

# GENERAL STATUTES

33

OF THE

STATE OF MINNESOTA,

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BY

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CHAPTER 10.

TOWNSHIPS — VILLAGES — CITIES.

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TITLE 1.

TOWNSHIPS.

ORGANIZATION.

SEC. 1077. **Petition for — Action on.**—Whenever a majority of the legal voters of any congressional township in this state containing twenty-five legal voters petition the board of county commissioners to be organized as a town under this chapter, said board shall forthwith proceed to fix and determine the boundaries of such new town, and to name the same; and said board shall make a full report of all their proceedings in relation to laying off said town, and file the same with the county auditor.

G. S. ch. 10, § 1.

SEC. 1078. **Same — Fraction of township.**— A fraction of a township may be attached by said commissioners to an adjoining town, or be divided between two or more towns, or organized separately, according to the wishes of a majority of the legal voters to be affected thereby; and when rivers or

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[SECS. 1079-1083.]

lakes or creeks so divide a township as to make it inconvenient to do town business, the said commissioners may dispose of any fraction so formed by annexing the same to an adjoining township in the same county, if it shall seem to them proper, whenever petitioned to do so by not less than two-thirds of the legal voters residing in such fraction; and the fact that any such petition is so signed by two-thirds of such voters may be proved by the affidavit of any legal voter residing in such fraction, having knowledge of the fact; and any township having two or more villages or cities, each containing two hundred or more inhabitants, may petition the county commissioners for a division; and whenever the county commissioners are so petitioned, they may, if they think the interest of such town will be subserved thereby, proceed to divide such townships in such manner as will best suit the convenience of the state; \* *provided, however*, that at least twenty days' notice shall first be given by the county commissioners to the chairman of the board of supervisors of each township affected by the change, before action is taken thereon; *provided, further*, that nothing herein contained shall be construed to release any property in or belonging to that part of any township so detached, from any tax levied or assessed prior to such division being made; *provided*, that the part or portion of any town annexed to any other town, and any village or city separated from any town under the provisions of this act, shall not be released from, or in any way discharged from, the payment of any bonded or other indebtedness that may exist against the town from which separation has been made.

G. S. ch. 10, § 2, as amended 1875, ch. 36. Approved February 24th. Amendment changed the phraseology above \* and inserted the new matter below it. 14 M. 437.

**SEC. 1079. First town meeting — When — Notices of.**— The county commissioners shall thereupon make out notices designating a suitable place for holding the first town meeting in each town, which shall be holden within twenty days after such town is organized; and the auditor shall deliver such notice to the sheriff of the county, who shall cause the same to be posted in each township, not less than ten days before the day set for such town meeting.

G. S. ch. 10, § 4.

**SEC. 1080. Name.**— Towns thus formed shall be named in accordance with the expressed wish of a majority of the legal voters resident therein; but if they fail to so designate the name, the county commissioners may select a name.

G. S. ch. 10, § 3.

**SEC. 1081. Name altered, when.**— If the auditor of state, on comparing the abstract of the reports from the several counties, finds that any two or more townships have the same name, he shall transmit to the auditor of the proper county the name of the town to be altered; and the board of commissioners shall, at their next meeting thereafter, adopt for such town some name different from those heretofore named, so that no two towns organized under this chapter shall have the same name; and when such name is adopted, the auditor of the county shall inform the state auditor as before directed.

G. S. ch. 10, § 6.

**SEC. 1082. Record of organization — Name, etc.**— Each county auditor shall, within thirty days after such town is organized, transmit by mail to the auditor of state an abstract of such report, giving the bounds of each town, and the name designated; and said county auditor shall record, in a book for that purpose, a full description of each town.

G. S. ch. 10, § 5.

**SEC. 1083. Each town an election district.**— Each town organized under this chapter, or any law heretofore in force, constitutes an election district.

G. S. ch. 10, § 106 (110).

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SEC. 1084. **Existing boundaries.**—The limits and boundary lines of every organized township shall remain as now established, until otherwise provided by the board of county commissioners under the authority of law.

G. S. ch. 10, § 7.

SEC. 1085. **Prior township organization legalized.**—That all townships in this state heretofore organized or attempted to be organized, under the general laws of this state and now exercising the powers of bodies corporate, are hereby legalized as towns with all the powers, franchises and liabilities of such bodies corporate as provided by chapter ten (10) of the general laws of one thousand eight hundred and seventy-eight (1878) and subsequent laws of this state, with their boundaries as now actually organized, whether the same comprise one (1) or more congressional townships, or fractional part or parts thereof; and all the acts performed by any officer or officers of such town or towns within the scope of the laws of this state, are hereby legalized. Provided, that nothing herein contained shall in any way affect any action or proceeding now pending.

1889, ch. 176: "An act to legalize the organization of certain townships." Approved April 17, 1889.

## POWERS.

SEC. 1086. **Enumerated.**—Each town is a body corporate, and has capacity —

First. To sue and be sued.

Second. To purchase and hold lands within its own limits, and for the use of its inhabitants, subject to the powers of the legislature.

Third. To make such contracts, purchase and hold such personal property, as may be necessary for the exercise of its corporate or administrative powers.

Fourth. To make such orders for the disposition, regulation or use of its corporate property as may be deemed conducive to the interests of its own inhabitants.

G. S. ch. 10, § 8.

SEC. 1087. **Limitation.**—No town shall possess or exercise any corporate powers except such as are enumerated in this chapter, or are especially given by law, or necessary to the exercise of the powers so enumerated or granted.

G. S. ch. 10, § 9 (10).

SEC. 1088. **Limit of indebtedness and taxes.**—No town has power to contract debts or make expenditures for any one year in a larger sum than the amount of taxes assessed for such year, without having been authorized by a majority of the voters of such township; and no town shall assess for township purposes more than ten mills on the dollar of taxable property for any one year.

G. S. ch. 10, § 107 (111), as amended 1868, ch. 52; 1869, ch. 22. 23 M. 368.

SEC. 1089. **By-laws.**—No by-law made by any town shall take effect before the same is published by posting up copies thereof in three of the most public places in the town, and such by-laws duly made and so published are binding upon all persons coming within the limits of the town, as well as upon the inhabitants thereof, and shall remain in force until altered or repealed at some subsequent town meeting.

G. S. ch. 10, § 11 (12).

SEC. 1090. **Acts and proceedings in town name.**—All acts or proceedings by or against a town in its corporate capacity, shall be in the name of such town; but every conveyance of land within the limits of such town, made in any manner for the use or benefit of its inhabitants, has the same effect as if made to the town by name.

G. S. ch. 10, § 10 (11).

SEC. 1091. **Public burying-ground.**—The title to every lot or piece of land which shall have been used by the inhabitants of any town or village in this state as a cemetery or public burying-ground for the space of ten years, shall be deemed vested in such town or village, and shall be subject, in the same manner as other corporate property in towns or villages, to the government and direction of the same; *provided*, nothing herein contained be construed to apply to any lot or piece of ground used as a burying-ground, the title to which is vested, by deed or otherwise, in any cemetery association; *provided also*, that the provisions of this act shall not apply to or in any way affect the title to any tract or parcel of land now or hereafter [heretofore] occupied for a burying-ground, situated or lying within the corporate limits of the city of Stillwater.

1872, ch. 32: "An act relating to burying-grounds." Approved February 26, 1872.

SEC. 1092. **Cities may exercise powers conferred upon towns.**—Nothing in this chapter contained shall in any way apply to any portion of the state which is embraced within the limits of any incorporated city; but each incorporated city shall have and exercise within its limits, in addition to its other powers, the same powers conferred by this chapter upon towns, in the manner prescribed by law.

G. S. ch. 10, § 108 (112). 33 M. 533; 38 M. 189; 37 M. 476.

#### TOWN MEETINGS.

SEC. 1093. **Powers of electors at.**—The electors of each town have power, at their annual town meeting—

First. To determine the number of pound masters, and the location of pounds.

Second. To select such town officers as are required to be chosen.

Third. To direct the institution of defence or actions, in all controversies where such town is interested.

Fourth. To direct such sums to be raised in such town for prosecuting or defending such actions as they may deem necessary.

Fifth. To make all rules and regulations for ascertaining the sufficiency of fences in such town, and for impounding animals.

Sixth. To determine the time and manner in which cattle, horses, mules, asses and sheep are permitted to go at large: *provided*, that no cattle, horses, mules nor asses be allowed to go at large between the fifteenth of October and the first of April.

Seventh. To impose such penalties on persons offending against any rule or regulation established by said town, except such as relate to the keeping and maintaining of fences, as they think proper, not exceeding ten dollars for each offence, unless herein otherwise provided.

Eighth. To apply such penalties, when collected, in such manner as they deem most conducive to the interests of the town.

Ninth. To vote to raise such sums of money for the repairs and construction of roads and bridges as they deem necessary, and to determine the amount thereof to be assessed by the supervisors as labor tax, and the amount thereof to be assessed and collected as other town taxes, also to vote such sums of money for the support of the poor and for other necessary town charges as they deem expedient. *Provided*, that they may, at their annual town meeting direct such amount of the poll and road tax of the town to be expended on the highways in an adjoining town, as they deem conducive to the interests of the town, which labor and tax shall be expended under the direction of the supervisors of the town furnishing the same; *provided*, further, that where more than one entire congressional township is included within an organized town, the poll and road tax raised within the limits of each of such congressional townships shall be expended within such congressional town-

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ship, unless raised to be expended outside of such organized town in an adjoining town.

G. S. ch. 10, § 15 (16), as amended 1869, ch. 28; 1887, ch. 20. Approved March 7th. Acts 1869, ch. 28, added second proviso in subsection 9. Acts 1887, ch. 20, inserted in subsection 9, "and to determine the amount thereof to be assessed by the supervisors as labor tax and the amount to be assessed and collected as other town taxes." 12 M. 124; 15 M. 350; 31 M. 453; 38 M. 190.

**SEC. 1094. Designate places to post public notices.**—At the annual town meeting in each year, the legal voters present at each meeting shall determine and designate three places in the town as public, or the most public places of such town, and that all legal notices required to be posted in three public, or most public places of a town, shall be posted up at such places at least, and they shall make provision for the erection and maintenance of suitable posts, on which to post up notices [as] aforesaid, in all places so designated in which there is no sufficient natural convenience for that purpose.

1873, ch. 100: "An act to provide for the designation of public places in a town and the erection of posts therein," approved March 8, 1873, and providing that this law be added to this chapter. 27 M. 43.

**SEC. 1095. Held annually.**—The citizens of the several towns of this state, qualified to vote at general elections, shall annually assemble and hold town meetings in their respective towns on the second Tuesday of March, at such place in each town as the electors thereof, at their annual town meetings, from time to time appoint; and notice of the time and place of holding such meetings shall be given by the town clerk, by posting up written or printed notices in three of the most public places in said town, at least ten days prior to said meeting. *Provided*, that before any change of place of holding town meetings is made, notice of such contemplated change may be given by any member of the town board to the town clerk who shall in his regularly printed or written notices as provided herein above incorporated the special notice of the contemplated change of place of holding said town meeting.

G. S. ch. 10, § 12 (13), as amended 1870, ch. 99; 1879, ch. 47, approved March 6th, which added the proviso.

**SEC. 1096. Election of presiding officer.**—The electors present at any time between nine and ten o'clock in the forenoon of the day of the annual town meeting, or special town meeting, shall be called to order by the town clerk, if there is one present; in case there is none present, then the voters may elect, by acclamation, one of their number chairman. They shall then proceed to choose one of their number to preside as moderator of such meeting. The town clerk last before elected, shall be clerk of the meeting, and keep full minutes of its proceedings, in which he shall enter at length, every order or direction, and all rules and regulations made by the meeting. If the town clerk is absent, then such person as is elected for that purpose, shall act as clerk of the meeting.

G. S. ch. 10, § 19 (20).

**SEC. 1097. Transaction of business.**—At the opening of every town meeting, the moderator shall state the business to be transacted, and the order in which it shall be entertained, and no proposition to vote a tax shall be acted on out of the order of business as stated by the moderator; and no proposition to reconsider any vote shall be entertained at any town meeting, unless such proposition to reconsider is made within one hour from the time such vote was passed, or the motion for such reconsideration is sustained by a number of voters equal to a majority of all the names entered upon the poll-list at such election up to the time such motion is made; and all questions upon motions made at town meetings shall be determined by a majority of the electors voting, and the moderator shall ascertain and declare the result of the votes on each question.

G. S. ch. 10, § 20 (21).

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[SECS. 1098-1106.]

SEC. 1098. **Minutes.**—The minutes of the proceedings of every town meeting, subscribed by the clerk of said meeting, and by the judges, shall be filed in the office of the town clerk, within two days after such town meeting.

G. S. ch. 10, § 23 (24).

SEC. 1099. **Special meetings.**—Special town meetings may be held for the purpose of electing town officers to fill any vacancies that occur, also for the purpose of transacting any other lawful business, whenever the supervisors, town clerk, and justices of the peace, or any two of them, together with at least twelve other freeholders of the town, file in the office of the town clerk a written statement that a special meeting is necessary to the interests of the town.

