twenty-eighth—To regulate the place for swimming or bathing and prevent persons from indecent exposure of their person in said city and to punish by fine and costs any breach of any ordinance of said city.

Twenty-ninth—To regulate the places and prescribe the length of time that horses, teams and animals shall remain hitched in and about the streets, alleys, and public places in the city.

Thirtieth—To license and regulate or suppress roller skating rinks or places of a kindred character, to the end that the good order and the morals of said city shall be preserved and to prescribe punishments for offenses against its determination.

Sec. 13. The common council of said city shall at their first regular meeting in each and every year after the annual meeting in one thousand eight hundred and eighty-seven (1887), select from the poll list of the qualified electors of said city properly qualified to serve as jurors in the district court, one hundred and twenty (120) persons and shall make a list thereof which list shall be signed by the mayor and certified by the recorder of said city and shall deliver the said list of names to the said recorder and the persons so selected shall constitute the jurors for the city justice's court and the justice of the peace in said city, for the year ensuing, unless there shall be a defi-

ciency which shall be filled as hereinafter provided. In preparing such list the common council shall select such persons only as they know or have reason to believe are possessed of the qualifications of jurors and not exempt by law.

SEC. 14. The city recorder of said city, on receiving the said list selected by the common council, shall file the same in his office and write the names of the persons contained in said list on separate pieces of paper and fold up such pieces of paper each in the same manner, as nearly as possible, so that the name written therein shall not be visible and shall place the same in five envelopes with twenty-four (24) names in each envelope and securely seal the same and number the said envelopes from one (1) to five (5) inclusive and file and securely keep the same in his office to be used in impanelling a jury as hereinafter provided.

SEC. 15. Whenever in an action before the city justice or the justice of the peace cognizable before said city justice or said justice of the peace and a jury trial shall be demanded, the said city justice, or the justice of the peace shall, by a written order, require the recorder to deliver to the officer of either of the said courts one (1) or more of said envelopes, as may be necessary, commencing with the one numbered one (1) and consecutively in the order of numbering until a jury is impanelled.

SEC. 16. In the trial of an action cognizable by said city justice or said justice of the peace, the officer of the court shall break the seal of the said envelope and deposit the pieces of paper with the names written thereon in a box to be provided for that purpose, and shall draw out of said box one (1) of the pieces of paper and shall distinctly pronounce the name written thereon and if no objection is made by either party the name so drawn shall be one (1) of the names of persons to comprise the jury and he shall continue to draw out the names until the panel is full, when the names shall be returned to the envelope and sealed up and returned to the city recorder to be by him securely kept until the same shall be needed, in impanelling a jury.

SEC. 17. In the trial of any action in said city justices court, or said justice of the peace, the plaintiff and defendant shall each be entitled to four (4) peremptory challenges; the defendant shall first take his challenge to an individual juror when the name is drawn from the box as hereinbefore provided, and if no challenge is made by the defendant, the plaintiff may challenge the said juror but no more than four (4) peremptory challenges shall be allowed to each party in the trial of the action, but either party may challenge a juror for cause. When the jury is summoned and appear in court, before the jury is sworn and upon each challenge for cause the city justice or the justice of the peace shall determine whether the juror challenged is indifferent between the parties, and his decision thereon shall not be subject to exception or appeal; and if a juror is excused another name shall be drawn from the box by the officer and if no challenge be made to the person so drawn, he shall be sworn as a juror and in case the names in the box shall be exhausted before the impanelling of a jury the names contained in another envelope shall be put into the box and

until the jury is obtained for the trial of an action; *Provided*, In any case there shall be more than one (1) plaintiff in the action all the plaintiffs must join in the challenge of the juror, and if there be more than one (1) defendant, all the defendants must join in the challenge of the juror, either peremptorily or for cause.

SEC. 18. The envelopes used to impanel a jury from shall not again be used in the empanelling of a jury until the whole number of envelopes have been used, when those first (1st) used may be again used during the year as often as may be necessary commencing with number one (1) again and using the same continuously to and including number five (5).

SEC. 19. The common council in selecting the names of persons that comprise the jury list shall not select the names of persons that were on the list the year preceding the said election, and it shall be so arranged and provided that persons shall not be compelled to serve as jurors in the city justices or the justice of the peace court only in alternate years, one (1) year out of two (2).

SEC. 20. If there shall be a deficiency of jurors in said courts for any cause, the officers shall under the direction of the city justice or justice of the Peace summon from the by-standers or others, a sufficient number to fill the panel after all the names on the jury list as contained in the envelopes have been exhausted in the trial of any action pending in said courts.

SEC. 21. The city justice or the justice of the peace in whose court an action is pending, shall issue a venire as in civil and criminal cases, to compel the attendance of persons so drawn and may compel the attendance of any juror by attachment and for that purpose shall have all the power of a court of record to punish for contempt by a fine not exceeding one hundred (100) dollars, or imprisonment not exceeding ninety days.

SEC. 22. The city of Chatfield as hereinbefore defined and bounded shall be one trial district for the counties of Olmsted and Fillmore, for all trials in the city justice's court or in the court of the justice of the peace, and no other method for obtaining a jury in either or both of said courts shall be allowed and any law controverting this manner of obtaining a jury is hereby repealed, as to said trial district.

