

## CHAPTER 49.

[H. F. No. 251.]

## AN ACT TO INCORPORATE THE CITY OF ELY.

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

## CHAPTER I.

SECTION 1. All that part of the county of St. Louis, in the state of Minnesota, contained within the limits and boundaries hereinafter described, shall be a city, and all the people now inhabiting and those who shall hereafter inhabit the same district shall be and form a municipal corporation, under the name of the city of Ely. The said city shall have the powers generally possessed by municipal corporations at common law, and, in addition thereto, shall possess the powers herein specially granted, and the authorities thereof shall have perpetual succession, and it shall be capable of contracting and being contracted with, of suing and being sued, and of pleading and being impleaded, in all the courts of law or equity; and it shall have a corporate seal which it may alter at pleasure; it may purchase, lease, take and hold such real estate, personal and mixed property as may be required for the city uses or purposes, within or without the limits of the city, and may lease or sell and convey the same.

SEC. 2. The territory included within the following boundaries and limits shall constitute the city of Ely, viz.: The northeast one-quarter ( $\frac{1}{4}$ ) of section thirty-three (33), the northwest one-quarter ( $\frac{1}{4}$ ) of section thirty-four (34), the south one-half ( $\frac{1}{2}$ ) and lots one (1), two (2), three (3) and four (4) of section twenty-seven (27), and the southwest one-quarter ( $\frac{1}{4}$ ) and east one-half ( $\frac{1}{2}$ ) of the southeast one-quarter ( $\frac{1}{4}$ ), and lots one (1), two (2) and three (3) of section twenty-eight (28), all in township sixty-three (63) north of range twelve (12) west of fourth (4th) principal meridian.

Said city shall be divided into three (3) wards as follows: The first (1st) ward shall comprise all of that portion of the city described as the northeast one-quarter ( $\frac{1}{4}$ ) of section thirty-three (33), the second (2d) ward shall comprise the entire of said described section twenty-eight (28), and the third (3d) ward shall comprise that portion of said city described as the northwest one-quarter ( $\frac{1}{4}$ ) of section thirty-four (34), and the entire of said described section twenty-seven (27) in said city of Ely; *Provided*, that said wards may be changed or new wards created by ordinance passed and adopted by three-fourths ( $\frac{3}{4}$ ) of all aldermen of the common council of said city, said alterations to be made so as to conform and comply with the laws as far as practicable, relative to voting precincts and their arrangement, as provided by the statutes of the state of Minnesota. Each ward shall constitute a separate elective district or precinct for the holding of elections provided for under this act and also under the laws of the state of Minnesota, and the separate elective ward officers shall be elected by the qualified electors of said wards.

SEC 3. Whenever any territory abutting the city of Ely or upon any addition thereto shall have been platted into streets, alleys, blocks and lots, in the proper shape for record and conforming to and corresponding with the adjacent city streets, alleys, blocks and lots, by the owners thereof, and a plat thereof made showing also the adjoining blocks and lots in the city and connecting streets and alleys of the city, accompanied by the properly certified abstract of title to said territory, showing title to be in the party or parties represented to be the owners of said land which it is desired to annex to the city, the city council shall, upon the petition of the owners of not less than one-half ( $\frac{1}{2}$ ) of the property of said platted territory, by ordinance, declare the same to be an addition to the city of Ely, and as soon as a proper plat of such addition, together with the petition and a certified copy of such ordinance, shall have been duly recorded in the office of the register of deeds of the county in which such city is situated, such territory shall become and be a part of said city and within the jurisdiction thereof, as effectually as if the same had been by act of legislature, and the said city council may, by ordinance, divide the same into wards or annex the same to any other wards of the said city.

## CHAPTER II.

### OFFICERS AND ELECTIONS.

SECTION 1. The elective officers of said city shall be a mayor, a clerk, who shall be styled the city clerk, assessor, city treasurer, municipal judge and special municipal judge, all of whom shall be residents and qualified voters of said city. Each ward shall elect two (2) aldermen and one (1) constable, all of whom shall be residents and qualified voters of their respective wards for thirty (30) days next preceding their election. No person shall be eligible to more than one (1) elective office in said city. All of said officers shall hold their offices for the term of one (1) year, and until their successors are elected and qualified.

SEC. 2. General elections after the first shall be held on the first Tuesday in April of each year. At least twelve (12) days before any general or special election after the first, the city council shall designate three (3) persons to act as judges or inspectors at such election and two (2) persons who shall act as clerks at such election. All elections shall be held and conducted in the same manner and under the same penalties as required by the general laws of the state regarding elections, and like notice shall be given. When any election shall be closed the judges or inspectors shall make return thereof to the city clerk, within twenty-four (24) hours after such election, in the same manner as provided by law for the return of state and county officers to the county auditor, and within one (1) day thereafter the city council shall canvass the returns thereof and declare the result as it appears from the returns, and the city clerk shall forthwith give notice to the persons elected of their respective elections.

SEC. 3. The first general election of said city shall be held on the first (1st) Tuesday in April in the year eighteen hundred and ninety-one (1891). The village council of the present village of Ely shall, at least twenty (20) days before the first (1st) general election, design-

nate three (3) persons who are qualified electors to act as judges of election and two (2) persons to act as clerks of election to act at such election. Such election shall be held at such places within the different wards in said city as the village council of the present village of Ely shall designate, and there shall be as many sets of judges and clerks so appointed as there is different wards or voting precincts in the said city of Ely, as provided in this act.

The recorder of the village of Ely shall give at least ten (10) days' notice of the time and places of holding such first city election. When said election shall be closed, the judges thereof shall make returns thereof to the recorder of the present village of Ely, within twenty-four (24) hours after such election, in the same manner as provided by law for the return of state and county officers to the county auditor, and within one (1) day thereafter the city council of the present village of Ely shall meet and canvass the returns thereof, and declare the results as they appear therefrom, and the recorder of the present village of Ely shall forthwith give notice to the persons elected of their respective elections.

SEC. 4. Special elections in and for said city may be held at any time for the purpose upon order of the city council; at least ten (10) days' notice of any special elections shall be given as provided by law, and such notice shall state the object of such election.

SEC. 5. The elections shall be held and conducted in the same manner and under the same penalties as provided by the general laws of this state regarding elections, and all elections by the people shall be by ballot, and each ballot shall contain the names of the persons voted for, with a proper designation of the office written or printed thereon, and a plurality of votes shall constitute an election.

When two (2) or more candidates for an elective office shall receive an equal number of votes for the same office the election shall be determined by casting lots, in the presence of the city council, at such time and in such manner as the city council shall direct.

All persons entitled to vote for state officers or county officers, and who have resided in the city or any election district thereof for ten (10) days next preceding any general or special election, shall be entitled to vote thereat.

Any person removing from any ward thereof for which he was elected or appointed, or any person who shall refuse, for ten (10) days after notice of his election or appointment, to qualify and enter upon the duties of his office shall be deemed to have vacated the office, and any officer having entered upon the duties of his office may resign by giving notice thereof to, or with the consent of, the city council, and it shall be the duty of the city council to declare the office vacant and to provide that the same be filled, as hereinafter provided. Whenever a vacancy shall occur in any elective office (except those of municipal judge and special judge), by removal, resignation or otherwise, the city council shall have power and it shall be their duty to declare the office vacant, by resolution entered upon the minutes; such vacancy shall be filled by the city council or the remaining members thereof.

Every person appointed to fill a vacancy shall hold his office and discharge the duties thereof for the unexpired term of his predecessor, and with the same rights and subject to the same liabilities as his predecessor or the person whose office he may be appointed to fill.

No person shall be eligible to, shall be elected or appointed to any office in the city who is in any manner, either directly or indirectly, interested in any contract of the city, regardless as to whether said contract was made with city council, or any officer or board or committee of such city, for the benefit of such city; and all contracts made by the said city council, or any officer or board of said city, for the benefit of said city, with any officer, either directly or indirectly, shall be wholly void, and the officer so entering into any contract, as above set forth, shall be guilty of malfeasance in office, and, upon conviction of the offense, shall be removed from his said office, and his office shall be declared vacant by a vote of the council, entered upon the minutes of their proceedings, and by a majority vote of all the other members.

Every person elected or appointed to any office under the provision of this act shall, before he enters upon the duties of his office, take and subscribe an oath of office and file the same with the city clerk, and the treasurer, city clerk and other officers, as the city council shall require, shall severally, before they enter upon the duties of their office, execute to the city of Ely bonds in such amounts and with such sureties and conditions as the city council shall prescribe and approve.

SEC. 6. Should there be a failure by the people to elect any person herein required to be elected, on the day designated, the city council may order a new election to be held, ten (10) days' notice of time being given.

### CHAPTER III.

#### THE DUTIES OF OFFICERS.

SECTION 1. The mayor shall be the chief executive officer of the city and *ex-officio* president of the city council. He shall take care that the laws of the state and the ordinances of the city are duly observed and enforced and [that] all officers of the city shall discharge their respective duties. He shall designate one of the aldermen of said city, who, in case of the absence of the mayor from the city or his inability from any personal reason to discharge the duties of his office, shall be acting city mayor, and all acts performed by him, while acting in the capacity of mayor, shall have the same force and validity as if performed by the mayor.