G. S. ch. 10, § 16 (17).

SEC. 1100. **Same — Notice of.**—Every town clerk with whom such statement is filed, as required in the preceding section, shall record the same, and immediately cause notice to be posted up in five of the most public places in the town, giving at least ten days' notice of such special meeting; and if there is a newspaper printed in said town, he shall cause a copy of said notice to be published therein at least three days before the time appointed for such meeting.

G. S. ch. 10, § 17 (18). 23 M. 521.

SEC. 1101. **Same — Contents of notice.**—Every notice given for a special town meeting shall specify the purpose for which it is to be held, and no other business shall be transacted at such meeting than such as is specified in such notice. If vacancies in office are to be filled at such meeting, the notices shall specify in what office vacancies exist, how they occurred, who was the last incumbent, and when the legal term of each office expires.

G. S. ch. 10, § 18 (19).

SEC. 1102. **Opening of polls, etc.**—Before the electors proceed to elect any town officer, proclamation shall be made of the opening of the polls, by the moderator, and proclamation shall, in like manner, be made of the adjournment, and of the opening and closing of the polls, until the election is ended.

G. S. ch. 10, § 24 (25).

SEC. 1103. **Qualifications of voters.**—No person is a voter at any town meeting unless he is qualified to vote at general elections, and has been, for the last ten days, an actual resident of the town wherein he offers to vote.

G. S. ch. 10, § 22 (23).

SEC. 1104. **Challenge of voters.**—If any person offering to vote at any election, or upon any question arising at such town meeting, is challenged as unqualified, the judges of the town meeting shall proceed thereupon in like manner as the judges at the general election are required to proceed, adapting the oath to the circumstances of the town meeting.

G. S. ch. 10, § 21 (22).

SEC. 1105. **Names on one ballot.**—When the electors vote by ballot, all the officers voted for shall be named in one ballot, which shall contain, written or printed or partly written and partly printed, the names of the persons voted for, and the offices to which such persons are intended to be chosen, and shall be delivered to one of the judges so folded as to conceal its contents.

G. S. ch. 10, § 26 (23).

SEC. 1106. **Ballot and viva voce voting.**—The supervisors, treasurer, town clerk, assessor, justices of the peace, constables and overseer of the poor, in each township, shall be elected by ballot. All other officers, if not other-

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wise provided by law shall be chosen either by yeas or nays, or by a division, as the electors determine.

G. S. ch. 10, § 25 (26). For the manner of voting on the question regulating the time and manner of running at large of cattle, horses, mules, asses and sheep, see title 3, ch. 19.

SEC. 1107. **Method of voting to restrain cattle, etc.**— All votes regulating the time and manner of running at large of cattle, horses, mules, asses and sheep, within the several towns of the state of Minnesota, shall be by ballot, either printed or written, or partly printed and partly written, and shall be in these words: "In favor of restraining cattle," or "Against restraining cattle," and shall be placed in the same ballot box with the votes cast for town officers, and be canvassed and returned in the same manner in which other ballots are now required to be canvassed and returned.

1877, ch. 133: "An act defining the manner of voting in the several towns of the state to regulate the running at large of cattle, horses, mules, asses and sheep, etc." Approved March 5th.

SEC. 1108. **Deposit ballots in box.**— When the election is by ballot, one of the judges shall deposit the ballots in a box provided for that purpose.

G. S. ch. 10, § 28 (30).

SEC. 1109. **Poll-list.**— When the election is by ballot, a poll-list shall be kept by the clerk of the meeting, on which shall be entered the name of each person whose vote is received.

G. S. ch. 10, § 27 (29).

SEC. 1110. **Canvass.**— At the close of every election by ballot, the judges shall proceed publicly to canvass the votes, which canvass, when commenced, shall continue without adjournment or interruption, until the same is completed.

G. S. ch. 10, § 29 (31).

SEC. 1111. **Manner of.**— The canvass shall be conducted by taking a ballot at a time from the ballot-box, and counting until the number of ballots is equal to the number of names on the poll-list; and if there are any left in the box, they shall be immediately destroyed; and the person having the greatest number of votes for any office shall be declared duly elected: \**provided*, that if two or more persons have an equal and the highest number of votes for any office, the judges of election shall at once publicly, by lot, determine who of said persons shall be declared elected.\* If, on opening the ballots, two or more ballots are found to be so folded that it is apparent that the same person voted them, the board shall destroy such votes immediately.

G. S. ch. 10, § 30 (32), as amended 1876, ch. 76. Amendment between \* \*.

SEC. 1112. **Same—Result of.**— The canvass being completed a statement of the result shall be entered at length by the clerk of the meeting in the minutes of its proceedings, to be kept by him as before required, which shall be publicly read by him to the meeting; and such reading shall be deemed notice of the result of the election to every person whose name is entered on the poll-list as a voter.

G. S. ch. 10, § 31 (33).

SEC. 1113. **Persons elected notified.**— The clerk of every town meeting, within ten days thereafter, shall transmit to each person elected to any town office, whose name is not entered on the poll-list as a voter, notice of his election.

G. S. ch. 10, § 32 (34).

## QUALIFICATIONS — TERM OF OFFICE.

SEC. 1114. **Who are eligible.**— Every person qualified to vote at town meetings, is eligible to any town office.

G. S. ch. 10, § 33 (35).

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[SECS. 1115-1123.]

**SEC. 1115. Not to be interested in contracts.**—No town officer shall become a party to or interested, directly or indirectly, in any contract made by the board of which he may be a member; and every contract or payment voted for or made contrary to the provision of this section, is void; and any violation of this section, hereafter committed, shall be a malfeasance in office, which will subject the officer so offending to be removed from office.

1877, ch. 136: "An act to prevent town boards from letting contracts to its own members." Approved March 3d.

**SEC. 1116. Oath.**—Every person elected or appointed to the office of supervisor, town clerk, assessor, treasurer, or constable, within ten days after he is notified of his election or appointment, shall take and subscribe, before the town clerk or justice of the peace, an oath to support the constitution of the United States, and of the state of Minnesota, and faithfully to discharge the duties of his office (naming the same), to the best of his ability. Such oath shall be administered without fee, and certified by the officer before whom it was taken, with the date of taking the same.

G. S. ch. 10, § 34 (36).

**SEC. 1117. Must take oath.**—If any town officer who is required by law to take the oath of office, enters upon the duties of his office before taking such oath, he forfeits to such town the sum of fifty dollars.

G. S. ch. 10, § 43 (45). 26 M. 27.

**SEC. 1118. Same — Filed.**—The person taking such oath shall immediately, and before entering upon the duties of his office, file the certificate of such oath in the office of the town clerk.

G. S. ch. 10, § 35 (37).

**SEC. 1119. Effect of not filing.**—If any person elected or appointed to any town office, of whom an oath or bond is required, neglects to file the same within the time prescribed by law, such neglect shall be deemed a refusal to serve in such office.

G. S. ch. 10, § 36 (38).

**SEC. 1120. Acceptance of office.**—Every person elected or appointed to the office of overseer of highways or pound master, before he enters on the duties of his office, and within ten days after he is notified of his election or appointment, shall file in the office of the town clerk, a notice signifying his acceptance of such office. A neglect to file such notice shall be deemed a refusal to serve.

G. S. ch. 10, § 37 (39).

**SEC. 1121. Treasurer to give bond.**—Every person appointed or elected to the office of treasurer before he enters upon the duties of his office, shall execute and deliver to the supervisors of the town and their successors in office, a bond, with one or more sureties to be approved by the chairman of the board, in double the probable amount of money to be received by him, which amount shall be determined by said board, conditioned for the faithful execution of his duties as such treasurer.

G. S. ch. 10, § 38 (40).

**SEC. 1122. Approved and filed.**—The said chairman shall within six days thereafter, file such bond, with said approval indorsed thereon, in the office of the register of deeds, who shall record the same in a book provided for that purpose.

G. S. ch. 10, § 39 (41).

**SEC. 1123. Constable's oath and bond.**—Every person chosen to the office of constable, before he enters upon the duties of his office, and within eight days after he is notified of his election or appointment, shall take and subscribe the oath of office prescribed by law, and execute a bond to the

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board of supervisors in such penal sum as the supervisors direct, with one or more sufficient sureties to be approved by the chairman of said board or the town clerk, conditioned for the faithful discharge of his duties. The chairman of said board or the town clerk shall, if such bond is approved, indorse his approval thereon, and cause such bond to be filed with the town clerk for the benefit of any person aggrieved by acts or omissions of said constable; and any person so aggrieved, or the town, may maintain an action on said bond against said constable and sureties.

G. S. ch. 10, § 40 (42). 35 M. 168.

**SEC. 1124. Justice's oath and bond.**—Every person elected or appointed to the office of justice of the peace, shall, within ten days after receiving notice thereof, take and subscribe before any other officer duly authorized to administer oaths, an oath to support the constitution of the United States, and of the state of Minnesota, and faithfully and impartially to discharge the duties of his office, according to the best of his ability. He shall also execute a bond to the board of supervisors, with two or more sufficient sureties, to be approved by the chairman, in the penal sum of not less than five hundred dollars, nor more than one thousand dollars, conditioned for the faithful discharge of his official duties. Said chairman shall indorse thereon his approval of the sureties named in such bond, and such justice shall immediately file the same, together with his oath of office, duly certified, with the clerk of the district court of the proper county, for the benefit of any person aggrieved by the acts of said justice; and any person aggrieved may maintain an action on said bond in his own name against said justice and his sureties.

G. S. ch. 10, § 41 (43).

**SEC. 1125. Neglect to give bond.**—If any person elected or appointed to the office of treasurer or constable does not give such security, and take such oath as is required above, within the time limited for that purpose, such neglect shall be deemed a refusal to serve.

G. S. ch. 10, § 42 (44).

**SEC. 1126. Term of office.**—Town officers, except justices of the peace and constables, hold their offices for one year, and until others are elected or appointed in their places, and are qualified. The justices of the peace and constables shall hold their offices for two years, and until others are chosen and qualified.

G. S. ch. 10, § 44 (47).

## VACANCIES.

**SEC. 1127. When town fails to elect officers.**—In case any town refuses or neglects to organize and elect town officers at the time fixed by law for holding annual town meetings, twelve freeholders of the town may call a town meeting for the purpose aforesaid, by posting up notices in three public places in such town, giving at least ten days' notice of such meeting, which notice shall set forth the time and place and object of such meeting; and the electors, when assembled by virtue of such notice, shall possess all the powers conferred upon them at the annual town meeting. In case no such notice is given, as aforesaid, within thirty days after the time for holding the annual town meeting, the board of county commissioners of the county shall, on the affidavit of any freeholder of said town, filed in the office of the clerk of the board, setting forth the facts, proceed, at any regular or special meeting of the board, and appoint the necessary town officers of such town; and the persons so appointed shall hold their respective offices until others are elected and qualified in their places, and shall have the same powers, and be subject to the same duties and penalties, as if they had been duly elected.

G. S. ch. 10, § 47 (51).

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## TOWNSHIPS.

[SECS. 1128-1135.]

SEC. 1128. **In township office.**—Whenever any town fails to elect the proper number of town officers, or when any person elected to a town office fails to qualify, or whenever any vacancy happens in any town office, from death, resignation, removal from the town, or other cause, the justices of the peace of the town, together with the board of supervisors, or a majority of them, shall fill the vacancy by appointment, by warrant under their hand; and the persons so appointed shall hold their offices until the next annual town meeting, and until others are elected and qualified in their places, and shall have the same powers, and be subject to the same duties and penalties, as if they had been duly elected.

G. S. ch. 10, § 45 (48). 26 M. 313.

SEC. 1129. **In board.**—Whenever a vacancy occurs, from any cause, in any of the offices enumerated in the foregoing section, composing the board of appointment for the appointment of town officers in case of vacancy, the remaining officers, of such appointing board, shall fill any vacancy thus occurring.

G. S. ch. 10, § 46 (49).

SEC. 1130. **When auditor may appoint assessor.**—When any township assessor is elected, and fails or refuses to qualify to discharge the duties of his office, or if the electors of said township fail, from any reason whatever, to elect an assessor, and the town board of said township fails or refuses to appoint an assessor for said township on or before the first day of June of that year for which said assessor is to serve, then it shall be the duty of the county auditor to appoint an assessor for said township, who shall be a resident of said county.

1872, ch. 34: "An act relative to the appointment of township assessors." Approved March 1, 1872.

SEC. 1131. **Resignations.**—The board of supervisors of any town may, for sufficient cause shown to them, accept the resignation of any town officer in their town; and whenever they accept any such resignation, they shall forthwith give notice thereof to the town clerk.

G. S. ch. 10, § 48 (52).

## SUPERVISORS.

SEC. 1132. **Election of.**—There shall be elected at the annual town meeting in each town, three supervisors—one of whom shall be designated on the ballots as chairman—one town clerk, one treasurer, one assessor, two justices of the peace, two constables, and one overseer of highways for each road district in said town; but justices of the peace and constables shall be elected only once in two years, except to fill vacancies.

G. S. ch. 10, § 13 (14). 37 M. 476.

SEC. 1133. **Powers of.**—The supervisors shall have charge of such affairs of the town as are not by law committed to other town officers; and they shall have power to draw orders on the town treasurer for the disbursement of such sums as may be necessary for the purpose of defraying the incidental expenses of the town, and for all moneys raised by the town to be disbursed for any other purpose.