SEC. 23. No account or demand against said city 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 that no part thereof has been paid. After auditing, the common council shall cause to be indorsed by the recorder over his signature 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 common council shall show the amount allowed. Every such account or demand allowed in whole or in part, shall with the affidavit thereto be filed by the recorder and those of each year consecutively numbered and have indorsed the number of the order on the treasurer issued in payment, and the recorder shall

take a receipt thereon for such order. The city nor any officer or officers thereof shall have power to issue at any time any negotiable order or instrument or borrow money except in the manner and for purposes expressly declared by the statutes of this state or this charter.

SEC. 24. Whenever the common council shall purpose to lay out and open, change, widen or extend any street, lane, alley, public grounds, squares, 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 such use or improvement, 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 take by donation, such grounds as shall be needed, or by agreement with the owners and take from them conveyances thereof to the city for such use if donated, and if purchased in fee but otherwise they shall, by resolution declare their purpose to take the same and therein describe by metes and bounds all the land proposed to be taken therefor defining separately each parcel and the amount thereof owned by each district 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 the city justice of said village for a jury to condemn and appraise the same. They shall thereupon cause to be made by the recorder a notice of the adoption of such resolution embracing a copy thereof and notifying all parties interested that the common council will at the time and place named apply to the city justice for the drawing of a jury to condemn and appraise such land or any interest therein. A copy of such notice shall be served by any constable or the marshal of said city on the owner of each parcel of land to be taken if known, and resident within the counties of Olmsted and Fillmore such service to be made in the manner prescribed for serving a summons in justice's court and the return of the officer shall be conclusive evidence of the facts stated therein. If personal notice cannot well be given as to all the parcels, then the same shall be published once in each week for three (3) successive weeks in a newspaper published in said city, but if there shall be none, then in a newspaper published in either Olmsted or Fillmore counties and the affidavit of the printer or foreman of such newspaper shall be conclusive evidence of such publication. Said notice shall be served and such publication made for three (3) successive weeks, complete at least fifteen (15) days before the time fixed therein, counting from the date of the last publication for such application. If any person so served with notice shall be a minor or a person of unsound mind or imprisoned and the fact made to appear by affidavit of some person who knows the facts, the city justice before proceeding further shall, on the day fixed for hearing such application, appoint for such person under disability, a guardian for the purpose of such proceeding who shall give security to the satisfaction of the city justice to act for said ward.

SEC. 25. At the time and place fixed for such hearing the application of the common council accompanied by a copy of such resolu-

tion and such survey and proof of service of the notice as provided in the last section which shall be filed with the city justice who shall thereupon proceed to empanel a jury as hereinbefore provided from the envelopes in the city recorder's office. He shall hear and decide any and all challenges for cause or favor made by any one interested in the proceeding; if the challenge is sustained another name shall be drawn from the box by the officer of the court and proceeding thus until the jury is complete. The city shall have three peremptory challenges and the several owners of land or any interest therein shall each have three peremptory challenges. The decision of the city justice as to the qualification of an individual juror shall not be subject to exception or appeal. When the jury is thus completed the city justice shall issue a venire requiring the jurors at an hour and on a day named not more than ten (10) nor less than five (5) days after the drawing and completion of the jury to appear before him to be sworn and serve as a jury to view the lands and appraise the damages and the propriety and necessity of taking the same or some interest therein and at the same time he shall publicly adjourn the proceedings to the time and place so named; said venire shall be served by any constable or the marshall of said city at least three (3) days before such appointed time by reading the same to each juror or by leaving a copy at his usual place of abode with some member of his family of sufficient age and discretion to understand the same, and a resident therein. The jurors so summoned shall appear at the time and place named and if any be excused by the city justice or fail to attend he shall direct that others be drawn from the envelopes who are disinterested persons and issue a venire to summon them forthwith until a full jury of twelve persons is obtained. The city justice may compel the attendance of the jurors by attachment and punish as for contempt those who do not attend, and punish such disobedience by fine or imprisonment not exceeding one hundred (100) dollars fine or ninety (90) days imprisonment. When the jury all appear before the city justice he 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 of the common council and if found necessary, the damages occasioned thereby and to faithfully discharge their duties according to law.

SEC. 26. Under the direction of said city justice, the jury shall view the lands and interests to be taken, and shall then sit before him to hear such competent evidence as shall be produced by any party or person interested therein; and for such purposes, such city justice shall possess the same powers as a court of record in session with a jury, except he shall not charge them, and if there be necessity, may adjourn the sitting from day to day.

If the city justice be disqualified, on account of interest in the lands to be taken, or is a necessary or material witness without whose evidence either party or person cannot safely proceed to the hearing and trial thereof, or is of kin to the land owners or any of them, the same being shown by affidavit, then said city justice shall transfer the proceeding to the justice of the peace in said village, if not disquali-

fied, who is invested with power hereby to proceed as the city justice is required to do except for his disqualifications; and in case the justice of the peace is likewise and in the same manner disqualified, he shall, on the same being shown, transfer it to some other justice of the peace in Olmsted or Fillmore counties who is not disqualified; but only two removals shall be allowed in such cases, and only for the causes hereinbefore stated.

The jury, when they have viewed the premises and heard the evidence and argument of the parties or their counsel, shall render a separate verdict and award in writing, signed by them or a majority of them; in which they shall find whether it be necessary to take such lands or any part thereof for such purpose, describing such as they find necessary to be taken, then a verdict or appraisement of the damages, specifying therein the damages of each owner and separately; the value of the land taken from each, and the damages likewise sustained by each person by the reason of the taking thereof. In estimating the damages they shall deduct therefrom any special benefit (if any) to be derived and enjoyed by each from such improvements; and a majority of said jury may render such verdict or appraisement of damages, and shall sign the same.