SEC. 2. The city clerk shall keep his office at the place of meeting of the city council or at such other place as they may designate convenient to the place of meeting. He shall keep the corporate seal and all papers and records of the city, and also keep a record of the proceedings of the city council. Copies of all papers filed in his office and transcripts from all records of the council certified by him under the corporate seal shall be evidence in all courts as if the originals were produced. He shall draw and countersign all orders upon the city treasury in pursuance of any resolution or order of the city council, and keep a full and accurate account thereof in books to be provided for that purpose by the city.

The city clerk shall have power to administer oaths and affirmations. It shall be his duty to report to the city council the financial condition of the city whenever the council shall require. He shall

make a list of the city bonds, to whom issued, for what purpose, when and to whom and where payable, the rate of interest they respectively bear, and recommend such action to the city council as will secure the interest on such bonds, on the first (1st) of September, or before the time to levy of taxes in each year, and to estimate the expenses of the city and likewise of the revenue to be raised for the current year. He shall estimate the expense of the work to be done by the city, or cause the same to be made. He shall countersign the contracts made in behalf of the city, certificates of work authorized by the city council, or by any officer, and every contract made in behalf of the city, or to which the city is a party, shall be void unless signed by the city clerk. The city clerk shall keep regular books of account, in which he shall enter all indebtedness of the city and in which [shall] at all times show the financial condition of the city, the amount of bonds, orders, certificates or evidence of indebtedness which have been redeemed and the amount of each outstanding; to countersign all bonds, orders or other evidences of indebtedness of the city, and to keep accurate accounts thereof, stating to whom and for what purpose issued and the amount thereof; to keep accounts of all receipts and disbursements of the officers of the city; to keep accounts of different funds of the city, showing the amount received from the different sources of revenue and the amount they have disbursed under the direction of the city council.

He shall keep a list of all certificates issued for work or other purposes, and before the levy of the city council of any special tax upon the property of the city or any part thereof shall report to the city council a schedule of all the lots or parcels of land which may be subject to the proposed tax or assessment, and also the amount of such special tax or assessment which it may be necessary to levy on such lots or parcels of land, which such said schedule shall be certified by the affidavit of the city clerk and shall be *prima facie* evidence of the facts therein stated. In all cases wherein the validity of such special tax or assessment shall come in question, the city council shall, if from such report they deem such special tax legal and just, cause the same to be levied in pursuance of the provisions of this act.

The city clerk shall examine all reports, books, vouchers and accounts of the city treasurer and from time to time perform such other duties as the city council may direct, and shall keep a record of all his acts and doings, and keep a book in which he shall enter all contracts, with index thereto; such records shall be open to the inspection of all parties interested, and to all residents of the city, to the same extent that public records of towns and villages usually are under the laws of this state.

The city clerk shall receive as compensation for his services rendered the city not to exceed the sum of one hundred and fifty (150) dollars in any one (1) year, except as otherwise provided in this act, and the compensation he shall receive shall be fixed by the city council within thirty (30) days after his election and qualification, and they may change, increase or diminish the same during the time for which such officer was elected or appointed.

The said city clerk shall have the custody of all papers and keep the records that are usually kept by town clerks, and shall receive the same fees and be subject to the same laws and obligations, as provided by the statutes of this state governing the same, within the

corporate limits of the city of Ely, and the fees so received by him for such services shall not be considered any part of the salary paid him for services for the city of Ely.

SEC. 3. The city council shall, at their first meeting after each annual election, appoint a city attorney, shall perform all the professional services incident to his office, and shall when required furnish opinions in writing upon any subject submitted to him by the city council or its committees; he shall advise with the council and the officers of the city regarding their official duties, and shall attend the stated meetings of the city council and of such committees as may require his attendance. His compensation shall be fixed by the city council; *Provided*, he shall not receive for his services to exceed twelve hundred (1200) dollars in any one year, nor less than six hundred (600) dollars; *And provided*, that the city council shall have the right and authority to employ an assistant attorney, to assist the city attorney in the prosecution or defense of any proceeding or action at law in which the city is interested or to discharge the duties of the city attorney when there is none.

The constables shall have all the power conferred on constables by the general laws of this state, and, in addition thereto, all the powers of the police officers of said city.

SEC. 4. The city treasurer shall receive all moneys belonging to the city, including license money and fines, and keep an accurate account and detailed statement thereof in such books and in such manner therein provided as the city council shall furnish.

The treasurer shall report to the city council annually, on or before the twenty-fifth (25th) day of January, a detailed statement of the receipts and a gross statement of the city orders paid during the fiscal year ending the date of said report, together with the condition of the treasury at such date, which statement shall be filed with the city clerk and a copy of the same published in the official paper of the city.

The treasurer's books shall, at all times, be subject to the demand of the city council for inspection, and to its appointed committees therefor, and also the city attorney, and as otherwise provided for in this act. The city treasurer shall, before he receives any money belonging to said city or office, give a bond to said city, with two (2) or more sufficient sureties, to be approved by the city council, for at least one and one-half ( $1\frac{1}{2}$ ) times the amount of the money that will probably come to his hands at any one time during his term of office; and the said city council shall have the power to require additional and further security, at any time they think it for the best interests of the city to do so or for the purpose of securing any additional sums that may come into the treasury during his term of office, that may be raised by bonding the city or otherwise.

It shall be the duty of the city council to inquire diligently and ascertain beyond question that the bondsmen of such treasurer are worth the amount specified in their liability in said bond above their debts and liabilities and their property exempt from execution. The compensation of said treasurer shall be a commission of two (2) per cent on all moneys received by him into said treasury for the city, but not to exceed two hundred (200) dollars in any one year, for the receiving, safe keeping and paying out of the same; *Provided*, that he shall not, in any case receive to exceed fifty (50) per cent of his total commissions

for the year until he has presented his report, as hereinbefore provided for, to be presented on the twenty-fifth (25th) day of January of each year, and the same has been approved by the city council and has been published, when he shall receive the residue thereof. His bond shall be kept on file in the office of the clerk of the city.

SEC. 5. The assessor of said city of Ely shall qualify and perform the duties pertaining to his office in accordance with the general laws of the state relative to assessors, and shall, at the time provided by the general laws of the state, be present at the office of the city council or city clerk, or such other place as the city council shall provide, with his assessments and books for review. He shall be present during the review of such assessment to advise, if needed, in regard to the same, and upon completion of said review, within the time prescribed by general laws, make final return to the county auditor.

The assessor shall receive such compensation as the city council shall direct; *Provided*, that the compensation paid to him shall not exceed in any one year one hundred dollars (\$100) for assessing the personal property and one hundred and fifty dollars (\$150) for assessing the personal and real estate in the city.

SEC. 6. The city council shall at the first meeting after the annual election, or an adjourned meeting thereof, elect a street commissioner who shall hold his office at the pleasure of the city council. It shall be the duty of the street commissioner to conduct, execute or superintend any work, repairs or improvements upon the public works of said city as may be committed to him by the city council, and he shall be required to execute a bond with sureties, satisfactory to the city council, conditioned for the faithful performance of his duties and that he shall and will account for and pay over all moneys collected or received by him in his official capacity or belonging to the city.

SEC. 7. The city may, at their first meeting after the annual election, or as soon thereafter as practicable, elect a city surveyor, who shall be a practical surveyor and engineer. He shall keep his office in some convenient place in said city, and the city council may prescribe his duties and fix the fees and compensation for any services performed by him. All surveys, profiles, plans or estimates made by him for the city shall be the property of the city, and shall be carefully preserved in the office of the city clerk and be open to the inspection of persons interested. He shall hold his office at the pleasure of the council.

SEC. 8. The mayor, acting mayor and sheriff of the county of St. Louis, or his deputy or deputies, coroner and each alderman, the municipal judge, police officers, constables and watchmen shall be officers of the peace and may command the peace, suppress in a summary manner all rioting and disorderly behavior within the limits of the city, and, for that purpose may command the assistance of bystanders, and, if need be, of all citizens. If any person shall refuse to aid in maintaining the peace when so required, he shall forfeit and pay a fine not to exceed fifty (50) dollars; in default of the payment thereof be imprisoned not to exceed thirty (30) days; and, in cases where the civil power may be required to suppress riots or disorderly behavior, a superior officer present, in the order mentioned in this section, shall direct the proceedings.

SEC. 9. The city council, at their first meeting after each annual election, or as soon thereafter as may be, shall advertise for proposals to do the city printing, giving public notice of not less than one (1) week, in such manner as the council shall direct, that sealed bids be received by the city clerk to do the printing. The bid or bids shall be publicly opened and read by the city clerk, at such time and place as the council shall appoint, and the person or persons offering to do such printing for the lowest sum of money or price, in any newspaper printed in said city, and shall give satisfactory security (if required) for the performance of the work shall be declared the city printer for the ensuing year; *Provided*, that the city council shall have the right to reject any or all bids.

In the newspaper designated in the accepted bid or proposal shall be published all ordinances, by-laws and other proceedings and matters required by this act or by the by-laws or ordinances of the city council to be published in a newspaper.