G. S. ch. 10, § 49 (53).

SEC. 1134. **Quorum of.**—Any two of the supervisors constitute a quorum for the performance of any duties required by law of the town supervisors, except when otherwise provided.

G. S. ch. 10, § 62 (66). 33 M. 130.

SEC. 1135. **To be fence viewers.**—The supervisors elected in every town are, by virtue of their office, fence viewers of such town.

G. S. ch. 10, § 14 (15).

# MINNESOTA STATUTES 1891

SECS. 1136-1139.]

TOWNSHIPS.

SEC. 1136. **To improve streets.**— Whenever any incorporated village or town which is laid out into streets is included in the limits of an organized township, the town supervisors are authorized to cause improvements to be made in any street that may be needed as a highway, if the corporate authorities of said town or village neglect to make such improvements.

G. S. ch. 10, § 50 (54).

SEC. 1137. **To issue bonds.**— That the board of supervisors of the organized townships of this state, or those that may hereafter be organized, be and the same are hereby authorized and fully empowered to issue the bonds or orders of their respective towns, with coupons attached, in such amounts and at such periods as they may be directed by two-thirds of all the legal voters present and voting at any legally called town meeting held for that purpose; such bonds or orders to be payable in such amounts and at such times, not exceeding six years from date, as two-thirds of the legal voters present and voting at such meeting shall determine, with interest thereon not to exceed twelve per cent. per annum, payable annually; which bonds or orders and coupons shall be signed by the chairman of the board of supervisors, and countersigned by the clerk of said town: *provided*, that nothing herein contained shall be construed to authorize the issuing of said bonds or orders unless the same shall have been first voted for by ballot by two-thirds of all the legal voters present and voting at any annual town meeting, or special town meeting called for that purpose, notices of which, particularly specifying the object for which such meeting was called, have been posted in at least three public places in said town, for not less than ten days previous to the time of calling the same.

1867, ch. 31, § 1, as amended 1868, ch. 50. Acts 1863, ch. 51, provided for the issue of new for old bonds.

SEC. 1138. **Same — Conditions.**— No bonds or orders issued under authority of this act shall be so issued or negotiated for less than par value, nor shall said bonds or orders, or the proceeds thereof, be used or appropriated for any purpose whatever other than that specified in this act.

1867, ch. 31, § 2.

SEC. 1138a. **Taxes for.**— Said board of supervisors, and their successors, are hereby authorized, and it is hereby made their duty, on or before the first day of September next after the date of said bonds or orders, and in each and every year thereafter, on or before the first day of September, until the payment of said bonds or orders and interest is fully provided for, to levy, and in due form to certify to the auditor of the county in which such town is situated, a tax upon the taxable property of said town, equal to the amount of principal and interest maturing next after such levy, and, in the discretion of said board of supervisors, such further sum as it shall deem expedient, not exceeding twenty per cent. of such maturing bonds or orders and interest, which taxes shall be payable in money, and shall constitute a fund for the payment of said bonds or orders and the interest thereon.

1867, ch. 31, § 3.

SEC. 1139. **To sue.**— The supervisors shall, by their name of office, prosecute, for the benefit of the town, all actions upon bonds given to them or their predecessors in office; and shall also sue for and collect all penalties and forfeitures, in respect to which no other provision is made, incurred by any officer or inhabitant of the town; and they shall have power, in like manner, to prosecute for any trespass committed on any public inclosure or property belonging to the town, and shall pay all moneys collected under this section to the town treasurer.

G. S. ch. 10, § 61 (65).

# MINNESOTA STATUTES 1891

TOWNSHIPS.

[SECS. 1140-1147.

## TOWN BOARD OF AUDIT.

**SEC. 1140. Supervisors to constitute.**—The supervisors constitute a town board for the purpose of auditing all accounts payable by said town; and if from any cause there are not three supervisors present, to constitute said board, the chairman, and, in his absence, either of the other supervisors, may notify one or so many justices of the peace of the town as will, together with the supervisors present, make a board of three; and the board so constituted shall have authority to act as the town board.

G. S. ch. 10, § 70 (74).

**SEC. 1141. When to meet.**—The town board shall meet annually on the Tuesday next preceding the annual town meeting to be held in said town, and at such other times as they deem necessary and expedient, for the purpose of auditing and settling all charges against said town; and they shall state on each account the amount allowed by them; but no allowance shall be made for any account which does not specifically state each item of the same, and the nature thereof.

G. S. ch. 10, § 71 (75).

**SEC. 1142. Audit accounts.**—The said board shall, also, at their annual meeting in each year, examine and audit the accounts of the town treasurer for all moneys received and disbursed by him as such officer; and they shall audit the accounts of all other town officers who are authorized by law to receive or disburse any money of the town by virtue of their office.

G. S. ch. 10, § 72 (76).

**SEC. 1143. Report audited accounts.**—Such board shall draw up a report, stating in detail the items of account audited and allowed, the nature of each account, and the name of the person to whom such account was allowed, including a statement of the fiscal concerns of the town, and an estimate of the sum necessary for the current expenses thereof, the support of the poor, and other incidental expenses for the ensuing year.

• G. S. ch. 10, § 73 (77).

**SEC. 1144. Report publicly read.**—Such report shall be produced and publicly read by the town clerk at the next ensuing town meeting; and the whole or any portion of such report may be referred, by the order of the meeting, to a committee, whose duty it shall be to examine the same and report thereon to such meeting.

G. S. ch. 10, § 74 (78).

**SEC. 1145. Audited accounts to be paid.**—The amount of any account audited and allowed by the town board, and the amount of any account voted to be allowed at any town meeting, shall be paid by the town treasurer on the order of said board, signed by the chairman and countersigned by the clerk; and all orders issued to any person by the town board, for any sums due from such town, shall be receivable in payment of town taxes of said town.

G. S. ch. 10, § 75 (79).

**SEC. 1146. Clerk of town board.**—The town clerk shall be the clerk of the town board, and shall keep a true record of all their proceedings in his office.

G. S. ch. 10, § 76 (80).

## TOWN CLERK.

**SEC. 1147. Custodian of books, etc.—Appoint deputy.**—The town clerk shall have the custody of the record books and papers of the town, when no other provision is made by law, and he shall duly file and safely keep all certificates of oaths and other papers required by law to be filed in his office.\*

# MINNESOTA STATUTES 1891

SECS. 1148-1154.]

TOWNSHIPS.

He may at his discretion appoint a deputy town clerk, for whose acts he shall be responsible. Before any deputy town clerk shall enter upon the duties of his office, he shall take and subscribe the oath required by law, which oath shall be filed in the office of the clerk of the court.

G. S. ch. 10, § 63 (67), as amended 1874, ch. 73. Approved February 16th. Amendment below\*.

**SEC. 1148. Record town meetings.**—He shall record, in the book of records of his town, minutes of the proceedings of every town meeting, and he shall enter therein every order or direction, and all rules and regulations of any such town meeting; and shall also file and preserve all accounts audited by the town board, or allowed at a town meeting, and enter a statement thereof in such book of records.

G. S. ch. 10, § 64 (68).

**SEC. 1149. Oath and bond.**—Every person elected or appointed to the office of town clerk in any of the towns of this state, shall, before he enters upon the duties of his office, and within the time prescribed by law for filing his oath of office, execute a bond with two or more sufficient sureties, to be approved by the town treasurer, in such penal sum as the supervisors direct, conditioned for the faithful discharge of his duties. Said bond so approved shall be filed in the office of the clerk of the district court, for the benefit of any person aggrieved by the acts or omissions of said town clerk; and any person so aggrieved, or the town, may maintain an action on said bond against said town clerk and sureties.

G. S. ch. 10, § 65 (69).

**SEC. 1150. Report election of constable.**—Every town clerk, immediately after the qualification of any constable elected or appointed in his town, shall transmit to the clerk of the district court of the county the name of such constable.

G. S. ch. 10, § 66 (70).

**SEC. 1151. Report election of justice.**—Each town clerk shall, immediately after the election of any justice of the peace in his town, transmit a written notice thereof to the clerk of the district court of said county, stating therein the name of the person elected, and the term for which he is elected; and if elected to fill a vacancy, he shall state in said notice who was the last incumbent of the office.

G. S. ch. 10, § 67 (71).

**SEC. 1152. Penalty for neglect.**—If any town clerk wilfully neglects to make such return, such omission is hereby declared a misdemeanor, and on conviction thereof, the person so offending shall be adjudged to pay a fine not exceeding ten dollars.

G. S. ch. 10, § 68 (72).

**SEC. 1153. Post by-laws.**—The town clerk shall post in three of the most public places in his town, copies of all by-laws made by such town, and shall make an entry in the town records of the time when, and the place where, such by-laws were posted.

G. S. ch. 10, § 69 (73).

## TOWN TREASURER.

**SEC. 1154. Receive and pay out town money.**—The town treasurer shall receive and take charge of all moneys belonging to the town, or which are by law required to be paid into the town treasury, and shall pay over and account for the same upon the order of such town, or the officers thereof, duly authorized in that behalf, made pursuant to law; and shall perform all such duties as may be required of him by law.

G. S. ch. 10, § 77 (81).

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TOWNSHIPS.

[SECS. 1155-1159.]

**SEC. 1155. Keep true accounts.**—Every town treasurer shall keep a true account of all moneys by him received by virtue of his office, and the manner in which the same are disbursed, in a book provided at the expense of the town for that purpose, and exhibit such account, together with his vouchers, to the town board at its annual meeting for adjustment; and he shall deliver all books and property belonging to his office, the balance of all moneys in his hands as such treasurer, to his successor in office, on demand, after such successor has qualified according to law.

G. S. ch. 10, § 78 (82).

**SEC. 1156. Unpaid orders — Entries of.**—That each and every town treasurer in the state shall keep a suitable book, to be provided at the expense of the town, in which he shall enter the town orders that he cannot pay for want of funds when presented to him for payment, which orders when presented shall be endorsed by such treasurer, by putting upon the back of the same words "not paid for want of funds," giving the date of such indorsement, signing the same as town treasurer, which orders when so indorsed shall bear interest from that date until paid.

**Order of payment.**—That all town orders shall be paid in the order that they are registered, out of the first moneys that come into the town treasurer's hands for such purposes.

1881, ch. 114: "An act providing for registering and payment of interest on town orders." Approved February 25th.

**SEC. 1157. Draw money from county treasurer.**—The town treasurer shall from time to time draw from the county treasurer such moneys as have been received by the county treasurer for the use of his town, and, on receipt of such moneys, shall deliver proper vouchers therefor.

**Fees.**—Each town treasurer shall be allowed and entitled to retain two per centum of all moneys paid into the town treasury, for receiving, safe keeping, and paying over the same according to law; except such moneys as are appropriated for bounties to soldiers, of which he shall only be allowed to retain one per cent.

*Provided, however,* that the compensation of said treasurer shall in no case exceed the sum of one hundred (100) dollars in any one (1) year.

G. S. ch. 10, § 79 (83), as amended 1889, ch. 177. Amendment added the proviso.

**SEC. 1158. Annual statement.**—Each town treasurer, within five days preceding the annual town meeting, shall make out a statement in writing of the moneys by him received into the town treasury from the county treasurer, and from all other officers and persons, and also of all moneys paid out by him as such treasurer, in which statement he shall set forth particularly from whom and on what account such moneys were received by him, with the amount received from each officer or person, and the date of receiving the same, also to whom and for what purpose any moneys have been paid out by him, with the amount and date of each payment. He shall also state therein the amount of moneys remaining in his hands as treasurer. Such statement shall be filed by him in the office of the town clerk, and shall be by such clerk carefully preserved and recorded in the town book of records.

G. S. ch. 10, § 80 (84).

**SEC. 1159. Penalty for failure or neglect.**—Every town treasurer who refuses or neglects to comply with the provisions of the four preceding sections, shall forfeit not more than two thousand dollars, to be recovered in any court of competent jurisdiction, the amount to be fixed by the jury trying the cause, or by the court if there is no jury impanelled, and may be recovered by a civil action, in the name of any person who prosecutes the same, with costs of suit; one-half shall go to the person so prosecuting, and the remainder to the town of which such delinquent is or has been treasurer.

G. S. ch. 10, § 81 (85).

# MINNESOTA STATUTES 1891

SECS. 1160-1162.]

TOWNSHIPS.

## FEES OF TOWN OFFICERS.

SEC. 1160. **Assessor, clerk, supervisor.**— The following town officers are entitled to compensation, at the following rates, for each day necessarily devoted by them to the service of the town, in the duties of their respective offices: The town assessors shall receive for their services two dollars per day, while engaged in their respective duties as such assessors. The town clerks and supervisors shall receive for their services one dollar per day, when attending to business in their town, and one dollar and fifty cents, when attending to business out of town; no town supervisor shall receive more than twenty dollars, for compensation, in any one year: *provided*, that the town clerk shall be paid fees for the following, and not a per diem: For serving notices of election upon town officers, as required by law, twenty-five cents each; for filing any paper required by law to be filed in his office, ten cents each; for posting up notices required by law, twenty-five cents each; for recording any order or any instrument of writing authorized by law, six cents for each one hundred words; for copying any record or instrument on file in his office, and certifying the same, six cents for each one hundred words, to be paid for by the person applying for the same: *provided further*, that at any town meeting, before the electors commence balloting for officers, they may by resolution reduce or increase the compensation of officers, but no such increase shall exceed one hundred per cent.