The city attorney, if there be one, and if there be none, then such attorney as the city justice or the justice of the peace to whom the same may be transferred for the causes herein stated, at the request of the jury or a majority of them, when they announce to the court that they have agreed, shall draft the verdict and award as directed by the jury. Said attorney shall take and subscribe an oath not to alter or modify the verdict, or to attempt to influence the jury therein after they have agreed. And the drawing of the findings shall be in the presence of the court and jury, and shall be subscribed by them or a majority of them. Any technical error in such verdict may be immediately corrected, with the assent of the jury, and they shall thereupon be discharged, and their verdict filed by the court, and entered on his docket, which shall have the force and effect of a judgment for further proceedings thereunder.

In case the jury or a majority of them shall fail to find a verdict, another jury shall be selected, summoned, sworn, and the proceedings shall be conducted in the same manner as the jury first selected.

SEC. 27. Within ten (10) days after the rendition of the 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, if the land so taken is in Olmsted county, to the district court in and for said county, if in the county of Fillmore, then he may appeal to the district court of Fillmore county, and said city may likewise appeal; but such appeals must be taken within ten (10) days from the award of damages to any owner, by filing with said court a notice of appeal, specifying whether the appeal is from the whole award to him or a part, and if a part, what part; and therewith an undertaking with two sufficient sureties to be approved by the court, to pay all costs that may be awarded against such appellant on the appeal, and paying for the city justice's return thereof

Any party not so appealing shall be forever concluded by such verdict or appraisement and determination. Upon an appeal being taken the court shall transmit to the clerk of the district court to which the appeal is made within ten (10) days of the notice of appeal and undertaking said notice and undertaking; and thereto annex a copy of all papers and proceedings before him with his certificate thereof. He shall, after the time for appealing has expired, file with the city 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 recorder shall record all such proceedings. Upon filing such transcript notice and undertaking in the district court the appeal shall be considered an action pending in such court and be so entered; the land owners as plaintiff and the city 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 a 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 city recorder, who shall record the same in his office, which shall be conclusive evidence of the facts therein stated.

SEC. 28. If the verdict of the jury find it necessary to take such land or any part thereof, the common council may upon return thereof to the recorder, enact an ordinance in accordance with the verdict and finding 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, sewers, or altering, widening or straightening any water course or drain. *Provided*, The said city shall not enter upon (except to make surveys, examinations and running levels) any such land or lands until the owner is paid in full the damages, or the same be set apart for him in the hands of the treasurer, and an order therefor lawfully executed to him be deposited with the recorder, to permanently remain subject to the land owner's order. At any time before crossing any such lands to be actually taken or put to public use, and before the rendition of a judgment in the district court for damages, the common council may discontinue all proceedings theretofore taken, and the city shall in such event be liable for the costs only.

All the costs of every such proceeding to condemn land shall be paid by the city, except when it recovers costs on appeal in the district court.

SEC. 29. For the purpose of payment of the expenses, including damages and costs incurred for the taking of private property, and making any improvement mentioned in the last preceding section, the common council may by resolution levy and assess the whole or any part not less than one-half ($\frac{1}{2}$) of such expenses and damages 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 by the common council shall be published once in each week for two successive weeks in a newspaper printed regularly in said city, or if there be no newspaper, three copies thereof shall be posted by the recorder in three of the most public places in said city, and a notice therewith that at a certain time therein stated, the said common council will meet at their usual place of meeting and hear all pertinent objections which may be made to said assessment or to any part thereof. At the time so fixed the common council shall meet and hear all such objections, and for that purpose may adjourn from day to day not more than three 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 person liable may pay any such tax to the city treasurer.

On such first (1st) day of September if any such tax remains unpaid the recorder shall certify a copy of such resolution to the county auditors of Olmsted and Fillmore counties, showing what taxes thereby levied in each of said counties remain unpaid, and the county auditors of said counties shall put the same upon the tax roll of lands in said city, being in their respective counties in addition to and as a part of all other city taxes therein levied on such land, to be collected therewith as other taxes are now or may hereafter be collected.

SEC. 30. Upon the petition in writing of all the owners of lots, or land on any street or alley in said city, the common council may discontinue such street or alley, or any part thereof. At least ten (10) days before acting on such petition, the council shall cause a written or printed notice to be posted in three public places in said city, stating when the petition will be acted on and what street or part thereof is proposed to be vacated.

SEC. 31. The common council may cause any street or part of any street to be graded, paved, macadamized or otherwise improved or any sidewalk or gutter, to be built upon the petition therefor in writing signed by a majority of all the owners of real estate fronting both sides or of the owners of one-half ($\frac{1}{2}$) the frontage on such street or part of a street to be improved, or order any sidewalk, or gutter on one (1) side of a street to be built on the petition of a majority of such owners and the owners of at least one-half ($\frac{1}{2}$) of the frontage on such side and may order any sidewalk or gutter previously built to be put in repair or rebuilt when necessary without petition or they may, in their sound discretion, order any or all of the said improvements to be made without a petition therefor when in their judgment the public interest shall require it.

For the purpose of so improving any street or building or repairing any sidewalk or gutter the common council may levy and cause to be collected upon the lots, tracts, or parcels of ground on such street or part improved on the side thereof where only such sidewalk or gutter is to be built and upon the owners thereof and the lots or parcels of land a tax sufficient to pay the expenses of constructing such improvement as ordered opposite such property to the center of the street or such proportion thereof not less than one-half ($\frac{1}{2}$) the cost as they shall deem justly assessable to such property if they shall

determine the whole ought not to be assessed in such case the remainder shall be paid from the city treasury. Every such tax levied for repairs shall be for the entire cost of repairs in front of the property so to be assessed. If any tax levied under this section shall prove insufficient to pay for the cost or proportion thereof assessed to such property, the common council may levy an additional tax thereon to make good the deficiency.