The city printer designated, immediately after the publication of any notice, ordinance or resolution, which is required to be published, shall file with the city clerk a copy of such publication, with his affidavit of his or their foreman, of the length of time the same has been published, and such affidavit shall be *prima facie* evidence of the publication of such notice, ordinance or resolution; *Provided*, that if no newspaper shall be designated as the official paper of said city, then any or all of the public printing of the said city may be done in any newspaper printed or published in the county of St. Louis, and all publications so made shall have the same force and effect as if made in an official paper.

If any person having been an officer of the city shall not, within ten (10) days after notification and request, deliver to his successor in office all property, books, papers and effects of every description in his possession belonging to said office or city, or pertaining thereto, or belonging to the said city, he may have held, his successor may take possession of said books, papers and effects in the manner prescribed by the laws of this state, and such person shall be deemed guilty of a misdemeanor and shall be punished by a fine not exceeding one hundred dollars (\$100) or by imprisonment not to exceed ninety (90) days.

SEC. 10. The city council shall have the power at any time to require other and further duties to be performed by any officer whose duties are herein described, and not inconsistent with this act, and to appoint such officers as may be necessary to carry into effect the provisions of this act, and to prescribe their duties, unless otherwise provided for; but no officer elected or appointed by the mayor, as herein provided, shall be appointed for a longer term than the one (1) year and until his successor is elected and duly qualified, or shall any appointment made by the said council in any event be for a time exceeding the term of office or extend beyond the term of the council appointing the person to fill any particular office or offices.

The city council shall have power, unless otherwise provided, to fix the compensation of all officers elected or appointed under this act; *Provided*, that the amount of compensation shall not exceed the maximum amount, as specifically set forth for the different officers, as otherwise provided in this act, and such compensation shall be fixed by resolution. No officer elected or appointed to office under the pro-



visions of this charter shall be a party to or interested in any contract, in which the city is interested, made while such officer is holding office; *Provided*, that the mayor and aldermen shall receive no compensation for their services as such officers in excess of ten (10) dollars in any one (1) year.

## CHAPTER IV.

### OF THE POLICE OFFICERS.

SECTION 1. The police force of the city shall consist of the mayor, who shall be the chief executive officer of the city and who shall at all times have control and supervision of the police of the city, and such other policemen and watchmen as he shall, by and with the consent of the city council, appoint. He shall have the power to remove, suspend or discharge any police officer summarily, whenever in his opinion the welfare of the city may demand it, either for the appointment of other officers in their places or for the reduction of the police force.

SEC. 2. The mayor may likewise, at the request of any person, firm, society or organization, appoint policemen or watchmen, who shall serve without expense to the city and have police powers to preserve the peace and protect the property within such limits and at such places as may be designated in such appointment; but such limited policemen shall not exercise any police powers or authority nor wear a badge outside the limits named in such appointment.

SEC. 3. The mayor shall, in cases of riot or large meeting or public gatherings or disturbances, or when in his judgment the case requires, appoint such number of special policemen or temporary policemen as he may deem proper and necessary, but such temporary appointments shall not continue more than one (1) week without the consent of the city council.

SEC. 4. The mayor shall, in his appointments, designate one (1) officer to be chief of police, and such other officers for special duties and with such control over other officers and watchmen as he may deem necessary, and may designate the rank of such officers by such proper title as he may select.

SEC. 5. All police officers and watchmen of the city shall possess the powers of constables at common law and under the general laws of the state, and in addition thereto shall have the power, and it shall be their duty, to serve and execute all warrants, processes, commitments, and any other writs whatsoever, issued out of the municipal court of this city, and they shall have the power, with the consent of or by the direction of the mayor, to pursue and arrest any person fleeing from justice in any part of the state. When they pursue criminals out of the city, and such criminals are charged with offenses against the laws of the state, they shall be entitled to receive for their own use all fees for such pursuit and all rewards offered for the apprehension of such criminals.

SEC. 6. The mayor shall, with the consent and approval of the city council, from time to time, make such regulations for the control of the police force and the powers and duties of the several officers thereof as he may deem necessary. Such regulations may designate uniforms, badges, arms, discipline and drill exercises of the police

force, as well as the conduct of the officers and men when on and off duty, and all other matters deemed necessary to promote the efficiency of the force.

SEC. 7. If any person shall, without authority, assume to act as a policeman, or pretend to have such power, or wear a badge of a policeman within the city, he shall be deemed to be guilty of a misdemeanor, and upon conviction shall be fined in any sum not exceeding one hundred (100) dollars or imprisonment not exceeding thirty (30) days. Before any police officer of said city shall serve any writ or process, civil or criminal, he shall execute to the city of Ely a penal bond with sureties to be approved by the city council to the same amount and conditioned the same as the bond of the constables under the laws of the state. Such bond shall be filed in the office of the city clerk of the city of Ely, for the use of all persons.

## CHAPTER V.

### THE CITY COUNCIL—ITS GENERAL DUTIES AND POWERS.

SECTION 1. The mayor and aldermen shall constitute the city council. A majority of the councilmen shall constitute a quorum, but a less number may meet at the time of any stated meeting and adjourn, and all business transacted at such adjourned meeting shall have the same validity as if at a stated meeting.

SEC. 2. The city council shall hold a stated meeting on the second (2d) Tuesday after the general election at eight (8) o'clock P. M. and all other stated meetings shall be held on the first (1st) and third (3d) Tuesdays of each month, at eight (8) o'clock P. M. thereafter, and the mayor may call special meetings of the council by a notice given to each of the members, to be delivered personally or to be left at their usual place of abode or business, which said notice shall contain a statement of the business for which said meeting is called, and no other business shall be transacted in such meeting except as designated in such notice.

SEC. 3. The city council shall be the judge of the election and qualification of its members, and in such cases shall have power to send for persons and papers. It shall determine the rules and regulations of its proceedings, and have power to compel the attendance of absent members, and may provide for the punishment of such absent members, in addition to the forfeiture provided for in this act.

SEC. 4. The city council shall have power to remove from office any officer of the city, whether appointed by the council or elected by the people; but no officer elected by the people shall be removed except for cause, nor unless first furnished with a copy of the charges against him, nor until such person shall have had reasonable opportunity to be heard in his own defense; *Provided*, any person so appointed or elected, except police officers, shall have the right of appeal to the district court on all findings of a court of inquiry that shall investigate charges against him for the purpose of removing him from office, and from the decision rendered therein. Continued absence from the meeting of the council in case of the aldermen, and neglect of duty in case of other officers, unless for good reason, or being in any way interested in any contract of the city, shall be good cause for removal. The city council shall fix a time and place for the

trial of any officer, against whom charges may be preferred, of which not less than ten (10) days' notice shall be given to the accused, and shall have power to send for persons and papers, and shall have power to compel the attendance of witnesses and to hear and determine the case; and if such officer refuse or neglect to appear or defend himself, the council shall declare the office vacant.

SEC. 5. The city council shall have the management and control of the finances (subject to the provisions of this act) and all property of the city, and shall likewise, in addition to the power herein vested in them, have full power to make, enact, ordain, establish, publish, enforce, alter, modify, amend and repeal all such ordinances, rules and by-laws for the government of the city and to promote the good order of the same, for the suppression of vice and intemperance, for the benefit of the inhabitants thereof and for the prevention of crime, as they shall deem expedient. They shall have power to establish and maintain a city prison and workhouse for the imprisonment, custody and safe keeping of all persons arrested for or charged with any offense against any ordinance of the city or laws of the state cognizable before the municipal court of the city; to make rules and regulations for the government and management of the said city prison and workhouse, and to appoint keepers and other officers of the same and to prescribe their duties and fix their compensation. The keepers of said prison and workhouse shall possess all the powers and authority of jailers at common law and by the laws of the state. The city council shall have full power and authority to declare and impose penalties and punishments, and to enforce the same against any person or persons who may violate any of the provisions of any ordinance, rule or by-law passed and ordained by them, and all such ordinances, rules and by-laws are hereby declared to be and have the force of law; *Provided*, that they are not inconsistent with the constitution and laws of the United States and of this state; and for these purposes shall have power and authority, by ordinances, resolutions or by-laws:

*First*—To license and regulate the exhibition of common showmen and shows of all kinds, the exhibition of caravans, circuses, concerts, theatrical performances, and also to license and regulate all auctioneers, billiard tables, bowling alleys, nine or ten pin alleys, butcher shops and butcher stalls and venders of meats, pawn shops, and pawnbrokers, insurance offices and insurance agents, taverns, lager beer saloons, skating rinks, victualing houses, and all public places of public amusement, and persons vending or dealing in spirituous, vinous, fermented or malt liquors, and all dealers in second-hand goods, junk dealers, and all keepers of intelligence offices and employment offices; all draymen and hackmen; *Provided*, that the power to regulate above given shall extend to and be construed to include, among other powers, the power to define who shall be considered pawnbrokers, auctioneers, dealers in second hand goods and junk dealers.