G. S. ch. 10, § 82 (86).

SEC. 1161. **Pound master.**— The pound master is allowed the following fees, to wit: For taking into pound, and discharging therefrom, any horse, ass or mule, and all neat cattle, ten cents each. For every sheep or lamb, three cents each; and for every hog, large or small, five cents; and twenty cents for keeping each head twenty-four hours in pound. And the pound master has a lien on all such animals for the full amount of his legal charges and expenses, and shall be entitled to the possession of such animals until the same are paid; and if the same are not paid, and said animals removed, within four days after they are so impounded, the said pound master shall give notice, by posting the same in three of the most public places in said town, that said animals (describing them) are impounded, and that, unless the same are taken away and fees paid within fifteen days after the date of such notice, he will sell the same at public vendue, at the place where the town meetings of said town are usually held; and on the day designated in such notice the said pound master shall expose the said animals for sale, and sell the same to the highest bidder in cash, for which services he shall receive two per cent. of the purchase money for each animal. Out of the moneys realized from said sale, the said pound master shall deduct all his legal fees and charges, and pay the balance, if any, to the chairman of the town supervisors, at the same time giving to said supervisors an accurate description of the animal sold, and the amount received by him for each animal, and shall take a receipt and duplicate therefor, and file one of them with the town clerk: *provided*, that the said supervisors shall at any time within six months, upon sufficient proof from the owner of any animal so sold, pay to said owner the balance due as received from the said pound master; but if said money is not claimed within that time, then the sum so received shall be retained for the use of said town.

G. S. ch. 10, § 83 (87). 31 M. 453.

## ACTIONS BY OR AGAINST.

SEC. 1162. **How conducted.**— Whenever any controversy or cause of action exists between towns, or between a town and an individual or corporation, such proceedings shall be had either at law or equity, for the purpose of trying and settling such controversy, and the same shall be conducted in the

# MINNESOTA STATUTES 1891

TOWNSHIPS.

[SECS. 1163-1169.]

same manner, and the judgment or decree therein shall have the like effect, as in other actions or proceedings of a similar kind between individuals and corporations.

G. S. ch. 10, § 84 (88). 20 M. 74.

**SEC. 1163. In town name.**— In all such actions and proceedings the town shall sue and be sued by its name, except where town officers are authorized by law to sue in their name of office for the benefit of the town.

G. S. ch. 10, § 85 (89). 13 M. 383.

**SEC. 1164. Time to plead.**— But no town or town officer shall be required to appear, answer, or plead to any such action at the first term of the court after the commencement thereof, when the same is commenced in the district court, unless the process aforesaid is served, as herein directed, at least thirty days before the commencement of the term.

G. S. ch. 10, § 86 (90).

**SEC. 1165. Service of papers.**— In legal proceedings against a town by name, all papers shall be served on the chairman of the board of supervisors, and, in case of his absence, on the town clerk; and whenever any action or proceeding is commenced, said chairman shall attend to the defense thereof, and lay before the electors of the town, at the first town meeting, a full statement of such proceedings, for their direction in regard to the defense thereof.

G. S. ch. 10, § 87 (91).

**SEC. 1166. Town justice not to try.**— No action in favor of any town shall be brought before any justice of the peace residing in such town.

G. S. ch. 10, § 88 (92).

**SEC. 1167. Action for trespass.**— Whenever any action is brought to recover a penalty imposed for any trespass committed on the lands belonging to the town, if it appears on the trial thereof that the actual amount of injury to such town lands in consequence of such trespass exceeds the sum of twelve dollars and fifty cents, then the amount of actual damage with cost of suit shall be recovered in said action, instead of any penalty for said trespass imposed by the town meeting; and such recovery shall be used as a bar to every other action for the same trespass.

G. S. ch. 10, § 89 (93).

**SEC. 1168. Partition of town lands.**— Whenever, by decree or decision in any action or proceeding brought to settle any controversy in relation to town commons or other lands, the common property of a town, or for the partition thereof, the rights of any town are settled and confirmed, the court in which such proceedings are had may partition such lands according to the right of parties.

G. S. ch. 10, § 90 (94).

**SEC. 1169. Judgment against town.**— When a judgment is recovered against any town, or against any town officers, in an action prosecuted by or against them in their name of office, no execution shall be awarded or issued upon such judgment, but the same, unless reversed or stayed on appeal, shall be paid by the town treasurer, upon demand and the delivery to him of the certified copy of the docket of the judgment, if there is sufficient money of such town in his hands not otherwise appropriated. If he fails to do so, he shall be personally liable for the amount, unless the collection thereof is afterwards stayed upon appeal. If payment is not made within thirty days after the time fixed by law for the county treasurer to pay over to the town treasurer the money in his hands belonging to such town, levied for the purpose of paying such judgment, next after the rendition of such judgment, execution may be issued on such judgment, but only town property shall be liable thereon.

G. S. ch. 10, § 91 (95). See acts 1885, ch. 196, *post*.

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SECS. 1170-1176.]

TOWNSHIPS.

SEC. 1170. **Levy tax to pay.**— If judgment for the recovery of money is rendered against any town, and the judgment is not satisfied, or proceedings thereon stayed by appeal or otherwise, before the next annual meeting of said town, a certified copy of the docket of the judgment may be presented to said town at said annual meeting. The supervisors of the town shall thereupon cause the amount due on the judgment, with interest from the date of its recovery, to be added to the tax of said town, and the same certified to the county auditor, and collected as other town taxes are collected.

G. S. ch. 10, § 92 (96).

## GUIDE POSTS.

SEC. 1171. **Town to maintain.**— Every township shall, in the manner provided herein, erect and maintain guide posts on the highways and other ways within the township, at such places as are necessary or convenient for the direction of travelers.

G. S. ch. 10, § 93 (97).

SEC. 1172. **Report of.**— The supervisors shall submit to the electors, at every annual meeting, a report of all the places at which guide posts are erected and maintained within the town, and of all places at which, in their opinion, they ought to be erected and maintained. For each neglect or refusal to make such report, they shall severally forfeit the sum of ten dollars.

G. S. ch. 10, § 94 (98).

SEC. 1173. **Places for.**— Upon the report of the supervisors, the town shall determine the several places at which guide posts shall be erected and maintained, which shall be recorded in the town records. A town which neglects or refuses to determine such places, and to cause a record thereof to be made, shall forfeit the sum of five dollars for every month during which it neglects or refuses so to do; and in such case upon any trial for not erecting or maintaining guide posts reported to be necessary or convenient by the supervisors, the town shall be estopped from alleging that such guide posts were not necessary or convenient.

G. S. ch. 10, § 95 (99).

SEC. 1174. **Erection and marking.**— At each of the places determined by the town, there shall be a substantial post of not less than eight feet in height, near the upper end of which shall be placed a board, and upon such board shall be plainly and legibly painted, or otherwise marked, the name of the next town or place, and such other town or place of note as the supervisors think proper, to which each of such roads lead, together with the distance or number of miles to the same; and also the figure of a hand with the forefinger thereof pointed towards the towns or places to which said roads lead: *provided*, that the inhabitants of any town, may, at their annual meeting, agree upon some suitable substitute for such guide posts.

G. S. ch. 10, § 96 (100).

SEC. 1175. **Neglect to maintain.**— Every town which neglects or refuses to erect and maintain such guide posts, or some suitable substitute therefor, shall forfeit annually the sum of five dollars for every guide-post which it so neglects or refuses to maintain, which sum may be sued for and collected by any person, before any justice of the peace of the proper county, and the moneys so collected shall be paid into the town treasury for the benefit of the roads and bridges of the said town.

G. S. ch. 10, § 97 (101).

## POUNDS.

SEC. 1176. **Under care of pound-masters.**— Whenever the electors of any town determine at their annual meeting to erect one or more pounds

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TOWNSHIPS.

[SECS. 1177-1182.]

therein, the same shall be under the care and direction of such pound-masters as are chosen or appointed for that purpose.

G. S. ch. 10, § 98 (102). 3S M. 191.

**Discontinued.**— The electors of any town may, at any annual town meeting, discontinue any pounds therein.

G. S. ch. 10, § 99 (103).

## TOWN CHARGES.

**SEC. 1177. What are.**— The following shall be deemed town charges:

First. The compensation of town officers for services rendered their respective towns.

Second. Contingent expenses necessarily incurred for the use and benefit of the town.

Third. The moneys authorized to be raised by the vote of the town meeting for any town purpose.

Fourth. Every sum directed by law to be raised for any town purpose: *provided*, that no tax for town purposes shall exceed the amount voted to be raised at the annual town meeting, as provided in subdivision nine, section fifteen aforesaid.

G. S. ch. 10, § 100 (104).

**SEC. 1178. Levy for.**— The moneys necessary to defray the town charges of each town shall be levied on the taxable property in such town, in the manner prescribed in the chapter for raising revenue and other money for state and county purposes and expenses.

G. S. ch. 10, § 101 (105).

## TRANSFER OF OFFICE TO SUCCESSOR.

**SEC. 1179. Successor to demand books, etc.**— Whenever the term of any supervisor, town clerk or assessor expires, and another person is appointed or elected to such office, such successor, immediately after he enters upon the duties of his office, shall demand of his predecessor all books and papers under his control belonging to such office.

G. S. ch. 10, § 102 (106).

**SEC. 1180. Same, in case of vacancy.**— Whenever either of the officers above named resigns, or the office becomes vacant in any way, and another person is elected or appointed in his stead, the person so elected shall make such demand of his predecessors or of any person having charge of such books and papers.

G. S. ch. 10, § 103 (107).

**SEC. 1181. Transfer office and records to successor.**— Every person so going out of office, whenever thereto required pursuant to the foregoing provisions, shall deliver, upon oath, all records, books, and papers in his possession, or in his control, belonging to the office held by him, which oath may be administered by the officer to whom such delivery is made.

G. S. ch. 10, § 104 (108).

**SEC. 1182. Same, in case of death of incumbent.**— Upon the death of any of the officers enumerated, the successor of such officer shall make such demand as above provided, of the executors or administrators of such deceased officer, and such executors or administrators shall deliver, upon like oath, all records, books, papers, or moneys in their possession or under their control, belonging to the office held by their testator or intestate.

G. S. ch. 10, § 105 (109).

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SECS. 1183-1186.]

VILLAGES.

## TITLE 2.

VILLAGES.

All of acts 1875, ch. 139, and 1883, ch. 73, superseded by acts 1885, except §§ 20, 21, ch. 139, acts 1875, as amended by acts 1878, ch. 35, and 1883, ch. 49. The former section provided that "no greater sum of money than \$500 shall be appropriated for any one purpose by the council, unless expressly authorized by a vote of the legal voters of said village at an annual or special election;" and the latter provided that "the territory comprised within the prescribed limits of the village shall constitute one election district," which latter, not being expressly re-enacted, may have misled acts 1889, ch. 134, providing that Brown's Valley, Traverse county, be a separate election district.

## ORGANIZATION.

**SEC. 1183. Governed by this chapter.**—Every village which has been or shall be organized or incorporated under the general statutes, shall be hereafter governed according to the provisions of this chapter, to the end that uniformity of village government and equal privileges to all may be secured.

1885, ch. 145, § 2: "An act to provide for the incorporation of villages, and to define their duties and powers, and to repeal certain laws in relation thereto." Approved March 10, 1885. Repealed all inconsistent acts. This section superseded and is the same as § 2, ch. 73, acts 1883. Not in acts 1875, ch. 139.

**SEC. 1184. Re-incorporation.**—Every village which has heretofore been incorporated under a special act of the legislature therefor shall continue to exist under such act and amendments thereto; and the provisions of this chapter shall in no manner affect or apply to the same, unless adopted as provided in this section. The trustees thereof may, by resolution, submit at a special village election the question whether such village will so continue, or will become re-incorporated under the general statutes. They shall give notice thereof in the manner required in this chapter for notifying special elections. Ballots shall be written or printed "For re-incorporation," and "Against re-incorporation," and the election shall be conducted and result canvassed as provided for an annual village election by such village. If a majority vote for re-incorporation, the trustees shall make a certificate setting forth the fact of such submission, and the vote thereon in detail, and the result thereof, and cause the same to be recorded in the office of the register of deeds, and thereupon the special act of incorporation shall be deemed surrendered, and such village become incorporated under the general statutes, but shall, until the next annual village election herein provided to be held in January following, be governed by the officers then in office.

1885, ch. 145, § 1. This section superseded and substantially the same as § 1, ch. 73, acts 1883. Not in acts 1875, ch. 139.