SEC. 32. Whenever the common council shall levy any such tax as specified in the preceeding section, they shall make out and deliver to a street commissioner of said city a list of the persons and a description of the property taxed together with a warrant for the collection and expenditure of said tax, and thereupon the street commissioner shall notify the persons in such tax list named by publishing a notice for two (2) weeks in some newspaper published in said city, if there be one, or by posting up notices in three (3) or more public places in said city; and shall specify in said notice a time or times, not less than twenty (20) days nor more than forty (40) days from the date thereof, when the persons and property charged with taxes in said list may pay their taxes; and the persons charged with such tax may at such time and place as may be required by said street commissioner pay their taxes.

The street commissioner shall be provided with a book or memorandum by the city recorder in which he shall keep an accurate account of all moneys coming into his hands by virtue of his office; the amount received and disbursed by him, the name of every person from whom any tax is due, the amount paid and a correct account of all expenditures by him made as street commissioner of said city. The book containing the account so kept shall at all times when required be furnished for the inspection of the common council, and ten (10) days before the expiration of his term of office shall be delivered to the city recorder to be filed in his office for the inspection of the tax payers of said city and all persons interested therein. At the expiration of forty (40) days from the date of the notice given by the street commissioner he shall make out and deliver to the recorder of said city a certified list of the lots, pieces or tracts of land in said city upon which any such tax remains unpaid with the amount of such delinquent tax upon each of said lots or parcels of land and at any time before the first (1st) day of September thereafter any party liable may pay any such tax to the city recorder who shall thereupon pay the same to the city treasurer taking his receipt therefor. And said recorder, on the first (1st) day of September, or within five (5) days thereafter if any such tax remains unpaid, shall certify a copy of such delinquent taxes to the county auditors of Olmsted and Fillmore of those taxes remaining delinquent in said counties and said auditors shall, upon the receipt of said statement and list, enter and carry out the same upon the proper tax lists and they shall be collected the same as other taxes are collected and when collected paid over to the city treasurer.

Every county treasurer who shall collect or receive any moneys on account of such delinquent taxes shall pay the same to the treasurer of said city and take duplicate receipts therefor and file one of said receipts with the records of said city.

SEC. 33. All streets, alleys, ways and bridges, in said city shall be under the exclusive control and management of the common council and shall be maintained and repaired by said city and all bridges in said city shall be built, maintained and repaired by the city of Chatfield. The overseer of highways shall be elected in said city, but the poll tax shall be collected as provided by the general laws of this state, applicable thereto by the street commissioner and shall be expended upon the streets, highways, bridges and public places governed by said common council and the officers of their appointment; *Provided*, That the common council may in the exercise of a sound discretion expend any portion thereof on the highways leading to said city in either of the counties in which the city is situated.

SEC. 34. The common council shall on or before the fifteenth (15) day of August in each and every year by resolution to be entered of record determine the amount of corporation taxes to be levied and assessed on the taxable property in said city for the current year which shall not exceed in any one (1) year one (1) per centum of the equalized valuation of such property. Before levying any tax for any specific purpose the common council may in their discretion submit the question of levying the same to the electors of said city 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 city recorder shall deliver to the county auditors of Olmsted and Fillmore a copy of all such resolutions certified under his hand and the corporate seal of said city and the respective auditors shall enter such taxes upon the tax books in each county in proportion to the valuation of said city in their respective counties so that the part of said city in Olmsted county shall pay its just proportion of said tax and that proportion of said city in Fillmore county shall pay its just proportion of said tax and in the usual manner as he is required to do in extending other taxes.

The common council and recorder shall so divide the amount levied into two parts so that the portion of said city in said counties shall pay the just and proper proportion of the tax so levied in proportion to the equalized valuation in each county of the part of said city therein and no more and certify the same to the respective auditors as aforesaid.

SEC. 35. 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 city 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 except as herein otherwise provided.

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, by-laws, rules and regulations of said city; but after an arrest in such cases a complaint shall be made which the city justice shall reduce to writing or cause the same to be done and the person or persons so arrested shall be arraigned and proceeded against in the same manner as if the arrest had been made by warrant. The style of all process issued by the city justice of said city or the justice of the peace therein shall be:

“The state of Minnesota, counties of Fillmore and Olmsted, city of Chatfield, ss.: The state of Minnesota to the sheriffs of said counties or any constable thereof or of the city of Chatfield.” It shall be a sufficient pleading of the by-laws or ordinances of said city to refer to the chapter and section thereof which are hereby declared to have the force and effect of general laws within the jurisdiction of said city and it shall not be necessary to read or give them in evidence upon the trial of any proceeding or action, criminal or civil but the city justice and the justice of the peace where acting instead of the city justice shall take judicial notice of the same and be bound thereby.