*Second* — To restrain and prohibit all descriptions of gambling and fraudulent devices and practices, and all playing of cards, dice and other games of chance for the purpose of gambling within the city, and to restrain from vending or dealing in spirituous, vinous, fermented or malt liquors, unless duly licensed by the council; and no license issued by the city council shall be transferrable except by authority of the city council; *Provided*, that nothing contained in these

articles of corporation shall be construed as to prevent the people of the city of Ely from deciding for themselves whether or not license shall be granted to any person or persons in said city to sell lager beer, spirituous, vinous, malt or fermented liquors, and the city clerk is hereby required, on the petition of ten (10) or more legal voters of said city, at any time less than ten (10) days before any annual city election, and notice thereof shall be given by said city clerk at the time and in the manner that notices of annual elections are given, and said question of license shall be determined by ballot containing the words: "In favor of license," or "Against license" (as the case may be), which vote shall be canvassed and returned as it is by law prescribed for canvassing election returns, and if such returns show a majority of the votes cast at such election to be against license, then in such case the city council shall grant no license to sell lager beer, spirituous, vinous, malt or fermented liquors in said city of Ely, until after the next general election, except to persons legitimately and *bona fide* engaged in the business or occupation of druggist, and then only for medicinal purposes and mechanical purposes; *And provided*, that no license shall be granted to any person to deal in or vend within the city limits any spirituous, fermented or malt liquors for a less sum than five hundred dollars (\$500) as a license fee for one (1) year or a part of one (1) year, nor a greater sum than one thousand dollars (\$1,000) for the same period of time.

*Third*—To prevent any fighting, brawling, assault, battery, disorderly noise, riot and disorderly assemblage in the city, and to provide for the arrest and punishment of any person or persons who may be guilty of the same; to suppress disorderly houses and houses of ill-fame and gambling houses, and to provide for the arrest and punishment of the keepers thereof, and to authorize the destruction of all instruments and apparatus used for the purposes of gambling.

*Fourth*—To compel the owner or occupant of any cellar, tallow chandler's shop, soap factory, tannery, hide warehouses, stables, barn, privy, sewer or other unwholesome nuisance, house or place, to cleanse, remove or abate the same from time to time, as often as may be necessary for the health, comfort and convenience of the inhabitants of the city.

*Fifth*—To direct the location and management of the stock yards, slaughter houses, markets, breweries, distilleries, soap factories, glue factories and bone boiling establishments, and to regulate the storage, keeping and conveyance of gunpowder, dynamite or other explosive or combustible material, and to regulate the use thereof in the city.

*Sixth*—To prevent the encumbering of streets, sidewalks, alleys, lanes and public grounds with carriages, carts, wagons, sleighs, boxes, lumber, firewood, posts, awnings, signs, or any other material whatever.

*Seventh*—To direct and control the laying out and construction of railroad tracks, bridges, turnouts and switches in the streets and alleys, and the location of depot grounds within the city; to require that the railroad tracks, bridges, turnouts and switches shall be so constructed and laid out as to interfere as little as possible with the ordinary travel and use of the streets and alleys, and that sufficient space shall be left on either side of the track for the safe and convenient passage of teams and persons; to require railroad companies to keep in repair the streets through which their tracks may run, and

to construct and keep in repair sidewalks; also suitable crossings at the intersection of streets and alleys, and sewers, ditches and culverts, when the council shall deem necessary; to regulate the movement and speed of railroad locomotives and cars; to require the maintenance of flagmen, or the construction and maintenance of gates at the railroad crossings of railway tracks over such streets and avenues of the city as the city council shall deem to require such precaution; to prevent and punish immoderate driving or riding in the streets; to compel persons to fasten their horses or other animals in the streets, while attached to vehicles or otherwise, while standing in the streets, and to require all persons driving horses or mules at a faster gait than a walk, attached to sleighs, shall have sufficient number of bells to give notice of their approach, and to regulate places of bathing and swimming in the waters within the city limits.

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

*Ninth*—To prevent the running at large of dogs, and to require a license for keeping the same, and to provide for the and authorize the impounding and destruction, in a summary manner, of all dogs when at large contrary to the ordinance.

*Tenth*—To prevent any person from bringing, depositing or leaving within the city limits any putrid carcass or other unwholesome substance, and to require the removal of the same by any person who shall have upon his premises such substances, or putrid or unsound meat, beef, pork, fish, hides or skins of any kind, and in default to authorize the removal thereof by some competent officer at the expense of such person or persons, and to provide for the punishment of offenders.

*Eleventh*—To make and establish public pounds, pumps, wells, cisterns, hydrants, reservoirs, and to erect lamps, to provide for lighting of the city; to contract for the erection of gas works for lighting the streets, public grounds and public buildings, and for the erection and maintenance of any and all systems of electric lights for like purpose; to create, extend and alter lamp districts, or to contract with other parties to furnish gas or electric lighting for such purposes.

*Twelfth*—To establish and regulate boards of health, provide hospitals and hospital grounds, and for the registration of births and deaths and the return of lists of mortality, and to regulate and prevent the burial of the dead within the city limits.

*Thirteenth*—To regulate the size and weight of bread, and to provide for the seizure and forfeiture of bread offered for sale contrary thereto.

*Fourteenth*—To prevent any person from riding or driving any ox, horse, mule, cattle or other animals, on the sidewalks of the city, or in any way doing damage to such sidewalks.

*Fifteenth*—To prevent the shooting of firearms or firecrackers, and to prevent any exhibition of firearms or fireworks in any situation which may be considered by the council by the city council dangerous to the city, or to any property therein, or annoying to any of the citizens thereof.

*Sixteenth*—To prevent open and notorious drunkenness and obscenity in the streets or public places of the city, and to provide for the arrest and punishment of all guilty persons thereof.

*Seventeenth*—To license and regulate porters, hackmen, expressmen and runners, agents, solicitors for stages, cars, public houses, or other establishments.

*Eighteenth*—To establish public markets and other public buildings; to make rules and regulations for the government and management thereof; to appoint suitable officers for the management thereof, and to provide for the enforcement of all rules and regulations in regard to the same.

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

Also to license and regulate, or restrain and suppress, all peddlers, canvassers, solicitors, of orders for future delivery of goods in retail quantities, transient traders and persons selling goods at retail by sample.

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

*Twenty first*—To compel the owners or occupants of buildings or grounds to remove snow, dirt and rubbish from the sidewalks, streets or alleys opposite thereto, and to compel such owners or occupants to remove from the lot owned or occupied by him all such substances as the board of health shall direct, and in default to authorize the removal or destruction thereof by some officer at the expense of the owners or occupants; also, to compel the owner of low grounds, where water is liable to collect and become stagnant, to fill or drain such low places; in default, to authorize such filling or draining at the expense of such owners, and to provide that such expense shall become a lien upon the land, lot or property so drained or filled.

*Twenty-second*—To regulate and prevent the landing of persons, from railroad cars or other conveyances, infected with contagious or infectious diseases or disorders, and to make such other disposition of such persons as may be necessary to preserve the health of the city.

*Twenty-third*—To regulate the time, manner and place of holding public auctions or vendues.

*Twenty-fourth*—To provide for watchmen and prescribe their number and duties, to regulate the same, and to create and establish the police of the city, and prescribe the number of police officers and their duties and to regulate the same.

*Twenty-fifth*—To regulate the inspection of wood, hay, milk, grain, flour, pork, beef, mutton, veal and all kinds of meat, poultry, game, fish, salt, whisky, and other liquors and provisions, and to authorize the seizure and destruction of any grossly impure or adulterated articles sold that are dangerous to the public health, and to provide for the punishment of the use of false weights and measures.

*Twenty-sixth*—To appoint inspectors, weighers and gaugers, and to regulate their duties and prescribe their compensation.

*Twenty-seventh*—To purchase or acquire by gift or devise lands within the city limits, or to take and hold by lease such lands, for the purpose of parks or public grounds, and to provide for the improvement of the same; and also to direct and regulate the planting and preservation of ornamental or shade trees in the streets, alleys, parks or public grounds and highways of said city, and to appoint a suitable

person to inspect and take charge of the same, and fix his compensation and prescribe his duties.

*Twenty-eighth*—To remove and abate any nuisance injurious to public health or morals, and the city council shall have power to define what shall be considered nuisances, and to provide for the punishment of all persons who erect and maintain such nuisances.

*Twenty-ninth*—To remove and abate any obstruction or encroachment or nuisance on the streets and alleys, or public grounds and highways of the city.

*Thirtieth*—To do all acts and make all regulations which may be necessary and expedient to preserve health of the inhabitants of the city and the suppression of disease; to prevent the introduction of contagious diseases into the city, and to make quarantine laws and enforce the same within the city.

*Thirty-first*—To authorize the arrest, fine and imprisonment as vagrants of all persons who, not having visible means to maintain themselves, or without employment, idly loitering or rambling about, or staying in groceries, drinking saloons, houses of ill-fame, or houses of prostitution or bad repute, gambling houses, railroad depots, or fire engine houses, or who shall be found trespassing in the night time the private premises of others, or begging, or placing themselves in the streets or thoroughfares or public places to beg or receive alms; also, keepers, exhibitors or visitors at any gaming table, gambling house, house of fortune telling, place for cock fighting, or other place of device; and all persons who go about for the purpose of gaming or watch stuffing, or who shall have in their possession any articles or thing used for obtaining money under false pretenses, or who shall disturb any place where public or private schools are held, either on week or Sabbath days, or places where religious worship is held.