**SEC. 1185. Incorporation of new village.**—Any district, sections or parts of sections not in any incorporation village, and in the state of Minnesota, which has been platted into lots and blocks, also the lands adjacent thereto, when said plat has been duly and legally certified according to the laws of this state and filed in the office of the register of deeds for the county in which said lands or the larger portion thereof lie, said territory containing a resident population of not less than one hundred and seventy-five (175) may become incorporated as a village under this act in the following manner:

1885, ch. 145, § 3, as amended 1887, ch. 63. Supersedes § 3, ch. 73, acts 1883, which did not name the population, and provided for application to district court. Not in acts 1875, ch. 139.

**SEC. 1186. Same — Petition for.**—Thirty (30) or more of the electors then residents upon the lands so to be incorporated, may petition the county commissioners of the county in which the whole or larger part of said lands

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are situated, to appoint a time and place when and where the electors actually residing upon said lands may vote for or against such incorporation, and such petition shall set forth the boundaries of such territory with their courses and distances, the quantity of land therein embraced, the name of such proposed village, and the number of persons actually residing in said territory, which shall have been duly ascertained by said petitioners, or under their direction by a census taken of the resident population as it may be on some day not more than eight (8) weeks previous to the time when said petition is presented to said commissioners, and said petition shall be verified by at least three (3) of said petitioners to the effect that such census has been accurately taken and that all the facts in said petition contained are true.

1885, ch. 145, § 4. Supersedes § 4, ch. 73, acts 1883, which provided for at least twenty-five petitioners, stating the boundaries, quantity of land, survey, name and resident population. Not in acts 1875, ch. 139.

**SEC. 1187. Same — Notice of election for.**— On delivery of said petition to the county commissioners or to any one of them, it shall be their duty, within ten (10) days therefrom to post or cause to be posted in five (5) of the most public places within said territory, three (3) copies of such petition, together with notices attached thereto, stating the time and place within the limits of said proposed village when and where the electors thereof will vote for or against such incorporation; which time shall be at least thirty (30) days from the posting of said notices; and said commissioners shall appoint by resolution three (3) inspectors, residents of said proposed village who shall preside and act as inspectors at such meetings, and all the laws of this state relating to the election of town officers, shall apply to said meeting so far as the same are applicable and not inconsistent with this act.

1885, ch. 145, § 5. This and §§ 8, 9 and 10 supersede §§ 5, 6, 7, 8 and 9, ch. 73, acts 1883, and § 1, ch. 139, acts 1875. 32 M. 93, 541; 35 M. 177; 38 M. 188, 223; 37 M. 322, 475; 39 N. W. 322.

**SEC. 1188. Same — Publication of notice.**— If there be a newspaper printed within said territory, the said petition, verification thereof and the notice, as hereinbefore provided, shall be printed in full therein for three (3) successive weeks previous to the day specified in said notice for voting upon the proposed incorporation.

1885, ch. 145, § 6. Supersedes § 12, ch. 73, acts 1883.

**SEC. 1189. Same — Voters — Ballot.**— Every elector residing in such territory and qualified to vote for town officers in the town in which such lands or some part thereof lie, may vote at such meeting by a ballot having thereon the words "For incorporation, yes;" or "For incorporation, no."

1885, ch. 145, § 7. Supersedes § 13, ch. 73, acts 1883, and § 10, ch. 139, acts 1875.

**SEC. 1190. Same — Result of election — Certificate.**— Within three (3) days after such meeting the inspectors presiding thereat shall file with the said county commissioners, or some one of them, a certificate showing that the said meeting was held at the time and place specified in said notice; that they have canvassed the ballots cast thereat, giving the whole number of votes cast; the number of those having thereon the word "yes" and the number having thereon the word "no," which said certificate shall be signed by said inspectors, and by them duly verified to the effect that the statements therein contained are true.

1885, ch. 145, § 8.

**SEC. 1191. Filing record — Ipso facto incorporates.**— Within five (5) days after receiving said certificate, as in the previous section provided, if the same shows a majority vote for incorporation, it shall be the duty of the said commissioners to file the same, together with the original petition and a true copy of the notice of election, as provided in section five (5) of this act, in the office of the register of deeds, in and for the county wherein lie the whole or the greater part of said lands, and thereupon the said territory men-

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tioned in said petition shall be an incorporated village within the intent of this act from the date of filing said papers in the office of the said register of deeds; and shall, under the name set forth in said petition, be endowed with all the rights, powers and duties incident to municipal corporations at common law with perpetual succession, and shall by said corporate name be capable of contracting and being contracted with, of suing and being sued, and of pleading and being impleaded in all courts of law and equity, and have a common seal which may be altered at the pleasure of the village council, and shall have power to take, hold, purchase, lease and convey real estate, or personal property, or mixed estate as the purposes of the corporation may require, either within or without the limits of said corporation.

1885, ch. 145, § 9.

**SEC. 1192. To be recorded — Evidence.**— It shall be the duty of said register of deeds to record said papers in full, and the papers so filed or the record thereof shall be *prima facie* evidence in all courts of law and equity that said village is a duly incorporated village under the provisions of this act.

1885, ch. 145, § 10.

**SEC. 1193. Election of officers.**— Within three (3) days of the filing said papers with said register the said commissioner shall post notices in three (3) of the most public places in the village, giving at least ten (10) days' notice to the legal voters residing in said incorporated village, to meet to organize under the provisions of this act, and elect officers for the ensuing year. The action of a majority of said persons shall be considered the action of the whole number, and the electors present at the time and place designated in said call, may organize such meeting by choosing *viva voce*, two (2) judges of election and one (1) clerk, who, before entering upon the discharge of their duties, shall take and subscribe an oath or affirmation to faithfully discharge the duties required of them, and said judges and clerk, being duly qualified, shall forthwith open the polls by proclamation, and conduct the election in the manner provided by the statutes of the state for the election of township officers, and the judges of election shall give to each person elected a certificate of his election, and such officers shall, after having qualified according to law, forthwith enter upon the discharge of their duties.

1885, ch. 145, § 11. Supersedes § 10, ch. 73, acts 1883, and § 9, ch. 139, acts 1875.

## ANNEXING ADDITIONAL TERRITORY.

**SEC. 1194. Petition for.**— Additional and adjacent territory may be annexed to any village, either originally incorporated or re-incorporated under the provisions of this act, by a petition of at least five (5) of the legal voters, residents of such adjacent lands, to the county commissioners in the same manner as hereinbefore provided for the incorporation of villages, and it shall be the duty of such commissioners to proceed thereupon as in section five (5), six (6), seven (7), eight (8) and nine (9) of this act, to give notices of the time and place within the territory so to be annexed, when and where the electors thereof will vote for or against such annexation, and the ballots used shall have thereon the words: "For annexation" or "Against annexation," and if the majority of the ballots cast shall be "For annexation," then the said commissioners shall file with the register of deeds the original petition, notice of election and inspector's certificate, as provided in section nine (9) of this act.

1885, ch. 145, § 12. Supersedes § 11, ch. 73, acts 1883.

**SEC. 1195. Same — Election for — Record of.**— It shall be the further duty of said commissioners, on receiving said petition, to serve a copy thereof, upon the president or recorder of the village to which such annexation is pro-

posed, and it shall be the duty of the village council thereof within ten (10) days to call a special election in said village by posting in three (3) of the most public places therein notices thereof which shall contain a description of said territory so to be annexed and stating the time and place when and where the electors of said village will vote for or against such annexation; said election shall be held within thirty (30) days from the time said petition is served on the president or recorder, and ten (10) days' notice thereof shall be given; the ballots used shall have upon them the words: "For annexation," or "Against annexation," and the same laws shall apply in said election as apply in the election of the officers of said village; and if the judges of election shall find on canvassing said ballots that a majority thereof are "For annexation," then they shall make a certificate containing a description of the territory as set forth in the notice of said election, stating the whole number of votes cast, the number "For annexation," and the number "Against annexation," which said certificate shall be signed by said judges and by them verified, to the effect that the statements therein contained are true, and they shall cause the same to be filed with the said register of deeds within ten (10) days after such election.

1885, ch. 145, § 13.

**SEC. 1196. Filing certificate ipso facto annexation.**— Upon filing with the said register, the certificates hereinbefore mentioned showing a majority of votes cast both in the territory to be annexed as well as in the said village to be for annexation then and thereupon the said territory shall be a part of said incorporated village; and all the necessary and proper expenses and charges incident to such annexation and the records thereof shall be paid by such village.

1885, ch. 145, § 14. This and next section supersede § 15, ch. 73, acts 1883.

**SEC. 1197. Recording — Evidence of.**— It shall be the duty of the register with whom said papers are filed to record the same together in full, and the original papers so filed or the records thereof shall be *prima facie* evidence in all courts of law and equity that the territory therein described is a part of said incorporated village.

1885, ch. 145, § 15.

#### ANNUAL ELECTIONS.

**SEC. 1198. Judges of — Time for — Conduct of.**— After the first election of officers the village council \* shall within twenty (20) days before the time of holding any election of village officers, designate and appoint two (2) qualified voters of such village who shall act as judges of such election; and in case of the neglect to make such appointment, or if the persons so appointed neglect or refuse to serve, the electors present at the time and place named for opening the polls of any such election may *viva voce* elect two (2) judges of election and one (1) clerk, who before entering upon the discharge of their duties, shall take and subscribe an oath or affirmation to faithfully discharge the duties required of them, and the said judges and clerk being qualified, shall forthwith open the polls by proclamation, and conduct the election in the manner provided in this section.\*

**The annual meeting** shall be on the second (2d) Tuesday of March for the election of officers and at such place as may be directed by the village council after giving ten (10) days' notice thereof, either by posting written notices in three (3) of the most public places in the village, or by publishing such notice in a newspaper printed in such village.

**The polls shall be open** at ten (10) o'clock A. M. and close at four (4) o'clock in the afternoon of said day. At the close of the polls the votes shall be counted, and a true statement thereof proclaimed to the voters by some one of the judges of election, and the recorder shall make a true copy thereof

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in a book kept for such purposes, and within five (5) days notify in writing the persons so elected of their election.

**All elections shall be by ballot**, and all votes for elective officers and all questions to be submitted to the people thereof at any election shall be upon one (1) ballot and be deposited in one (1) ballot box; a plurality of votes shall elect, and if two (2) or more persons receive an equal number of votes for the same office, the election shall be forthwith determined by lot in the presence of the judges of election in such manner as they direct, and every qualified elector, then actually resident in such village, may vote at any election; *provided*, that no candidate for office shall act as judge or clerk at such election.

**Mazeppa.**— *Provided* that the provisions of this section which fix the day for the annual meeting for the election of officers shall not apply to the village of Mazeppa in the county of Wabasha and state of Minnesota, but that such annual meeting in said village of Mazeppa shall be held on the third Tuesday of March of each year hereafter, except in the year of eighteen hundred and eighty-nine (1889), which shall be on the second Tuesday of March eighteen hundred and eighty-nine (1889).

**Mendota.**— And provided further, that the provisions of this section which fix the day for the annual meeting on the second (2d) Tuesday of March for the election of officers, shall not apply to the village of Mendota, in Dakota county, but that such annual meeting in the village of Mendota shall be on the third (3rd) Tuesday of March.

1885, ch. 145, § 16, as amended 1889, ch. 67; 1889, ch. 125; 1889, ch. 128. This section supersedes § 16, ch. 73, acts 1883, and § 10, ch. 139, acts 1875. Acts 1889, ch. 67, added proviso as to village of Mazeppa. Acts 1889, ch. 128, added proviso as to Mendota, and acts 1889, ch. 125, inserted provision between \* \*. Acts 1889, ch. 134, provided that Brown's Valley, Traverse county, be a separate election district for all election purposes from the town in which it is located. 38 M. 224, 225.

## SPECIAL ELECTIONS.

**SEC. 1199. When to be held, etc.**— Special elections may be ordered by the council, but no special election shall be held unless ten (10) days' notice thereof is given, nor shall any subject or question be considered or acted upon, unless its objects are clearly set forth and stated in the notice for the call of such meeting. All village elections shall be, except as hereinbefore provided, conducted and the result canvassed and certified as in the case of town meetings; and, except as modified in this chapter, every statute relating to holding town meetings, canvassing and certifying the result thereof, and relating or applicable to the duties of judges of election and clerks, the challenging of votes and to voting thereat, and every statute prescribing and punishing offenses for illegal voting, bribery, fraud, corruption, official delinquency or other offense at or concerning elections, which is applicable to town meetings, is hereby extended and applied to village elections.

1885, ch. 145, § 17. Supersedes and same as §§ 17, 18, ch. 73, acts 1883, and § 11, ch. 139, acts 1875.

## OFFICERS.

**SEC. 1200. Election of.**— The inhabitants of said village having the qualification of electors of members of the legislature of the state of Minnesota as hereinafter provided, may elect a president, three (3) trustees, a treasurer and a recorder who shall hold their respective offices for one (1) year or until their successors are elected and qualified, also two (2) justices of the peace, two (2) constables, a village marshal, and a street commissioner, who shall hold their respective offices; such justice and constables for two (2) years or until their successors are elected and qualified, and such marshal and street commissioners for one (1) year or until their successors are elected and qualified.

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[SECS. 1201, 1202.]

**Oath.**— And before entering upon the duties of their respective offices they shall each take an oath or affirmation to support the constitution and laws of this state and faithfully discharge the duties of his office.