SEC. 36. Upon conviction, judgment shall be given for the plaintiff for the amount of the fine, penalty, or forfeiture fixed by the ordinance, resolution, or by-law or such part thereof if a discretion be given, as the court shall deem proportionate to the offense, against the defendant or defendants together, with the costs and disbursements of the action or proceeding and the court shall in all cases of conviction further adjudge and order that in default of payment thereof the defendant be committed to the city prison until the fine and costs are paid, not exceeding ninety (90) days; and in cases of prosecution and conviction for a violation of any statute of this state the court shall adjudge that the defendant pay a fine, as provided by said statute and the costs of prosecution, and in default of payment that the defendant or defendants be committed to the common jail of the county in which the offense was committed until the fine and costs are paid, not exceeding ninety (90) days. If such payment be not forthwith made, the court shall make out a commitment stating the amount of the judgment and costs and the time for which the defendant is committed and in the usual form of commitments by justices of the peace. Every person so committed shall be received and committed to the city prison if the offense is against the ordinance of said city or if the offense is against the general laws of this state, to the county jail wherein the offense was committed, and kept at the expense of the city or county, as the case may be. No appeal shall be taken except as hereinbefore provided where the prosecution and punishment is under the ordinances of the city and then the defendant may appeal to the district court of the proper county upon giving a recognizance to the city to be approved by the city justice conditioned as recognizances are in criminal cases and if the conviction is for an offense under the general laws of the state, then by complying with the general laws on the subject of appeals from the judgment of justices of the

peace in criminal proceedings in this state. Upon the perfection of the appeal the defendant shall be discharged from custody, or on payment of the fine and costs and costs of imprisonment.

SEC. 37. The following are declared to be common nuisances: Houses, rooms, buildings or places of any kind wherein more than twenty-five (25) pounds of gunpowder, or dynamite, or nitro-glycerine in any quantities are deposited, stored or kept at any time, gambling rooms, houses or places where games of any kind are played for money, or the representatives thereof, or for drinks, cigars, tobacco, or any other thing of whatever name or description, houses of ill-fame, or rooms kept for the purpose of prostitution or lewdness, kept or maintained by one (1) or more females, disorderly inns, taverns, hotels, or beer shops, or places where spirituous, vinous, fermented, mixed, or intoxicating liquors or drinks containing alcohol in any quantity are sold, given away, furnished, or dealt in, without the licenses required therefor, within the limits of said city or within three (3) miles thereof, are declared to be and are common nuisances and the common council may abate the same and may ordain the penalty for keeping, maintaining, or remaining in such rooms, houses, buildings or places, or frequenting the same by any person, and whenever complaint is made to the city justice that any such place or places are maintained, kept, frequented, or supported, he shall issue his warrant describing the place so kept and therein direct the officer to search such places or rooms, buildings or structures as are described in the warrant to arrest the inmates and bring them before said city justice to be dealt with according to law, and such proceedings shall be had as are ordained in criminal actions before said city justice and he may impose fines not exceeding one hundred (100) dollars and the costs in addition, and may, in default of payment, imprison the defendant or defendants found guilty of violating this charter or the ordinances of said city, not exceeding ninety (90) days, and the officer shall, in making such search and arrests, seize, take and carry before the said city justice any and all liquors of any kind and description whether fermented or distilled, or mixed, and all gambling devices of every name and nature and all the inmates and frequenters of such room, house, building or place, and to accomplish the same he may call to his aid the power of his county and command any and all persons to assist him in such search and seizure, and any person failing to obey his order shall be liable to a fine not exceeding one hundred (100) dollars and costs and be imprisoned not exceeding ninety (90) days, or both.

SEC. 38. No action shall be maintained against the city of Chatfield on account of any injuries received by means of any defect in the condition of any bridge, street, sidewalk, thoroughfare or alley therein, unless such action shall be commenced within one (1) year from the happening of the injury, nor unless notice shall first have been given in writing to the common council or the recorder thereof within thirty (30) days of the occurrence of such injury or damage, stating the place where and the time when such injury was received and the nature thereof and that the person so injured will claim damage of

the city for such injury, but the notice shall not be required when the person injured in consequence thereof shall be bereft of life or reason. Nor shall any such action be maintained for any defect in any street until the same shall have been graded, nor for any insufficiency of the ground where sidewalks are usually constructed when no sidewalk is built or where no bridge or bridges are built and opened to the public.

SEC. 39. Whenever a final judgment shall be obtained against said city, the judgment creditor, his assignee or attorney, may file with the city recorder a certified transcript of such judgment or of the docket thereof, together with his affidavit showing the amount due thereon, and all payments if any, and that the judgment has not been appealed from or removed to another court, or if so appealed from or removed has been affirmed, and thereupon the common council shall levy and assess the amounts thereof with interest from date of rendition to the time when the same shall be paid, as near as may be, upon the taxable property of said city, and the city auditor shall return and certify to the amount of such tax to the county auditors of Olmsted and Fillmore counties and the parts and portions that the taxable property in each county is to pay of said judgment according to the equalized valuation in each county, and the same shall be collected and paid over as other taxes in said city are required to be by law or this act and the judgment paid therefrom.

SEC. 40. The city justice and the justice of the peace and constable shall execute the oath of office required by law in duplicate, and their bonds in duplicate, in a sum not less than five hundred (\$500) dollars, to be approved by the common council, and file one (1) of the said duplicate oaths and bonds with the clerk of the district court in Olmsted and one (1) of said duplicate oaths and bonds in Fillmore county with the clerk of the district court.

SEC. 41. Should a vacancy occur for any cause in any of the offices provided for in this act, the common council, or the remaining members thereof, may fill the same by appointment for the remainder of the unexpired term. Such appointees shall have all the power of elected officers.

SEC. 42. The city shall constitute one (1) road district and the street commissioner thereof shall be appointed by the common council, and all taxes raised within the limits of said city for road purposes shall be expended under the direction of the common council within or without the limits of said city.