*Thirty-second*—To license and regulate draymen, hackmen, expressmen and other persons engaged in the carrying of passengers, baggage or freight, and to regulate their charges therefor, and to authorize the mayor and chief of police of said city to regulate and direct the location of vehicles standing on the streets and public grounds in said city.

*Thirty-third*—To regulate the construction of all buildings more than two (2) stories high, and to prescribe fire limits in said city, and to prohibit the erection of wooden buildings or of placing wooden sidewalks within said city limits.

*Thirty-fourth*—To provide for and regulate the erection of hitching posts or rings, for the fastening of horses or other animals, or to prohibit the same in any portion of the city.

*Thirty-fifth*—To regulate the opening of hatchways and cellarways upon the streets or sidewalks of the city, and to compel proper guards about the same.

*Thirty-sixth*—To regulate the numbering of houses and lots, and to compel owners of houses and other buildings to have such numbers designated thereon.

*Thirty-seventh*—To require the owner or lessee of any building or structure now or hereafter erected in said city to place thereon such fire escapes, and such appliances for the protection against or extinguishment of fires, as may direct, and to do each and every thing and other act which it may think necessary or advisable to lessen the danger to human life in the case of fire or accident.

*Thirty-eighth*—To regulate and control the quantity and measurement of gas; to prescribe and enforce rules and regulations for the manufacture and sale of gas; to provide for the inspection of gas and water metres, and appoint an inspector and prescribe his duties.

*Thirty-ninth*—To regulate the location, size and construction of steam boilers, as it may designate as being dangerous to life and property in the city, and to prohibit the location of such boilers at any place where the city council may deem dangerous to life and property.

*Fortieth*—To regulate and control or prohibit the placing of poles therefor or suspending of electric wires along or across any of the streets of said city, and to require any already placed or suspended, either in limited districts or throughout the entire city, to be removed and placed beneath the streets and sidewalks of the city; to compel the proper insulation of all electric wires and other wires in use within the city.

*Forty-first*—To regulate the penning, herding and treatment of all animals within the city.

*Forty-second*—To restrain, regulate and control the cutting of ice within the city limits.

*Forty-third*—The common council is authorized to permit the construction and operation of street railways within the said city, and may designate streets on which the same may be constructed, and may impose restrictions and limitations on the same as to the council may seem proper; but no such privileges shall be granted to any individual or individuals for a longer period of time than twenty (20) years, and the said council may provide for the introduction and use of electric lights within the city under such regulations as the council may prescribe.

*Forty-fourth*—The city council may provide for the laying out and the construction or constructing of a system of general sewerage within the city, and, if authorized thereto by a majority of the electors who shall vote upon the question of the issuing of such sewerage bonds at any general or special election, may issue and negotiate the bonds of said city in any amount not exceeding ten thousand (\$10,000) dollars, with coupons attached, to pay for the same; such bonds to run for such length of time and to bear such rate of interest, not exceeding seven (7) per cent, as to the council may seem proper.

*Forty-fifth*—To make and establish public pounds, pumps, wells, cisterns, hydrants, reservoirs and fountains, and to provide for and conduct water into and through the streets, avenues, alleys and public grounds of the city of Ely, and to provide for and control the erection of water works by said city for the supply of water to said city and its inhabitants, and to grant the right to one or more private companies or corporations to erect water works to supply said city and its inhabitants thereof with water, and to authorize and empower such company or corporation to lay a water pipe and main into, through and under the streets, avenues and public grounds of the city of Ely, and, when necessary for properly carrying out the purpose of said company or corporation, to appropriate private property in the city of Ely to the use of said company or corporation in the manner provided in this charter, and to control the erection and operation of such water works and the laying of such pipes and mains, in accordance with such terms and conditions as may be agreed upon with said company or corporation; and to provide for and control the



erection and operation of works for heating the public buildings of the city or private residences, by steam, gas, or other means, and supplying heat or power to the inhabitants of said city; to grant the right to erect such works and to control the erection and operation of such works and the laying of pipes, mains into, through and under the streets, avenues, alleys and public grounds of said city of Ely; *Provided*, that no such privilege shall be granted to any individual or individuals, companies or corporation for a longer period of time than twenty (20) years; *And further provided*, that every grant to a private company or corporation of the right to erect water works, gas works, electric works, heating works, as hereinbefore mentioned, shall provide for the sale of such works to the said city or its successors at any time after fifteen (15) years from the commencement of such grant, at a valuation to be agreed upon or determined in a manner to be prescribed in the grant; *Provided*, that a shorter time may be agreed upon by and between the city council and the party or parties, company or corporation, who may be granted a franchise for any one of the purposes heretofore enumerated, and, if authorized thereto by a majority of the electors who shall vote upon the question of issuing bonds for the purpose of establishing water works, or for the purpose of lighting the city or the heating of the same, or any part thereof, and the maintenance thereof by the city, at any general or special election, the city council may issue and negotiate the bonds of the city, in any amount not exceeding twenty-five thousand (\$25,000) dollars, with coupons attached, to pay for the same, such bonds to run for such length of time and to bear such rate of interest, not exceeding eight (8) per cent, as to the council may seem proper, and for the purpose of making provision for the payment of said bonds may establish a sinking fund of the city, (to be called the water bonds, or electric light, or gas light, steam heating, sinking fund, as the case may be, and may levy and assess a tax, not to exceed five (5) mills, on the taxable property of the city of Ely each year as other taxes are levied to create such fund, and may invest the proceeds thereof in good securities, and such as the city council shall designate, for the purpose of the payment of said bonded indebtedness when the same matures.

*Forty-Sixth*—To prevent and prohibit all persons, corporations or associations from building, constructing, maintaining or keeping within the said city any barb wire fence, or other fence constructed of such material as to be dangerous to the public.

SEC. 6. The style of all ordinances shall be: "The city council of the city of Ely do ordain," and shall be passed by an affirmative vote of a majority of the members of the city council, by ayes and noes, which shall be entered upon the records of the council and published once in the official paper of the city, if there be one, and, if not, then in any paper in St. Louis county, signed by the mayor and city clerk, and recorded by the city clerk before the same shall take effect; *Provided*, that the mayor shall not vote on any question before or passed by said council, except on a tie vote of the other members, when he shall cast the deciding ballot. No ordinance shall be passed at the same meeting at which it is presented except by the unanimous consent of the members present, which shall be noted on the records, but this shall not preclude the passage of any ordinance reported by any committee of the council to whom the subject of such ordinance shall have been referred at any previous meeting.

SEC. 7. A copy of the record of any ordinance passed, certified by the city clerk and attested by the seal of the city, and any copy thereof published as aforesaid, or compilations of the ordinances made and published under the direction of the city council, shall be *prima facie* evidence of the contents of such ordinance and of the regularity of all proceedings relative to the adoption and approval thereof, and shall be admitted as evidence in any court of this state without further proof. In all actions, prosecutions and proceedings of every kind before the municipal court of said city it shall not be necessary to plead or prove such ordinance in said court.

SEC. 8. No appropriation shall be made without a vote of a majority of all the members of the city council in its favor, which shall be by ayes and noes and entered among the proceedings of the council.

SEC. 9. The power conferred upon the city council to provide for the abatement or removal of nuisances shall not bar or hinder suits, prosecutions or proceedings according to law.

SEC. 10. The city council shall examine, audit and adjust the accounts of the treasurer and all other officers of the city at such times as they deem proper, and also at the end of the year, and before their term of office shall expire, and if any officer shall refuse to exhibit his books of account and vouchers, for examination and settlement, or refuse to comply with the orders of the city council in the discharge of his duties in pursuance of this section, the city council shall declare his office vacant, and the council shall order suits and proceedings at law against any officer or agent of the city who may be delinquent or defaulting in his accounts or the discharge of his official duties, and shall make a full record of all settlements and adjustments.

SEC. 11. The city council shall have the management and control of the finances and all the property of the city, both real and personal, and may provide for the sale of any city property, in such manner as it shall consider for the best interests of the city.

SEC. 12. The city council shall have power to acquire by purchase, grant or condemnation such private property as may be necessary for sites for public buildings for the use of the city or any department thereof, and for all streets, alleys, parks, public squares, public grounds in said city, and to ascertain and determine the value of such private property taken for such uses, and the amount of damages occasioned to any property by reason of any public works or structures, and for that purpose may appoint juries or committees or appraisers to appraise such values and damages, or to acquire information thereof in any manner deemed advisable by said council.

SEC. 13. Any license issued by the authority of the city council may be revoked by the mayor or council at any time, and upon conviction before any court of any person holding a license for the violation of any provisions of any ordinance relative to the exercise of any right granted by such license, the court may, and upon second conviction shall, revoke such license in addition to the penalty provided by law or ordinance for any such violation. No license shall be granted for a longer period than one (1) year, and any license granted for a longer period than one (1) year shall be void from the beginning.