**The treasurer shall give bonds** such as the village council may require and shall keep a true account of all moneys by him received by virtue of his office and the manner in which the same are disbursed in a book kept for that purpose and shall exhibit such account, together with his vouchers, to the village council at its annual meeting or at any time when called for by resolution of said council for adjustment, and shall deliver all books and papers belonging to his office, and the balance of all moneys, as such treasurer, to his successor in office.

**Pay out moneys.**— *Provided*, that the treasurer shall not pay out moneys in his hands except upon the written order of the president, attested by the recorder. The treasurer shall from time to time draw from the county treasurer such moneys as may be due said corporation, for the use of the village, and on receipt of said moneys, give proper vouchers therefor.

1885, ch. 145, § 19, as amended 1887, ch. 53. Acts 1887, ch. 53, struck out "a constable" and inserted "two constables." Act 1889, ch. 104, provides for the election of a marshal and street commissioner, in Rock county only. This section supersedes § 19, ch. 73, acts 1883, and § 2, ch. 139, acts 1875.

**SEC. 1201. Assessor.**— The village council shall at their first (1st) meeting, in the month of April, in each year, elect an assessor who shall be styled the village assessor, who shall perform all the duties in relation to the assessing of property for the purpose of levying of all village, county and state taxes, and upon the completion of the assessment roll he shall return the same to the village council, who may alter, revise, and equalize the same as they may deem it just and proper. Said village assessor shall hold his office for one (1) year and until his successor is elected and qualified.

*Provided*, that unless said village is a separate election district, the assessor of the township in which said village is situated shall assess the property in the village in the same manner as property situated in the township.

1885, ch. 145, § 18, as amended 1887, ch. 62; 1889, ch. 122. Amendment of 1887 added the proviso. Amendment of 1889 struck out word "city" and inserted "village." 37 M. 322.

**SEC. 1202. Recorder.**— The village recorder may administer oaths and take acknowledgments, and he shall give a bond in form similar to that required of town clerks. It shall be his duty:

First — To perform the duties of clerk of election, and keep a record of all proceedings at the annual and special elections of the village; to give notice of such elections as required by law, and to notify persons elected or appointed to offices thereof.

Second — To transmit to the clerk of the district court, within ten (10) days after election and qualification, a certified statement of the name and term for which elected of all the officers elected at such election; and in case of the appointment or election of any justice of the peace, constable, treasurer or recorder of said village to fill a vacancy, a like notice shall be so filed within ten (10) days after such election or appointment.

Third — To attend all meetings of the village board; to record and sign the proceeding thereof; and all ordinances, rules, by-laws, resolutions and regulations adopted, and to countersign and keep a record of all licenses, commissions and permits granted or authorized by them, and for such purposes to keep the following books:

A minute book, in which shall be recorded in chronological order, all the papers mentioned in section twenty-two (22) of this act; full minutes of all elections, general or special, and the statements of the judges thereof; full minutes of all proceedings of the village council; the titles of all ordinances, rules, regulations and by-laws; with a reference to the book and page where the same may be found.

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An ordinance book, in which shall be recorded at length in chronological order, all ordinances, rules, regulations and by-laws.

A finance book, in which shall be kept a full and complete record of the finances of the village, showing the receipts, the date, amount and source thereof, and the disbursements, with the date, amount and object for which paid out; and to enter in it such other matters as the council shall prescribe; and keep such other books as the council direct.

Fourth — To countersign and cause to be published or posted every ordinance, by-law or resolution, as required by law, and to have proper proof thereof made and filed.

Fifth — To be the custodian of the corporate seal, and to file, as required by law, and to safely keep, all records, books, papers or property belonging to, filed, or deposited in his office, and deliver the same to his successor when qualified; to permit any person, with proper care, to examine and copy any of the same, and to make and certify a copy of any thereof, when required, on payment of the same fees allowed town clerks therefor.

Sixth — To draw and countersign all orders on the village treasury ordered by the council, and none other.

Seventh — To file, when presented, all chattel mortgages and affidavits relating thereto, and to enter at the time of filing, in a book properly ruled and kept therefor, the names of all the parties, arranging mortgages alphabetically; the date of each mortgage, and the date of filing the same and of each affidavit relating to it; for which he shall receive the same fees allowed town clerks.

Eighth — To perform all other duties required by law or by any ordinance or other directions of the village council.

1885, ch. 145, § 46. Superseded and same as § 46, ch. 73, acts 1883. Acts 1885, ch. 109, amended this section by adding thereto the following: "To keep a correct record of all the births and deaths occurring in the village as is now required by city and town clerks, with same law penalty and fees," which is not superseded nor repealed by ch. 145, acts 1885; but this record is provided for in the law concerning vital statistics, in ch. 6, *ante*, Board of Health.

SEC. 1203. **Justices and constables.**—The justices of the peace and constables of said village shall have and may exercise, in addition to the powers and authority herein specially granted to such officers, all the powers, authority and jurisdiction in any case possessed by a justice of the peace or a constable elected in the county or counties in which such village is situated. The village justices and constables shall take the same oath of office, and execute, before entering upon the discharge of their duties as such officers, the same bond as township justices of the peace and constables, and file their bonds with the same officers as justices of the peace and constables elected elsewhere in the state are now or hereafter may be required to do, and shall receive the same fees for their services as justices of the peace and constables, elected elsewhere in the state, are allowed under the general statutes of the state, now or hereafter in force; and in all cases where a village is situated in more than one county, the justices of the peace and constables of such village shall have and possess all the powers and jurisdiction conferred by this act in each of the counties in which such village is situated, and shall file their bonds in each of said counties.

1885, ch. 145, § 41, as amended 1887, ch. 53, approved March 2d, which struck out the word "constable" and inserted "constables." Superseded and same as § 41, ch. 73, acts 1883. Superseded and substantially § 14, ch. 139, acts 1875, as amended 1876, ch. 36.

SEC. 1204. **Constables — Bond — Duties.**—The constable shall give a bond similar to that required of constables elected by towns, and shall be deemed included and governed in every respect by the law prescribed to them. It shall be his duty to obey all lawful written orders of the village council, to arrest with or without process, and with reasonable diligence to take before the village justice every person found in such village in a state of intoxication, or engaged in any disturbance of the peace, or violating any law

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[SECS. 1205-1208.]

of the state or ordinance of such village. He may command all persons present in such case to assist him therein, and if any person being so commanded shall refuse or neglect to render such assistance, he shall forfeit not exceeding ten (10) dollars. He shall be entitled to the same fees allowed to constables for similar services; for other service rendered the village, such compensation as the council may fix.

1885, ch. 145, § 47. Superseded but same as § 47, ch. 73, acts 1883.

**SEC. 1205. Officers of the peace.**—The president and each trustee shall be officers of the peace, and may suppress in a summary manner any riotous or disorderly conduct in the streets or public places of the village, and may command assistance of all persons under such penalty as may be prescribed by the by-laws and ordinances.

1885, ch. 145, § 52. Superseded but same as § 52, ch. 73, acts 1883.

**SEC. 1206. Transfer office to successor.**—Every village officer shall deliver to his successor, when qualified, all the books, records, papers, property and money in his hands as such officer; and if a vacancy happen before such successor is appointed or elected and qualified, then to the village clerk, who shall demand and receive all such property, and deliver the same to the person who shall be selected to fill such vacancy, when qualified.

1885, ch. 145, § 53. Superseded and same as § 53, ch. 73, acts 1883.

**SEC. 1207. Vacancies.**—Should a vacancy occur in any of the offices other than justices of the peace provided for in this act, the village council or the remaining members thereof, may fill the same by appointment.

1885, ch. 145, § 42. Superseded and same as § 42, ch. 73, acts 1883, and § 15, ch. 139, acts 1875.

## VILLAGE COUNCIL.

**SEC. 1208. Powers of.**—The president, the three (3) trustees and the recorder shall be the village council of said village, any three (3) of whom shall constitute a quorum for the transaction of any business, and shall have full power and authority to enact, adopt, modify, enforce, and, from time to time, amend or repeal all such ordinances, rules and by-laws as they shall deem expedient, for the following purposes, viz.:

1. **Rules.**—To regulate the mode of, and establish rules for, their proceedings.

2. **Seal.**—To adopt a corporate seal, and alter the same at pleasure.

3. **Realty.**—To receive, purchase and hold for the use of the village any estate, real and personal, and to sell and convey the same.

4. **Officers' duties.**—To limit and define the duties and powers of officers and agents of the village, fix their compensation, and fill vacancies when no other provision is made by law; to call special elections, and to designate trustees to act as judges of elections.

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

6. **Suits.**—To provide for the prosecution or defense of all actions or proceedings in which the village is interested, and employ counsel therefor.

7. **Attorney.**—To appoint a village attorney, a pound master, one or more sextons or keepers of cemeteries, one or more fire wardens, and one or more street commissioners, whenever they deem necessary. Every street commissioner, when, by resolution, the village board shall require it, shall take and file his oath of office, and execute a bond conditioned for the faithful discharge of his duties and the proper application and payment of all moneys that may come into his hands by virtue of his office.

Street commissioner elective. *Ante*, § 1300.

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8. **Public property.**— To control and protect the public buildings, property and records, and insure the same.

9. **Number houses.**— To renumber the lots and blocks of the village or any part thereof, and to cause a revised and consolidated plat of the same to be recorded in the office of the register of deeds.

10. **Fire department.**— To establish a fire department; to appoint 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 village to aid in the extinguishment of fires, and to pull down and raze such buildings in the vicinity of fires 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 in 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 village; 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 and cleaning of chimneys, to prevent bonfires and the use of fireworks and firearms in the village, 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 dangerous condition, and to cause such as may be dangerous to be put in safe condition; and generally to establish such necessary measures for the prevention or extinguishment of fires as may be necessary and proper.

11. **Streets.**— To lay out, open, change, widen or extend streets, lanes, alleys, sewers, parks, squares or other public grounds, and to grade, pave, improve, repair or discontinue the same, or any part thereof, or to establish and open drains, canals or sewers, or alter, widen or straighten water courses; to make, alter, widen or otherwise improve, keep in repairs, vacate or discontinue sidewalks and crosswalks; to prevent the incumbering of streets, sidewalks and alleys with carriages, carts, wagons, sleighs, sleds, buggies, railway cars, engines, boxes, lumber, firewood or other substances or materials; to prevent horse racing or immoderate riding or driving in the streets of the village, to prevent the riding or driving of animals or the driving of vehicles of any kind on the sidewalks of the village, or the doing of damage in any way to such sidewalks; and to require the owners or occupants of buildings to remove snow, dirt or rubbish from the sidewalks adjacent thereto; and in default thereof, to authorize the removal of the same at the expense of such owner or occupant.

12. **Restrain cattle.**— To restrain the running at large of cattle, horses, mules, sheep, swine, poultry and other animals, and to authorize the distraining, impounding and sale of the same; to establish pounds and regulate and protect the same; to require the owners or drivers of horses, oxen or other animals, attached to vehicles or otherwise, to fasten the same while in the streets or alleys of such village; to prohibit the hitching of horses, teams or animals to any fence, tree or pump, and to prevent injury to the same; to regulate and control the running of engines and cars through the village, and rate of speed of the same; to prevent the running at large of dogs, and authorize the destruction of the same in a summary manner when at large contrary to the

ordinances; and license public porters, solicitors or runners, cartmen, hackmen, omnibus drivers and guides, and to establish rules and regulations in regard to their conduct as such, and to prevent any unnecessary noise or disturbance during the arrival or departure of persons in public conveyances.

13. **Markets.**— To establish and regulate markets, and restrain sales in the streets.

14. **Cemeteries.**— To purchase and hold cemetery grounds within or without the village limits; inclose, lay out and ornament the same, and to sell and convey lots therein by deed; to establish public parks and walks, inclose, improve and ornament the same, and prevent the incumbering or obstruction thereof; and provide for and regulate the setting out of shade and ornamental trees in the streets, and in and around the cemeteries and public parks and walks of the village; and for the protection thereof.

15. **License.**— To prevent or license and regulate the exhibition of caravans, circuses, mountebanks, theatrical performances or shows of any kind; to prevent or license and regulate the keeping of billiard tables, pigeon-hole tables, and bowling saloons; to restrain or license and regulate and tax auctioneers, hawkers and peddlers; and in all such cases they may fix the price of said license or tax, and prescribe the term of the continuance of such license, and may revoke such license when in the opinion of the village council the good order or the public interests of the village require it; *provided*, that the council may in any case where, in their opinion, the public interests of the citizens of the village require it, refuse to grant any license for the above purposes, and *provided, also*, that twenty-five (25) dollars a day shall be construed by the courts of said state as a reasonable price per day for an auctioneer's license issued under the above provision. The term of no such license shall extend beyond the annual election of officers next after the granting thereof.

As amended 1889, ch. 122.

16. **Trees.**— To provide for the planting and protection of shade trees and monuments in said village.

17. **Lotteries.**— To restrain and prohibit gift enterprises, all description of gaming, and all playing of cards, dice and other games of chance, for the purpose of gaming; and to license, or restrain and prohibit any person from selling, bartering, disposing of or dealing in spirituous, malt, fermented, vinous or mixed intoxicating liquors of any kind, and to punish any violation of law or of the village ordinances relating thereto, and to revoke, for any cause, any license for the sale of intoxicating liquors granted by the village council, whenever the council, after a hearing of the case, shall deem proper.