SEC. 43. The common council shall constitute a board of auditors for the purpose of auditing all accounts against said city; said board shall make up a report stating in detail the items of account audited and allowed, the nature 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 of the city.

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 published in said city two (2) weeks before such election.

SEC. 44. The legal voters of said city may at any annual or special meeting, authorize the common council to levy a tax for any legitimate purpose, but in no case shall the tax so levied exceed the sum of one (1) per centum upon the equalized valuation in any one year; and all taxes levied, except for improvement of streets, sidewalks, and crossings, shall be levied and collected as prescribed by the general statute of this state for the levying and collection of township taxes, as nearly as may be; *Provided*, That the common council shall, on or before September first (1st) in each year, make and certify to the county auditor of the county in which the lands or city lots within the corporate limits of said city are situated, 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 said city and county, 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 said city, and the same shall be collected as other taxes are collected, and, when collected, paid over to the city treasurer.

SEC. 45. Chattel mortgages and all other contracts or instruments creating a lien on personal property in said city, shall be filed in the office of the city recorder, and he shall make such entries and filings as town clerks are required to make by chapter thirty-nine (39) of the general statutes of this state as amended or shall hereafter be amended and to certify copies thereof, which shall be received in evidence in all courts of justice in this state.

SEC. 46. The city recorder may administer all oaths, take all acknowledgements and certify the same under the corporate seal of said city and he shall give a bond for the faithful discharge of his duties as such recorder, to be approved by the common council and filed with the treasurer of said city, who shall safely keep the same. It shall be his duty:

First—To perform the duties of clerk of elections and keep a record of all the proceedings at the annual and special elections of the city; to give notice of such elections as are required by him and to notify persons elected or appointed to offices in said city.

Second—To transmit to the clerks of the district court in Olmsted and Fillmore counties 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 elections and in case of the appointment or election of any city justice or justice of the peace in said city or constable, treasurer, or recorder of said city 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 common council or board of audit, to record all proceedings thereof and all ordinances, rules, by-laws, resolutions and regulations adopted and to countersign and keep a record of licenses and permits granted or authorized by them and for such purpose to keep the following books. A minute book in which he shall record, in chronological order, all the papers required

to be recorded in his office by this act, full minutes of elections, general or special, and the statements, or declarations of the judges thereof; full minutes of all the proceedings of the common council, the title 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, which, when certified by him; shall be received in evidence in all courts; a finance book in which shall be kept a full and complete record of finances of the city showing the receipts, the date and 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 common council shall direct and all such other books as the common council may direct.

Fourth.—To countersign and cause to publish every ordinance, by-law or resolution of the common council as required by law and to have proper proof thereof made, filed and recorded at length.

Fifth.—To be the custodian of the corporate seal and to file as required by law and safely keep all records, books, papers or property belonging to or filed or deposited in his 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 as are allowed to town clerks for similar services.

Sixth.—To draw and countersign all orders on the city treasurer when ordered by the common council and none other.

Seventh.—To file when presented all chattel mortgages, affidavits relating thereto and all other contracts or writings creating a lien on personal property and to enter at the time of filing in a book properly ruled and kept therefor the names of all parties arranging mortgages alphabetically and also other contracts. The date thereof and the date of filing the same hour and minute and the affidavit relating to them for which he shall receive the same fees as town clerks for such services.

Eighth.—To perform all other duties required by law or by ordinances or other direction of the common council. For such services as herein enumerated not otherwise provided for he shall receive such compensation as the common council in a sound discretion shall determine to be a just and adequate compensation therefor.

SEC. 47. The constable shall give a bond similar to those required of other constables elected by towns and shall be governed by the law relating to constables except as herein otherwise provided. It shall be his duty in addition to the duties of regular constables to obey all lawful-written orders of the common council to arrest with or without process and with all diligence to take before the city justice every person found in said city in a state of intoxication, or engaged in any disturbance of the peace or brawling in the streets, lanes or alleys of said city or in a state of nudity or violating any law of the state or ordinances of said city. He may command all persons present or near at hand in such cases to assist him therein; and if any person being commanded shall refuse or neglect without sufficient

reason therefor to render such aid and assistance he shall forfeit not exceeding ten (10) dollars and the costs of prosecution to be recovered by action before the city justice by complaint and warrant and shall be committed to the city prison until the fine and costs are paid, not exceeding ninety (90) days. The constable shall be entitled to such fees as are allowed to constables for similar services and for other services rendered the city such compensation as the common council may fix in the exercise of a sound discretion.

SEC. 48. The legal voters of said city shall have the power and authority to vote upon and determine for themselves the question whether license for the sale of intoxicating liquors of any kind or description containing alcohol, as a beverage or drink shall be granted by the common council of said city or not at the annual election to be ordered by the common council upon the written petition or request of twenty-five (25) legal voters of said city and it shall be the duty of the recorder of said city upon the receipt of a petition for that purpose and on the order of the common council to give at least ten (10) days notice that the question of granting license for the sale of intoxicating liquors as a beverage in said city will be submitted at the annual election ordered by the common council which question shall be determined by ballots containing the words "in favor of license," or "against license," as the individual elector may desire.

Provided, That the neglect of the recorder to give the required notice shall not invalidate the vote and determination made under the provisions of this act if the petition named shall have been actually received, filed and the election ordered by the common council. The common council shall order such annual election within ten (10) days after the receipt of the petition by the mayor, recorder or any of the aldermen who on the receipt of such petition shall give notice to the recorder and he shall give notice to the other members of the common council of the receipt of such petition and the annual election shall be ordered by the common council; *Provided*, Said petition is received fifteen (15) or more days prior to the annual election.