SEC. 14. The city council may impose punishments for the breach of any ordinance, rule, by law or regulation of the city to the extent of a fine not exceeding one hundred dollars (\$100), and imprisonment

in the city prison or county jail of St. Louis county for a period not exceeding ninety (90) days, and may provide that the offender, during such imprisonment, be fed on bread and water at the discretion of the judge of the municipal court; and offenders against city ordinances may be required to give security to keep the peace and for good behavior for a period not exceeding six (6) months and in any sum not exceeding five hundred dollars (\$500).

SEC. 15. The city council may provide that any person convicted of any offense before the municipal court, subjecting such offender to imprisonment under the ordinances of said city, may be kept at hard labor in any workhouse established for that purpose, or, in case of a male offender, may be kept at hard labor during his term of punishment in such workhouse or upon public improvements of the city, or both, and may also provide by ordinance that any one convicted of an offense before the said municipal court and committed for non-payment of fine imposed may be kept at hard labor, either in the workhouse or upon the public improvements or otherwise, or both, until such person shall work out the amount of such fine at such rate of compensation as said council may prescribe, not exceeding the time of such commitment, and the council shall have full power to establish by ordinance all needful regulations for the security of such purpose aforesaid and under such regulations as the city council may prescribe.

## CHAPTER VI.

### FIRE DEPARTMENT.

SECTION 1. The city council shall have full power to establish a fire department, and shall have supervision of the 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 and all others present to aid in the extinguishment of fires, and to pull down and raze such buildings in the vicinity of such fire as shall be directed by them, or any two (2) of them who may be at the fire, for the purpose of preventing its communication to other buildings; to establish fire limits or the limits within which wooden or other combustible buildings shall not be erected; to require the owners or occupants of buildings to provide and keep suitable ladders and fire buckets, which shall be appurtenances to the realty and exempt from seizure and forced sale, and, after reasonable notice to such owner or occupant and refusal or neglect by him, to procure and deliver the same to him, and default of payment therefor to levy the cost thereof as a special tax upon such real estate, to be assessed and collected as other taxes in such city; to regulate the storage of gunpowder and other dangerous materials; to require the construction of safe places for the deposit of ashes; to regulate the manner of putting up stove pipes and the construction of chimneys; to prevent bonfires and the use of fireworks 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 generally to establish such measures for the protection, prevention or extinguishment of fires as may be necessary and proper.

## CHAPTER VII.

## TAXATION AND BONDS.

SECTION 1. All revenues of the city shall be divided into the following funds, and separate and distinct accounts shall be kept of each :

*First*—A general fund, in which all revenues of the city shall be placed except such as are directed to be placed in some other fund.

*Second*—A fire department and water works fund, in which shall be placed all taxes levied and revenues received for the maintaining of the fire department and for furnishing the city with water supply, whether such supply is obtained by contract with third parties or by the purchase, construction, maintenance and operation of water works by the city itself.

*Third*—A court and police fund, in which all revenues accruing to the city on account of fines and penalties, received for violation of any of the ordinances, regulations or by-laws of the city, all court fees of the municipal court, all officers' fees and all moneys collected by virtue of any special assessment made by the city council for said fund.

*Fourth*—An interest fund, in which shall be placed all taxes levied and revenues received for the payment of interest on the bonds and indebtedness of the city.

*Fifth*—A sinking fund, in which shall be placed all taxes levied and revenues received for that purpose.

*Sixth*—A permanent improvement fund, in which shall be placed the proceeds of all permanent improvement bonds of the city, all sums raised for improvements by special assessments upon the property benefited, and all taxes levied and revenues received for this fund.

And the common council may, from time to time, establish and provide for other funds as it may deem proper.

SEC. 2. The general fund may be used for any lawful city purpose, and any money may be transferred therefrom to other funds by the city council. The fire department and water works fund shall be used only for defraying the expenses of the fire department, including supplying the city with water, either by contract with other parties, or the purchase, construction, maintenance and operation of water works by the city. The court and police fund shall be used only for the payment of the salary and fees of the municipal judges of the municipal court of the city, the city attorney, the police officers and constables, and those doing police service, general court expenses, and incidentals of said court. The interest fund shall be used only for the payment of interest on the bonds and indebtedness of the city as provided by this charter. The sinking fund shall be used only for paying the bonds of the city as provided in this charter. The permanent improvement fund shall be used only for defraying the expenses of improvements as provided in this charter. Temporary loans, for a term not exceeding one (1) year, may be made by the city council from one fund to any other fund, other than the general fund, whenever there is money in any of the funds not needed for use in that fund, and it is reasonably certain that the borrowing fund will

have money in it to repay the sum borrowed before the loaning fund will need the same. Whenever the purpose for which any fund is created shall be fully provided for, and there shall still remain a surplus in such fund, such fund may be abolished and such surplus paid into such other fund as the city council may direct.

SEC. 3. The city council shall annually levy taxes on all the taxable property in the city, as follows: For the general fund such sum as it deems necessary, in addition to the other revenues of the city applicable thereto, not exceeding one (1) per cent of the assessed valuation; for the other funds such sums as it deems necessary; *Provided*, that all the taxes so assessed shall be apportioned between the respective funds as the necessity of the case may require; *And further provided*, that the aggregate amount so assessed shall not exceed two (2) per cent of the assessed valuation of the taxable property of the city, besides the special assessments provided for, for permanent improvement, for streets, alleys of the city, as provided by this charter; *And provided further*, that the amount so assessed for the permanent improvement fund shall only be that sum that shall be sufficient to replace all expenditures made from said fund and not provided for by special assessment on the particular property benefited by such improvement or properly charged with the same.

SEC. 4. All taxes shall be levied by resolution of the city council, and no tax shall be invalid by reason of any deformity in the manner of levying the same nor because the amount levied shall exceed the amount required to be raised for the purpose for which the same is levied.

SEC. 5. The city council shall cause to be transmitted to the county auditor of the county of St. Louis, on or before the first (1st) day of October of each year, or at such times as required by the general laws of the state, a statement of all taxes by them levied, and such taxes shall be entered and collected and payment thereof enforced with the state and county taxes, and in the same manner in which they are collected and enforced, and the treasurer of said St. Louis county shall pay over the same to the treasurer of the city any and all taxes and moneys collected by him or received by him for said city, as provided by the general laws of this state.

SEC. 6. The city council shall constitute a board of review, and shall meet and revise, alter or equalize, the assessment roll of the assessor as they may deem just and proper. The general laws of this state shall apply to said board of review, and said board shall be governed thereby.

SEC. 7. The city council shall have power, when authorized by a majority of the legal voters present and voting at any general or special election of which due notice is given as to time, place and object of the election, to issue the bonds of the city, running not more than twenty (20) years, with coupons attached, bearing not more than eight (8) per cent interest per annum, principal and interest payable at such times and places as may be fixed by the resolutions of the council. Such bonds shall be signed by the mayor, sealed with the seal of the city and attested by the city clerk. Such bonds shall not be sold for less than par, and the proceeds from the sale of such bonds shall go and become a part of the fund for which they were designated, and for the purpose for which they were raised, and if there should not be a fund already established to credit the proceeds to, a

fund may be established for the purpose of receiving the same as provided in this act; *Provided*, that the bonded indebtedness of said city of Ely shall not at any time exceed thirty thousand dollars (\$30,000.)

SEC. 8. Every male inhabitant of said city between the ages of twenty-one(21) and fifty (50) years, excepting such as are exempt by law, who may reside within the limits of said city at any time between the first (1st) day of May and the first (1st) day of November of each year, and have not worked out or paid poll tax in any other place, shall be liable to a capitation or poll tax; and it shall be lawful for the city council at any time to levy the same, but such tax shall not in any year exceed two (2) days' work on each person liable therefor, which may be commuted by the party so taxed by the payment to the street commissioner of the sum of one dollar and fifty cents (\$1.50) per day, and the street commissioner shall expend all moneys so received on the streets, alleys and highways, under the direction of the city council. The laws of this state shall apply to warning, working, suing for and enforcing the collection of such poll tax, except as herein otherwise expressly provided.

## CHAPTER VIII.

### CONDEMNATION OF PRIVATE PROPERTY TO PUBLIC USE.

SECTION 1. Whenever the city council shall intend to lay out and open, change, widen or extend any highway, street, lane, alley, public grounds, square or other place, or to construct and open, alter, enlarge or extend drains, canals or sewers, or alter, widen or straighten water courses therein, or take ground for the use or improvement of a harbor, and it shall be necessary to take private property therefor, they shall make and cause to be filed an accurate survey and plat thereof with the city clerk, and they may purchase or take by donation such grounds as shall be needed, by agreement with the owners, and take from them conveyances thereof to the city for such use or in fee; but otherwise they shall by resolution declare their purpose to take the same, and therein describe, by metes and bounds, the location of the proposed improvements and the land proposed to be taken therefor, defining separately each parcel and the amount thereof owned by each distinct owner, mentioning his name, if known, or the occupant so far as known, and therein fix a day, hour and place when and where they will apply to the municipal judge of the city for a jury to condemn and appraise the same. They shall thereupon cause to be made by the city clerk a notice of the adoption of such resolution, embracing a copy thereof and notifying all parties interested that the council will, at the time and place named, apply to the judge for the appointment of a jury to condemn and appraise such land. A copy of such notice shall be served by any person on the owner of each such parcel of land to be taken, if known and resident within the county; such service to be made in the manner prescribed for serving summons in the municipal court, and the return on the summons shall be conclusive evidence of the fact stated therein. If the notice cannot be so given as to all the parcels, then the same shall be also published once in each week, for three (3) successive weeks, in a newspaper pub-

lished in such city or county, and the affidavit of the printer or foreman of such newspaper shall be conclusive evidence of such publication. Such notice shall be served and such publication made for three (3) weeks, complete at least one (1) week before the time fixed therein for such application. If any person so served with notice shall be a minor, or of unsound mind, the judge, before proceeding, shall, on the day fixed for hearing such application, appoint for him a guardian for the purpose of such proceeding, who shall give security to the satisfaction of the magistrate and act for such ward.