18. **Marshal, etc.**— To choose a village marshal and to remove him at will; to prescribe his duties and to fix his compensation for services.

Amended 1889, ch. 104, as to Rock county. See note to sec. 1200.

19. **Libraries.**— To establish and maintain public libraries and reading rooms, purchase books, papers and magazines therefor, and make all needful rules and regulations for the safe keeping and handling of the same.

20. **Street commissioner.**— To appoint a street commissioner, regular and special policemen, and a chief of police, and to fix their compensation and prescribe their duties.

Commissioner elective, in Rock county. See note to sec. 1200.

21. **Removals.**— To remove any officer appointed or elected by such council, whenever, in the judgment of such council, the public welfare will be thereby promoted.

22. **Watchhouses.**— To purchase, build or lease and maintain, and regulate a watchhouse, or place for the confinement of offenders against the ordinances and by-laws, and for temporary detention of suspected persons.

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23. **Board of health.**—To appoint a board of health, which shall have all the powers of such boards under the general laws of the state; to provide hospitals, and regulate the burial of the dead, and return of bills of mortality; to declare what are nuisances, and to prevent or abate the same; to require the owner or occupant of any grocery, cellar, tallow chandler's shop, factory, tannery, stable, barn, privy, sewer or other unwholesome or nauseous house, building or place to remove or abate the same, or to cleanse it as often as may be deemed necessary for the public health; to direct the location and management of slaughter houses, and to prevent the erection, use or occupation of the same, except as authorized by them; to prevent persons from bringing, depositing or leaving within the village any putrid carcass, or other unwholesome substance; to require the owners or occupants of lands to remove dead animals, stagnant water, or other unwholesome substance from their premises and to provide for the cleaning and removal of obstructions from any river, stream, slough or watercourse within the limits of the village, and to prevent the obstruction or retarding of the flow of waters therein, or the putting of anything into the same which may be prejudicial to the health of the village.

24. **Wells.**—To make and regulate the use of public wells, cisterns and reservoirs.

25. **Lamps.**—To erect lamp posts and lamps, and provide for lighting any portion of the village or streets thereof, by gas or otherwise.

26. **Harbors.**—To establish harbor and dock limits, and to regulate the location and construction and use of all piers, docks, wharves and boat-houses on any navigable waters, and fix rates of wharfage.

27. **Levies.**—To levy and provide for the collection of taxes, including poll tax and assessments, audit claims and demands against the village, and direct orders to issue therefor in the manner prescribed in this chapter; to refund any tax or special assessment paid, or any part thereof, when satisfied that the same was unjust or illegal; to authorize bonds of the village to be issued in the cases provided by law, and generally to manage the financial concerns of the village; and they shall cause to be prepared and read, at each annual village election, a true, detailed and itemized statement by them of the finances of the village, showing the amount in the treasury at (the) commencement of the year, when and from what sources all moneys paid into the treasury during the preceding year were derived, and the whole amount thereof, and when, to whom and for what purpose all moneys paid from the treasury during the same period was paid and the whole amount thereof, with the balance then in treasury; which statement shall be recorded in the minute book, and filed and preserved in the clerk's office.

28. **Ordinances.**—To ordain and establish all such ordinances and by-laws for the government and good order of the village, the suppression of vice and immorality, the prevention of crime, the protection of public and private property, the benefit of trade and commerce, and the promotion of health, not inconsistent with the constitution and laws of the United States or of this state, as they shall deem expedient; and to determine and establish by ordinance the mode of procedure, and what it shall be sufficient to allege and prove, in order to make out a *prima facie* case of violation of any ordinance.

29. **Penalties.**—To prescribe penalties for the violation of any ordinance or by-law, to be not less than one (1) dollar nor more than one hundred dollars (\$100), in any case, besides the cost of suit in all cases; and in default of payment provide for committing the person convicted to the watch-house or place of confinement in the village, or to the county jail, until payment be made, but not to exceed ninety (90) days in all; and to modify, amend or repeal any ordinances, resolution, by-law or other former determination of the board.

1885, ch. 145, as amended 1889, ch. 104, by amending the eighteenth subdivision, and 1889, ch. 122, by amending the fifteenth subdivision. Supersedes and substantially same as § 21,

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ch. 73, acts 1883. Supersedes § 4, ch. 139, acts 1875, as amended 1877, ch. 61, except that provision empowering council to exempt from highway tax or serving on juries, and the provision as amended 1877, ch. 61, empowering council to regulate or prevent the cutting or removal of ice from any lake, pond or river within its limits and fence the same, and to compel the place where excavations are made to be fenced. Acts 1883, ch. 73, and 1885, ch. 145, do not specifically repeal acts 1875, ch. 139, nor the acts amendatory thereof, but repeal "all inconsistent acts;" hence these provisions, not being inconsistent therewith, may not be repealed. 33 M. 103; 29 M. 457.

**SEC. 1209. Impose penalties.**— Said village council shall have power and authority to declare and impose fines, penalties and punishments, and to enforce the same against any person or persons who may violate any of the provisions of any ordinance, rule or by-law enacted by them; and all such ordinances, rules and by-laws are hereby declared to have the force of law. *Provided*, they are not repugnant to the constitution and laws of the United States and the state of Minnesota.

1885, ch. 145, § 50.

**SEC. 1210. Contracts, etc.**— Every contract, conveyance, commission, license or other written instrument, shall be executed on the part of the village by the president and clerk, sealed with the corporate seal, and in pursuance only of authority therefor from the village council.

1885, ch. 145, § 55. Superseded but same as § 55, ch. 73, acts 1883.

**SEC. 1211. Officers not to be interested in.**— No member of the village council shall become a party to or interested, directly or indirectly, in any contract made by the village council of which he may be a member; and every contract or payment voted for, or made contrary to the provisions hereof, is void; and any violation of the provisions of this section, hereafter committed, shall be a malfeasance in office, which shall subject the officer so offending to removal from office. All contracts for village improvements, except expenditures of road and poll tax, shall be let to the lowest responsible bidder, after public notice of time and place of receiving bids therefor.

1885, ch. 145, § 51. Superseded and same as § 51, ch. 73, acts 1883.

**SEC. 1212. Board of auditors.**— The village council shall constitute a board of auditors for the purpose of auditing all accounts payable by said village. Said board shall draw up a report, stating in detail the items of accounts audited and allowed, the nature of each account, and the name of the person to whom the account was allowed, and also including a detailed statement of the financial concerns. Such report shall be filed with the recorder, and a copy thereof shall be posted at the time and place of holding the annual election, or published in a newspaper of general circulation in said village, two (2) weeks before such election.

1885, ch. 145, § 44. Superseded and same as § 44, ch. 73, acts 1883, and § 17, ch. 139, acts 1875.

**SEC. 1213. Same — All accounts to be audited.**— No account or demand against such village shall be paid until it has been audited and allowed, and an order drawn on the treasurer therefor. Every such account shall be made out in items, and verified by affidavit indorsed or annexed that the same is just and correct and no part thereof paid. After auditing the board shall cause to be indorsed by the clerk, over his hand, on each account, the words "allowed" or "disallowed," as the fact is, adding the amount allowed, if any, and specifying the items or parts of items disallowed, if disallowed in part only. The minutes of the proceedings of the board shall show the amount. Every such account or demand allowed, in whole or in part, shall, with the affidavit thereto, be filed by the clerk, and those of each year consecutively numbered and have indorsed the number of the order on the treasurer issued in payment; and the clerk shall take a receipt thereon for such order. No village, or any officer thereof, shall have power to issue at any time any nego-

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tiable order or borrow money, except in the manner and for the purposes expressly declared by statute.

1885, ch. 145, § 22. Superseded and same as § 22, ch. 73, acts 1883.

**SEC. 1214. Meetings of council.**—The president shall preside at all meetings when present; in his absence the council may select another trustee to preside. Regular meetings shall be held at such times as may be prescribed by their by-laws. Special meetings may be called by any two (2) trustees in writing, filed with the recorder, who shall thereupon seasonably notify all the trustees of the time and place thereof, in the manner directed by the by-laws. All meetings shall be open to the public. The council shall keep a record of all its proceedings; shall have power to preserve order at its meetings, compel the attendance of trustees and punish non-attendance; and it shall be judge of the election and qualifications of its members; the president and trustees shall be entitled to receive as compensation the sum of one (1) dollar each per day for the time actually employed as such officers, not to exceed ten (10) each in any one (1) year.

1885, ch. 145, § 54, as amended 1889, ch. 125. Approved March 28th. Amendment struck out "The trustees of each village shall constitute a council, designated the village council of (name of village), in which shall be vested all the powers of the village not specifically given some other officer. Three (3) trustees shall constitute a quorum, but a less number may adjourn from time to time." Acts 1885, ch. 109, amended this section of ch. 73, acts 1883, by providing that "any three of the village council," instead of "three trustees," shall constitute a quorum. Including the part left out by acts 1889, foregoing same as § 54, ch. 73, acts 1883, and supersedes § 4, ch. 139, acts 1875. 37 M. 475.

## ORDINANCES, RULES AND BY-LAWS.

**SEC. 1215. How enacted.**—All ordinances, rules and by-laws shall be enacted by a majority of all the members of the village council, and shall be signed by the president, attested by the recorder, and published once in a newspaper published in the county in which said village shall be situated; and if there be no newspaper published in said county, then by posting them conspicuously in three (3) of the most public places in said village for ten (10) days, and shall be recorded in a book kept for that purpose.\* Proof of such publication by the affidavit of the printer or foreman in the office of such newspaper, or of such posting, by the certificate of the village recorder shall be attached to and filed with such ordinance or by-laws, and noted on the record thereof, and shall be conclusive evidence of the facts stated. All ordinances shall be suitably entitled, and in this style: "The village council of — do ordain as follows." All authorized ordinances and by-laws shall have the force of law, and remain in force until repealed.

1885, ch. 145, § 49. Superseded but same as § 49, ch. 73, acts 1883, as amended 1885, ch. 65, and § 6, ch. 139, acts 1875, above \*.

**SEC. 1216. Prosecutions for violation of.**—All prosecutions for violating any of the ordinances, rules, or by-laws enacted under the provisions of this act, shall be brought in the corporate name of said village, and shall be commenced by warrant, upon complaint being made as required by law in criminal cases before justices of the peace; and the same proceedings shall be had therein as are required to be had by the laws of this state in criminal or civil actions before justices of the peace. *Provided*, that no warrant shall be necessary in any case of the arrest of the person or persons while in the act of violating any law of the state of Minnesota, or ordinance of said village; but in such cases a complaint shall be made, which the justice shall reduce to writing, and the party be required to plead thereto, as to warrant in other cases; and the person or persons so arrested may be proceeded against in the same manner as if the arrest had been made by warrant. All processes issued by the justice of the peace of said village, shall be directed to any constable of said village or county or to the marshal of said village; provided that said marshal shall serve said process only within the limits of said village. It shall

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be a sufficient pleading of the by-laws or ordinances of said village to refer to the chapter and section thereof, which are hereby declared to have all the force and effect of general laws within the jurisdiction of said village, and it shall not be necessary to read or give them in evidence upon the trial of any proceeding or action, criminal or civil.

1885, ch. 145, § 35, as amended 1887, ch. 82, approved March 8th, which inserted the provision that the marshal serve process. Supersedes and same as § 35, ch. 73, acts 1883. Supersedes § 7, ch. 139, acts 1875.

**SEC. 1217. Judgment in.**— Judgment shall be given, if for the plaintiff, for the amount of fine, penalty or forfeiture fixed by such ordinance, resolution or by-law, or such part thereof, if a discretion be given, as the court shall deem proportionate to the offense, together with the costs of suit; and shall in all cases further adjudge and order that in default of payment thereof the defendant be committed to the common jail of such county for such time not exceeding ninety (90) days as the court shall think fit. If such payment be not forthwith made the justice shall make out a commitment stating the amount of judgment and costs and the time for which committed, and in the usual form of commitments by justices of the peace. Every person so committed shall be received and committed to prison by the keeper of the county jail, and kept at the expense of the county until the expiration of the time; but he shall be released by order of the justice on payment to him of such fine and costs or by due course of law.

1885, ch. 145, § 36. Supersedes and same as § 36, ch. 73, acts 1883.

**SEC. 1218. Appeal.**— Appeal may be taken to the district court in the same manner as from judgments in civil actions by justices of the peace, except that if taken by the defendant, he shall, as a part thereof, execute a bond to the village with surety to be approved by such justice, conditioned that if judgment be affirmed in whole or in part, he will pay the same and all costs and damages awarded against him on such appeal; and in case such judgment shall be affirmed in whole or in part, execution may issue against both defendant and his surety. Upon perfection of such appeal, the defendant shall be discharged from custody.

1885, ch. 145, § 37. Supersedes and same as § 37, ch. 73, acts 1883.

## FINANCES.

**SEC. 1219. Fund to pay expenses.**— All fines and penalties imposed under or by virtue of the provisions of this act, shall belong to the village, and shall constitute a fund to pay the expenses incurred under the provisions of its charter.