The votes upon said question shall be taken, canvassed, returned and announced in the same manner as is prescribed by law for taking, canvassing, returning and announcing the votes for the election of city officers at the annual meeting, which determination so made shall continue for one (1) year and until the same is reserved at a subsequent annual election conducted in the same manner as above prescribed and a record of the determination at such annual election shall be recorded in the minutes of the proceedings of the common council and shall be received in evidence in any and all courts, and if such returns show that a majority of the votes cast at such election on said question shall be "against license," no license for the sale of intoxicating liquors shall be granted by the authorities of said city or county commissioners of Olmsted or Fillmore counties for the sale of such liquors in said city or within three (3) miles thereof in every direction, except for medicinal or mechanical purposes strictly, and the person or persons to whom licenses may be granted to sell such liquors for strictly medicinal or mechanical purposes shall give a bond, to be

approved by the common council, in a sum not less than one thousand (1,000) dollars, conditional not to sell any liquors of any kind containing alcohol for any other purposes than medicinal and mechanical purposes; but if such returns show that a majority of the votes cast at such annual election on said question when submitted shall be "in favor of license," then the common council may grant license to such suitable persons of lawful age and having the qualifications hereinbefore stated and on the terms and conditions aforesaid. The common council shall have the exclusive right to license persons vending, dealing in or disposing of intoxicating liquors within the city limits, until the electors determine against license as herein provided. The persons so licensed shall not be required to obtain a license from the board of county commissioners of Olmsted or Fillmore counties, nor shall the commissioners of either county have the right to license the sale of intoxicating liquors within three (3) miles of said city in any direction or in said city or any part thereof. In case the legal voters shall determine against license as hereinbefore provided all outstanding licenses shall thereby be revoked cancelled and held for naught and no authority for the continuation of said business whatever after such determination and the common council shall refund to the licensee the unearned portion of said license pro rata for the time the said license had to run where so revoked. All licenses except those revoked by the electors of said city as provided herein shall expire on the thirtieth (30th) day of April in each and every year. But one such election shall be held in any year continuing from the time of holding the first one authorized under this section of this act but said question may be submitted at the annual election of said city in each and every year but not at a special election. And no person shall be licensed by said common council to deal in or sell intoxicating liquors of any kind containing alcohol as a beverage in said city unless he shall fully comply with all the requirements and subject to all the penalties as provided in the general laws of this state and all the provisions in this act provided relating to the sale of intoxicating liquors and only as in this chapter provided and before granting said license the bond mentioned hereinbefore shall be executed with all the conditions and with the penal sum as fixed by the common council not less than one thousand (1,000) dollars and the moneys received for such licenses shall be immediately paid to the city treasurer for the sole and exclusive use of said city, and all licenses shall expire as herein stated unless revoked or annulled as hereinbefore provided either by the common council or the vote of the electors against license; *Provided*, When such license is revoked by the common council no sum whatever shall be returned to the licensee; *Provided, further*: That any person who shall deal in, sell, give away, furnish, or dispose of any intoxicating liquors of any kind after the revocation of his license by the vote of the electors or by the common council shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than fifty (50) dollars nor more than one hundred (100) dollars besides the costs of prosecution and stand committed to the city prison until said fine and costs, and costs

of imprisonment are paid not exceeding ninety (90) days and he and his sureties on his bonds shall be liable thereon in a civil action in the name of said city in any court having jurisdiction for the recovery of said fine and costs in addition to the imprisonment herein provided. The bond shall contain a condition that he will not sell after the revocation of his license any of the liquors mentioned in this chapter and any person whoever shall sell after the vote against license, sell, give away or in any manner furnish intoxicating liquors containing alcohol to any person within said city or within three (3) miles of the limits thereof shall be guilty of a misdemeanor and shall be punished by a fine not less than fifty (50) nor more than one hundred (100) dollars and the costs of prosecution and in default of payment shall be committed to the city prison not exceeding ninety (90) days.

SEC. 49. Clubs and club-houses, rooms or associations, or places, organized or unorganized, for the purpose of furnishing intoxicating liquor to its members or others, within said city or within three miles of said city, are declared to be common nuisances, and may be proceeded against by search and seizure, as in case of gambling houses, rooms or places, and houses or rooms of ill repute; and all and every person engaged therein or frequenting the same shall be guilty of a misdemeanor, and punished in any sum not less than ten (10) nor more than one hundred (100) dollars, besides the costs of prosecution, and imprisonment in default of payment thereof, and the common council shall enforce this and all other provisions of this charter, by appropriate ordinances for that purpose, which shall have the force of law;

Provided, That nothing herein contained shall be deemed to divert the state authorities or the district court from proceeding against all offenders against this charter or the general laws of this state, and punishing the same as a crime or misdemeanor, as the offense may be.

SEC. 50. All ordinances, rules and by-laws shall be enacted by a majority vote of all the members of the common council, and shall be signed by the mayor and attested by the recorder, and published once in a newspaper in said city, if there be one, but if not, in a newspaper in Olmsted or Fillmore counties, and shall be recorded, with the affidavit of the publication, in the book kept for that purpose by the recorder; and the same shall be filed in his office, and securely kept, and shall be noted on the margin of the record, and shall be conclusive evidence of the facts stated therein.