SEC. 2. At the time and place fixed for such hearing the application, accompanied by a copy of such resolution and such survey, and upon proof of service of the notice, as provided in the last section, shall be filed with the judge, who shall thereupon make a list of twenty-four (24) competent jurors, not interested; but residents of the city shall not be disqualified by reason of such residence. He shall hear and decide any challenges for cause or favor made to any one, and, if sustained, shall replace his name with the unobjectionable jurors, until the list shall be perfected. Thereupon, under the direction of such magistrate, each party, the city council by its representatives on one side and the owners of the land or their agents present, or if none be present or they disagree a disinterested person appointed by the judge, on the other, shall challenge six (6) names, one at a time alternately, the city council beginning. To the twelve (12) jurors remaining the judge shall issue a venire, requiring them at an hour on the day named, not more than ten (10) nor less than three (3) days thereafter, to appear before him and be sworn and serve as a juror to view lands and appraise damages, and at the same time, shall publicly adjourn the proceedings to the time and place so named; such venire shall be served by any constable or police officer, at least one (1) day before such appointed time, by reading the same to each such juror, or by leaving a copy at his usual place of abode in the presence of a member of his family of suitable age and discretion. The jurors summoned shall appear at the time and place named; and if any be excused by the judge or fail to attend, he shall direct other disinterested persons to be forthwith summoned in their stead until twelve (12) be obtained. The magistrate shall then administer to them an oath that they shall well and truly inquire into and determine the necessity for taking the lands mentioned in the resolution, and, if found necessary, the damages occasioned thereby, and faithfully discharge their duties as jurors according to law.

SEC. 3. Under the direction of such magistrate the jury shall view the lands to be taken, and shall then sit before him to hear such competent evidence as shall be produced by the party; and for such purposes such magistrate shall possess the same powers as a court in session with a jury, and, if there be necessity, may adjourn the sitting from day to day. The jury shall render a separate verdict in writing, signed by them, in which they shall find whether it is necessary to take such lands or any part thereof for such purposes, describing such as they find necessary to be taken, and if any found necessary to be taken, then a verdict or appraisal for damages, specifying therein the damages of each owner, and separately the value of the land taken from each and the damages otherwise sustained by each by reason of the taking thereof, in estimating which they shall deduct therefrom any special benefits, if any, to be enjoyed by each from such improve-

ments; and a majority of such jury may render such verdict or appraisal of damages and shall sign their names thereto. 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 magistrate. In case the jury shall fail to find a verdict, another jury shall be selected, summoned, sworn and proceed in the same manner.

SEC. 4. Within ten (10) days after the verdict any owner whose land has been found necessary to be taken may appeal from the award of damages to him in such verdict to the district court, and the city may likewise appeal from the award of damages to any owner, by filing with such magistrate a notice of appeal, specifying whether the appeal is from the whole award to him, or a part, and if a part, what part, and therewith a bond, with two (2) sufficient sureties to be approved by the magistrate, to pay all costs that may be awarded against such appellant on the appeal, and praying the magistrate for his return thereof. Any party not so appealing shall be forever concluded by such verdict or appraisal. Upon an appeal being taken, the magistrate shall transmit to the clerk of the district court, within ten (10) days, the notice of the appeal and bond, and thereto annex a copy of all papers and proceedings before him, with his certificate thereof. He shall, after the time for appealing is expired, file with the city clerk, annexed together all the original papers, including the verdict, with a certificate by him thereof and that no appeal has been taken from such verdict except as the facts are, which he shall briefly specify; and the clerk shall record all such proceedings. Upon filing such transcript in the district court, the appeal shall be considered an action pending in such court, and be so entered, the land owner as plaintiff, the 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 the entry of judgment, the clerk of the district court shall transmit a certified copy thereof to the city clerk.

SEC. 5. If the verdict of the jury first called find it necessary to take such land or any part thereof, the city council may, upon return thereof to the city clerk, enact an ordinance therewith for laying out, changing, widening, or extending and opening any such street, lane, alley, public ground, square or other public place, or constructing and opening, altering, enlarging or extending any such drains, canals, or sewers, or altering, widening or straightening any water course, or for the use or improvement of a harbor, but shall not enter upon any such land therefor until the owner be paid in full of all 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 city clerk to permanently remain subject to his order. In case there shall be any doubt as to who is entitled to such compensation or damages, or any part of the same, the amount so awarded shall be set apart in the city treasury for whosoever shall be entitled thereto, and paid over to the person or persons who shall show a clear right to receive the same. At any time before causing such land to be actually taken or put to public use, and before the rendition of a judgment in the district court for damages, the city council may discontinue all proceedings theretofore taken, and the city shall in such event be liable



for the cost only. All the cost of every such proceedings shall be paid by the city, except when it recover costs in the district court or the supreme court. Fees and costs shall be the same as in civil actions.

SEC. 6. For the purpose of payment of the expenses, including all damages and costs incurred for the taking of private property, and of making any improvement mentioned in the last preceding section, the city council may, by resolution, levy and assess the whole or any part not more than one-half ( $\frac{1}{2}$ ) of such expenses as a fair tax upon such property as they shall determine is especially benefited thereby, making therein a list thereof, in which shall describe every lot or parcel of land so assessed, with the name of the owner thereof, if known, and the amount levied thereon set opposite. Such resolution signed by the mayor and the city clerk shall be published once in each week for two (2) weeks, in a newspaper printed regularly in such city, or, if there be no such newspaper, three (3) copies thereof shall be posted by the city clerk in three (3) of the most public places in such city, and a notice therewith that, at a certain time therein stated, the said council will meet at their usual place of meeting and hear all objections which may be made to such assessment, or to any part thereof. At the time so fixed, the said council shall meet and hear all such objections, and for that purpose may adjourn from day to day, not more than three (3) days, and may, by resolution, modify such assessment in whole or in part. At any time before the first (1st) day of September thereafter any party liable may pay any tax to the city treasurer. On such first (1st) day of September, if any tax remains unpaid, the city clerk shall certify a copy of such resolution to the county auditor, showing what taxes thereby levied remain unpaid; and the county auditor shall put the same upon the tax roll, in addition to and as a part of all other city taxes therein levied on said land, to be collected therewith.

## CHAPTER IX.

### STREETS, SIDEWALKS, BRIDGES AND SPECIAL ASSESSMENTS.

SECTION 1. The city council shall have care, supervision and control of all highways, bridges, streets, alleys, lanes, public parks, public squares and public highways, public grounds within the limits of the city, and shall have the power to build and keep in repair bridges and alleys, and lay out, open and alter public squares, parks, lanes, public grounds, streets, highways and alleys, and to extend, narrow, widen or straighten the same, and to purchase, hold and convey lands in fee simple, and to take grounds for the sites of public buildings and public parks, subject to the assessments of damages herein-after provided.

SEC. 2. Said city shall constitute one road district, and the streets and all highways shall be under the exclusive care and supervision of the city council, and the powers and duties of the street commissioner shall be the same as those of road overseers under the laws of this state, except as herein otherwise provided.

SEC. 3. The city council shall have the power to establish the grade of any street when such grade has not been established, and

may, by vote of two-thirds ( $\frac{2}{3}$ ) of the members of the city council, change the grade of any street after such grade has been established. It shall cause accurate profiles of the grades of all streets to be made and kept in the office of the city clerk.

SEC. 4. All work done pursuant to the provisions of this chapter calling for an expenditure of one hundred dollars (\$100) or more, shall be done under contract. A public notice shall be given and proposals invited for doing the same in such manner as the council shall direct, and the said notice may give notice also that a bond or certified check may accompany each proposal, as a guaranty of good faith and as a forfeit if the contract shall be awarded to any one of those making such proposals that they will enter into a contract to do such work proposed to be done as per specifications within a certain time which the council may designate, or that said person so awarded the contract shall forfeit the same to the city.

SEC. 5. The expense of filling, grading, planking and macadamizing streets, highways and alleys, and of constructing and repairing sewers, gutters and ditches, shall be chargeable to the lots or parcels of land abutting upon such streets, highways, alleys, sewers, gutters and ditches, in proportion to the frontage without regard to the value of the land; *Provided*, that the city council may, in its discretion, where such lots to be charged are corner lots and are adjacent to the avenues and streets and where the frontage exceeds twenty-five (25) feet along such avenue or street, apportion the amount specially assessed for any such improvement (chargeable under this act and section) to said corner lot and the lots adjacent to the middle of the block upon which they are located, said apportionment to be made so that the corner lot or the lot abutting the street or avenue improved, or along which the improvement is located, to pay not less than thirty-five (35) per cent of the total amount so levied, and the balance to be divided between the remaining lots liable to assessment, as aforesaid, as they may deem just and equitable.

SEC. 6. Whenever a petition of the owners of more than one-half ( $\frac{1}{2}$ ) of the land abutting on any street, highway or alley, or any part thereof, or the owners of more than one-half ( $\frac{1}{2}$ ) of the land abutting any street, highway or alley, or any part thereof, in or under which it is to construct or repair any sewer, gutter or ditch, shall be presented to the city council, requesting that they shall fill, macadamize any street, highway, alley, or any part thereof, or construct or repair such sewer, gutter or ditch, at the next meeting thereafter, or as soon as may be, such council shall pass a resolution ordering that such street, highway, alley, sewer, gutter or ditch shall be filled, graded, planked, paved, macadamized, constructed or repaired, as requested in said petition, and shall file such petition and said order in the office of the city clerk. Both said petition and said order shall be recorded in the records of the city. The city shall thereupon cause plans and specifications of the work to be done to be made and filed in the office of the city clerk for the use of all persons interested, and thereupon the city clerk shall give public notice in the official paper of the city that, at a time stated, the city council will meet at its usual place of meeting and will receive sealed proposals for the performance of such work. Such sealed bids shall be left with the city clerk. At the time stated in the notice the city clerk, in the presence of the city council, shall open the same for the consideration

of the city council; but the council shall have the right to reject any or all bids. In case a bid is accepted the city council shall enter into a contract in writing with the person or persons whose bid is so accepted for the performance of such work and contract. The city council shall as soon thereafter as may be, by resolution, levy a special tax or assessment, sufficient to cover the contract price of the work, upon all the land abutting upon the work to be done, and upon each piece or parcel thereof, in proportion to the frontage, excepting only to the provisions made to the said assessment in such cases, as set forth in section five (5) of this chapter in regard to apportionment on corner lots adjacent to improvements to be made, and as provided therein. The city clerk shall thereupon cause a notice to be published in the official paper of the city. Such notice shall state the fact of the levy of such special tax or assessment, the amount levied upon each lot or parcel of land, and the names of the owners, if known. The notice shall be published three (3) weeks, and shall further state that the persons liable to such tax or assessment may pay the same at any time within six (6) weeks from the date of said notice to the city treasurer. At the time of publishing such notice the city clerk shall deliver the assessment roll to the city treasurer. At the end of six (6) weeks the treasurer shall return the assessment roll to the city clerk, showing what taxes have been paid and what remain unpaid. The city clerk shall, before the first (1st) day of October following, or at such time as may be required by the laws of this state, certify to the county auditor the description of the lots or parcels of land upon which such special tax has not been paid, the amount of tax due on each, and the names of the respective owners, so far as known. The city clerk shall add a penalty of ten (10) per cent on all such taxes so certified to the county auditor. Such taxes so certified shall be entered and collected in the same manner that state and county taxes are collected, and, when collected, shall be paid over to the city treasurer.

SEC. 7. The city council may, on its own motion and without the aforesaid petition, by an affirmative vote of a majority of all the members elected, order that any street, highway or alley, or any part thereof, shall be filled, graded, paved, macadamized or otherwise improved, or that any sewer, gutter or ditch shall be built or repaired without petition. When any such order has been made by the city council, all subsequent proceedings in the matter shall be the same as in cases where a petition of the owners of more than one-half (4) of the abutting property is presented to the council.

SEC. 8. The city council may by resolution cause sidewalks to be constructed, repaired or relaid, whenever they deem the public good may require it. Whenever the council shall order the construction, repairing or relaying of any sidewalk, they shall cause to be made accurate plans and specifications and filed in the office of the city clerk for the use of all persons interested, and shall cause to be published in the official paper of the city, if there is one, and, if not, then in any newspaper in the county, notice to the owners or occupants of any lot or parcel of land adjoining such proposed sidewalk, to construct, repair or relay so much thereof as adjoins their several lots or parcels of land, according to such plans and specifications, at his or their own proper expense and charges, within a certain time designated in such notice, not less than twenty (20) days from the first (1st)

publication thereof. Said notice shall contain a substantial description of the locality where such sidewalk is to be constructed, repaired or relaid, the nature of the work to be done (whether to be constructed, repaired or relaid), and the time in which the owners are required to do the same.

SEC. 9. If any such work or part thereof is not done in the manner prescribed by the said plans and specifications and within the time designated in said notice, the city council shall cause the same to be done at the expense of the lots or parcels of land adjoining such sidewalk, and shall advertise and receive proposals for the construction, repairing and relaying of such sidewalk, which shall be let to the lowest and best responsible bidder therefor, at so much per lineal foot. Said city council shall immediately, and within five (5) days after the contract is let for the construction, repairing or relaying of any sidewalk, make an assessment roll and assess or levy the proper proportion of the amount upon the lots or parcels of land adjoining and abutting said sidewalk. Upon the adoption of the assessment roll by said city council, they shall deliver a duplicate roll to the city treasurer and give notice by publication in the official paper, if there is one, and, if not, then in any newspaper in the county, for two (2) weeks, that said assessment has been made and may be made or paid to the city treasurer within six (6) weeks from the first (1st) publication of said notice. It shall be the duty of the city treasurer, after the expiration of the said six (6) weeks, to return the said assessment roll to the city clerk, showing what assessments have been paid and those that remain unpaid. The city clerk shall certify such taxes to the county auditor in the same manner as street assessments are certified under the provisions of this chapter and shall be collected and paid over in the same manner.

SEC. 10. No assessment in this chapter provided for shall be set aside or held invalid by reason of any informality or irregularity in the proceedings prior to the entry thereof on the tax lists of the auditor of said county, as herein required, unless it shall appear that, by reason of any such informality or irregularity, an injustice has been done to the parties or party claiming to be aggrieved.

SEC. 11. If in any case the city council shall deem that a part of the expense of doing any work provided for in this chapter should be borne by the city at large, they may, by a majority vote of all the councilmen elect, by resolution to be entered on the minutes of the proceedings, order that a part of the expense, not exceeding one-third ( $\frac{1}{3}$ ), shall be paid from and out of the city treasury.

## CHAPTER X.

### MISCELLANEOUS PROVISIONS.

SECTION 1. The city of Ely is hereby declared to be the legal successor of the village of Ely, a municipal corporation heretofore existing under the general laws of this state. All the property of the said village of Ely shall hereafter belong to and be the property of the city of Ely, and the rights of the creditors of such village of Ely shall not be prejudiced by anything contained in this act, but the same are preserved to them, and they shall have the same rights and remedies against said city as they would have had against said village of Ely had this act not been passed.

SEC. 2. All recognizances and all other instruments entered into or executed to the village of Ely before this act goes into effect, and all fines, taxes, penalties and forfeitures due or owing to the said village of Ely, and all writs, prosecutions, actions and causes of action, except as herein otherwise provided, shall continue and remain unaffected by this act going into operation.

SEC. 3. All ordinances purporting to be in force in the village of Ely at the time this act goes into effect and not inconsistent herewith shall remain in full force and effect until altered or repealed by the city council of the city of Ely, and all rights, actions, prosecution and all contracts of the village of Ely shall continue the same as if this act had not been passed.

SEC. 4. This act is hereby declared to be a public act, and may be read in evidence in all courts within this state without proof.

SEC. 5. All papers, files, plats and other public records to be kept, preserved and filed, unless otherwise provided for in this act, shall be filed and preserved in the office of the city clerk.

SEC. 6. No law of this state contravening the provisions of this act shall be considered as repealing, amending or modifying the same unless such purpose be clearly set forth in such law.

SEC. 7. When any suit or action shall be commenced against said city, service of process therein shall be made by leaving a copy thereof, by the proper officer, with the mayor or city clerk, and it shall be the duty of the mayor or city clerk forthwith to inform the city council thereof, and to take such other proceedings as by the ordinances or resolutions of the city council may have been in such case provided.

SEC. 8. No account or demand against the city shall be audited, allowed or paid until such account or demand shall be made out in items, and verified by affidavit indorsed or annexed that the same is just and correct and no part thereof has been paid.

SEC. 9. All actions brought to recover any penalty or forfeiture under this act, or the ordinances, by-laws or police or health regulations made in pursuance thereof, shall be brought in the corporate name of the city.

SEC. 10. The city of Ely shall not be liable in any case for the jail fees of any person committed to the common jail of St. Louis county by any officer of the city or a magistrate of said city for offenses punishable under the general laws of this state.

SEC. 11. The public property of said city shall be exempt from seizure or a sale on execution and from taxation.

SEC. 12. No person shall be an incompetent judge, witness or juror, by reason of his being an inhabitant of said city, in any proceeding or action in which the city shall be a party in interest.

SEC. 13. All acts or parts of acts inconsistent with this act are hereby repealed.

SEC. 14. This act shall take effect and be in force from and after its passage.

Approved March 3, 1891.