All ordinances shall be properly entitled and in the following words: "the common council of the city of Chatfield do ordain as follows." All authorized ordinances and by-laws shall have the force of law, and remain in force until repealed. The common council shall have power and authority to declare and impose fines, penalties and punishments with the cost of prosecution added, and enforce the same against any person or persons who may violate any provisions or any ordinance, rule or by-law enacted by the common council and all such ordinances, rules and by-laws are hereby declared to have the force of law. *Provided*, That they are not repugnant to the constitution of the United States and the state of Minnesota.

SEC. 51. No member of the common council shall become a party to or interested directly or indirectly in any contract made by the common council of which he may be a member, and every contract or payment voted for or made contrary to the provisions hereof shall be absolutely void and any violations of the provisions of this section committed after the passage of this act shall be a malfeasance in office which shall subject the officer so offending to removal from office and further punishment according to law. All contracts for city improvements, (except expenditures of road and poll tax, including the building and repairing of sidewalks,) shall be let to the lowest responsible bidder after public notice of time and place of receiving bids therefor by the common council.

SEC. 52. The mayor and each alderman shall be officers of the peace and shall suppress in a summary manner any and all riotous disorderly conduct, obscenity, drunkenness, lewdness, or conduct tending to a breach of the peace in the streets, alleys, lanes, or public places of the city and may command assistance of all persons under a penalty of ten dollars (\$10) and the costs of the prosecution for a disobedience of such order.

SEC. 53. Every city officer shall deliver to his successor when qualified all the books, records, papers, property, and money in his hands as such officer; and if a vacancy shall happen before such successor is appointed or elected and qualified, then to the city recorder, and if his office is vacant then to the city treasurer or mayor or one of the aldermen who shall demand and receive all such property and deliver the same to the person who shall be selected to fill such vacancy when qualified and in case of failure to deliver the same by any person having the custody thereof the city may recover the same by any proper action.

SEC. 54. The mayor shall preside at all meetings of the common council when present; in his absence the council may select one of the aldermen to preside. Regular meetings shall be as may be prescribed by the by-laws. Special meetings may be called by any two aldermen by a writing filed with the city recorder, who shall thereupon seasonably notify all the aldermen of the time and place thereof in the manner directed in the by-laws. All meetings shall be open to the public. The recorder of the common council, shall keep a record of all its proceedings which shall be read and signed by the mayor and attested by the recorder before the close of the meeting. The common council shall have power to preserve order at its meetings, compel the attendance of the aldermen and punish for non-attendance; and it shall be judge of the election and qualification of its members. The mayor and aldermen shall each be entitled to receive compensation at the rate of one dollar (\$1) for each meeting attended, not exceeding twelve (12) meetings in one (1) year. The recorder shall be entitled to compensation at the rate of one dollar and fifty cents (\$1.50) for each meeting he attends, not exceeding twelve (12) meetings in each year. The judges and clerk of election shall receive compensation at the rate of two dollars (\$2) a day.

SEC. 55. Every contract, conveyance, license or other written in-

struments shall be executed on the part of the city by the mayor and recorder sealed with the corporate seal and in pursuance only of authority from the common council by resolution entered at length in the minutes of the common council.

SEC. 56. The city of Chatfield shall not be liable in any case for the board or jail fees on account of any person committed to the jail of either Fillmore or Olmsted counties by any officer of the city, or of either county, or any magistrate of said city for offenses punishable under the general laws of this state; but the expense thereof shall be paid by the respective counties wherein the offense was committed.

SEC. 57. No law of this state contravening the provisions of this act shall be held or considered as repealing, amending or modifying the same unless such purpose be expressly and definitely set forth in such law. All general laws not contravening this act shall have full force effect and vigor within said city. And all general taxes in said city shall be collected as other general taxes are now or may hereafter be collected in this state and all general laws for enforcing the same shall prevail in said city as throughout the state.

SEC. 58. The city of Chatfield is hereby declared to the legal successor of the former incorporated town of Chatfield, incorporated by an act of the territorial legislature of the territory of Minnesota, approved March sixth (6th), A. D. one thousand eight hundred and fifty-seven (1857), and the several acts, amendatory thereof and the act of the legislature of the state of Minnesota incorporating the village of Chatfield, approved March sixth (6th) A. D. one thousand eight hundred and seventy-one (1871), and the several acts amendatory thereof not contravening the provisions of this act. All public property except property used for educational purposes within the corporate limits of said city shall belong to and be the property of said city and the rights of creditors shall not be prejudiced by any thing contained herein, but the same are preserved to them; nor shall anything herein effect the school district in said city, but it shall have the same power and rights as it had at the passage and approval hereof.

SEC. 59. All public property of said city shall be exempt from seisure and sale on execution and from taxation.

SEC. 60. Until the second (2nd) Tuesday of April, A. D. one thousand eight hundred and eighty-seven (1887), and until their successors are elected and qualified, the following persons shall be the officers of the city of Chatfield: George Prey shall be mayor; William Strafford, I. M. Higley and Hiram Fairbanks, shall be aldermen; Joseph Underleak shall be recorder; J. W. Russell shall be city justice; R. W. Twitchell shall be justice of the peace; C. E. Hodgkinson shall be constable; C. M. Culver shall be treasurer.

SEC. 61. This act is a public act and need not be pleaded or proved in any court, but all courts shall take judicial notice thereof.

SEC. 62. All acts and parts of acts inconsistent with this act are hereby repealed.

SEC. 63. This act shall take effect from and after its passage and approval.

Approved Feb. 19, 1887.