1885, ch. 145, § 40. Supersedes and same as § 40, ch. 73, acts 1883, and § 8, ch. 139, acts 1875.

**SEC. 1220. Same.**— All fines, forfeitures, and penalties recovered for the violation of any ordinance, rule, regulation, resolution or by-law of any such village, and all moneys paid for licenses and permits shall be paid into the village treasury for the use of such village. The justices of the peace shall report and pay into the treasury quarterly, all moneys collected by them belonging to such village; which reports shall be verified by affidavit, and filed in the office of the treasurer; and such justice shall be entitled to duplicate receipts for such moneys, one of which such justice shall take and file with the village recorder.

1885, ch. 145, § 38. Supersedes and same as § 38, ch. 73, acts 1883.

**SEC. 1221. Levy of taxes.**— The village council shall, on or before the fifteenth (15th) day of August in each year, by resolution, to be entered of record, determine the amount of corporation taxes to be levied and assessed on the taxable property in such village for the current year, which shall not exceed in any one (1) year two (2) per centum of the assessed valuation of

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such property. Before levying any tax for any specific purpose, the board may, in their discretion, submit the question of levying the same to the village electors, at any special or general election, and in such manner as they may prescribe; when so submitted they shall be bound by the vote thereon. On or before the first (1st) day of September, in each year, the village recorder shall deliver to the county auditor a copy of all such resolutions, certified under his hand and the corporate seal of such village, and such auditor shall enter such taxes upon the tax books in the same manner as he is required to do in levying town taxes.

1885, ch. 145, § 34. Supersedes and same as § 34, ch. 73, acts 1883.

**SEC. 1222. Tax limited.**—The legal voters of said village may, at an annual or special meeting, authorize the village to levy a tax for any legitimate object, but in no case shall the tax so levied exceed the sum of five (5) mills upon the dollar valuation in any one year; and all taxes levied, except for improvement of streets, sidewalks and crossings, shall be levied and collected as prescribed by the statutes of this state for the levying and collection of township taxes. *Provided*, that the village council shall, on or before the first (1st) day of September in each year, make and certify to the county auditor of the county in which any of the lands or village lots within the corporate limits of such village are situate, a statement of all taxes levied and assessed by them, and shall also, at the same time, make and certify to the auditor of the proper county a list of the names of the owners of personal property subject to taxation within such village; and the county auditor shall, upon the receipt of said statement and list, enter and carry out the said tax or taxes against the property within such village, and the same shall be collected as other taxes are collected, and, when collected, paid over to the village treasurer.

1885, ch. 145, § 45. Supersedes and same as § 45, ch. 73, acts 1883. Superseded and substantially § 12, ch. 139, acts 1875, as amended 1876, ch. 36.

**SEC. 1223. Treasurer's statement before elections.**—The treasurer shall, one week previous to the annual election of village officers, make a detailed statement in writing of the moneys received by him, and the sources from which the same were received, and their respective amounts; and also the amounts paid out by him, and the purposes for which they were paid. Such statement shall be filed by him in his office, for the inspection of any taxpayer residing within the corporate limits of said village.

1885, ch. 145, § 20. Supersedes and same as § 20, ch. 73, acts 1883, and § 3, ch. 139, acts 1875.

**SEC. 1224. Payment of judgments against village.**—Whenever a final judgment shall be obtained against any village, the judgment creditor, his assignee or attorney, may file with the village recorder a certified transcript of such judgment, or of the docket thereof, together with his affidavit, showing the amount due thereon and all payments, if any, and that the judgment has not been appealed from or removed to another court, or if so appealed or removed, has been affirmed; and thereupon the village council shall assess the amount thereof, with interest from date of its rendition to the time when the same shall be paid, as near as may be, upon the taxable property of such village, and the village recorder shall return and certify the amount of such tax to the county auditor to be collected the same as other taxes levied upon said village.

1885, ch. 145, § 39. Supersedes and same as § 39, ch. 73, acts 1883.

## TAKING PRIVATE PROPERTY FOR PUBLIC USE.

**SEC. 1225. Resolution — Notice — Service.**—Whenever the village council shall intend to lay out and open, change, widen or extend any street, lane, alley, public grounds, square or other places, or to construct and open,

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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 cause an accurate survey and plat thereof to be made and filed with the recorder, 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 village 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 the names of owners or occupants so far as known, and therein fix a day, hour and place, when and where they will apply to a justice of the peace, resident in such village, for a jury to condemn and appraise the same. They shall thereupon cause to be made by the recorder, a notice of the adoption of such resolution embracing a copy thereof and notifying all parties interested, that the council will, at the time and place named, apply to the justice named for the appointment of a jury to condemn and appraise such land. A copy of such notice shall be served by any constable 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 a summons in justice court, and the return of the officer 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 published in such village 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 justice, 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.

1895, ch. 145, § 23. Supersedes and same as § 23, ch. 73, acts 1883.

**Sec. 1226. Jury.**—At the time and place fixed for such hearing, the application, accompanied by a copy of such resolution and such survey, and by proof of service of the notice, as provided in the last section, shall be filed with the justice, who shall thereupon make a list of twenty-four (24) competent jurors, not interested, but residents of the village shall not be disqualified. He shall hear and decide any challenges for cause or favor, made to any one, and, if sustained, shall replace his name with an unobjectionable juror, until the list shall be perfected. Thereupon, under direction of such magistrate, each party — the village council by its representative on one side, and owners of land or their agents present, or if none be present, or they disagree, a disinterested person appointed by the justice, on the other — shall challenge six (6) names, one at a time, alternately, the village council beginning. To the twelve (12) jurors remaining, such justice shall issue a venire, requiring them at an hour on a day named, not more than ten (10) nor less than three (3) days thereafter, to appear before him to be sworn and serve as a jury 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, 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. The jurors summoned shall appear at the time and place named; and if any be excused by the justice, 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 deter-

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mine 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.

1885, ch. 145, § 24. Supersedes but substantially § 24, ch. 73, acts 1883.

**SEC. 1227. Evidence — Verdict.**— 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 any 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 be necessary to take such lands or any part thereof for such purposes, describing such as they find necessary to be taken, and if any be found necessary to be taken, then a verdict or appraisement for damages, specifying therein the damages of each owner, and separately the value of the land taken for each, and the damage otherwise sustained by each by reason of the taking thereof, in estimating which they shall deduct therefrom any special benefit, if any, to be enjoyed by each from such improvements; and a majority of such jury may render such verdict or appraisement of damages and shall sign the same. Any technical error in such verdict may be immediately corrected, with the assent of the jury, and they shall be thereupon 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.

1885, ch. 45, § 25. Supersedes and same as § 25, ch. 73, acts 1883.

**SEC. 1228. Appeal.**— Within ten (10) days after verdict any land owner whose land it has been found necessary to take may appeal from the action of the common council in determining to condemn any such land and from the award of damages to him, in such verdict, to the district court, and the village 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 an undertaking 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 paying the magistrate for his return thereof. Any party not so appealing shall be forever concluded by such verdict or appraisement. Upon an appeal being taken, the magistrate shall transmit to the clerk of the district court within ten (10) days the notice of appeal and undertaking, and thereto annexed a copy of all papers and proceedings before him, with his certificate thereof. He shall after the time for appealing has expired, file with the village recorder, annexed together, all the original papers, including the verdict, with a certificate by him thereof, and that no appeal has been taken from such verdict, except as the facts are, which he shall briefly specify; and the 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 village as defendant; and be subject to trial and appeal to the supreme court. The case shall be tried by a jury, unless waived, and the costs shall be awarded against the appellant, if more favorable verdict be not obtained; otherwise against the respondent. Upon entry of judgment, the clerk of the district court shall transmit a certified copy thereof to the village recorder.

1885, ch. 145, § 26, as amended 1889, ch. 123. Amendment inserted may appeal "from the action of the common council in determining to condemn any such land." Supersedes and with this exception same as § 26, ch. 73, acts 1883.

**SEC. 1229. Compensation — Abandonment.**— If the verdict of the jury first called find it necessary to take such land or any part thereof, the village board may, upon return thereof to the recorder, enact an ordinance [in accordance] therewith, for laying out, changing, widening or extending

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[SECS. 1230, 1231.]

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 such 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 or the damages be set apart for him in the hands of the treasurer, and an order therefor lawfully executed to him be deposited with the clerk to permanently remain subject to his order. At any time before causing any 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 village board may discontinue all proceedings theretofore taken, and the village shall in such event be liable for the costs only. All the costs of every such proceedings shall be paid by the village, except when it recover costs in the district court.

1885, ch. 145, § 27. Supersedes and same as § 27, ch. 73, acts 1883.

**SEC. 1230. Assessment to pay damages, etc.**—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 village council may, by resolution, levy and assess the whole, or any part not less than half ( $\frac{1}{2}$ ) of such expenses as a tax upon such property as they shall determine is specially benefited thereby, making therein a list thereof, in which shall be described every lot or parcel of land so assessed, with the name of the owner thereof, if known, and the amount levied thereon set opposite. Such resolution, signed by the president and recorder, shall be published once in each week for two (2) weeks in a newspaper printed regularly in such village, or if there be no such newspaper, three (3) copies thereof shall be posted by the recorder in three (3) of the most public places in such village, 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 such tax to the village treasurer. On such first (1st) day of September, if any such tax remains unpaid, the recorder shall certify a copy of such resolution to the county 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 village taxes therein levied on such land, to be collected therewith.

1885, ch. 145, § 28. Supersedes and same as § 28, ch. 73, acts 1883.

## IMPROVEMENT OF STREETS, SIDEWALKS AND GUTTERS.

**SEC. 1231. Petition for — Levy of tax.**—The village council may cause any street, or any part of any street, not less than sixteen (16) rods in length, to be graded, paved, macadamized or otherwise improved, or any sidewalk or gutter to be built, upon a petition therefor in writing, signed by at least a majority of all the owners of real estate bounding both sides, and of the owners of at least one-half ( $\frac{1}{2}$ ) the frontage of such street or part of street to be improved; or order any sidewalk or gutter on one (1) side of a street to be built, on the petition of a majority of such owners, and of the owners of at least one half ( $\frac{1}{2}$ ) the frontage on such side; and may order any sidewalk or gutter previously built to be put in repairs, when necessary, without petition.

**Levy.**—For the purpose of so improving any street or building, or repairing any sidewalk or gutter, the village council may levy and cause to be collected upon the lots, tracts or parcels of ground on such street or part of street improved, or on the side thereof, where only such sidewalk or gutter is to be built, and upon the owners thereof, a tax sufficient to pay the expense of con-

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structing such improvement as ordered opposite such property to the centre of the street, or such proportion thereof, not less than one-half ( $\frac{1}{2}$ ), as they shall deem justly assessable to such property, if they shall think the whole ought not to be so assessed, in which case the remainder shall be paid from the village treasury. Every such tax for repair shall be for the entire cost of repairs in front of the property so assessed. If any tax levied under this section shall prove insufficient to pay the cost or proportion thereof assessed to such property, the village council may levy an additional tax thereon to make good such deficiency.

1885, ch. 145, § 30. Supersedes and same as § 30, ch. 73, acts 1883. Supersedes § 18, ch. 139, acts 1875, as amended 1876, ch. 6.

**SEC. 1232. List of property taxed.**—Whenever the council shall levy any such tax as specified in the preceding section, they shall make out and deliver to a street commissioner of such village a list of the persons and a description of the property taxed, together with a warrant for the collection and expenditure of said tax, and thereupon the street commissioner shall notify the persons named in such tax list, by publishing a notice two (2) weeks in some newspaper published in said village, if there be one, or by posting up notices in three (3) or more public places in such village, and shall specify in such notice a time or times, not less than twenty (20) days nor more than forty (40) days from the date thereof, when the persons charged with taxes in such list may pay their taxes in labor, materials or money; and the persons charged with such tax may, at such time and place as may be required by the said street commissioner, pay their taxes in labor or materials; *provided*, the labor and materials offered in payment of such taxes are such as may be required by the said street commissioner, and done and furnished to his satisfaction. The street commissioner shall be provided with a book or memorandum by the village recorder, in which he shall keep an accurate account of all moneys coming into his hands by virtue of his office; the amount received and disbursed by him, the name of every person from whom money or labor is due, the amount paid in money or labor, and a correct account of all expenditures by him made as a street commissioner. The book containing the account so kept shall, at all times when required, be furnished for the inspection of the village council and ten (10) days before the expiration of his term of office shall be handed to the village recorder, to be filed in his office for the inspection of the taxpayers in his district.

1885, ch. 145, § 31. Supersedes and same as § 31, ch. 73, acts 1883.

**SEC. 1233. Delinquents.**—At the expiration of forty (40) days from the date of said notice given by said street commissioner, he shall make out and deliver to the recorder of such village a certified list of the lots, pieces or tracts of land in said village upon which any such tax remains unpaid, with the amount of such delinquent taxes upon each of said lots or parcels of land,\* and thereupon there shall be added to the amount of such tax a penalty of ten (10) per cent. of the amount thereof, which shall thenceforth be deemed to be a part of such tax, and from the time of the delivery of such certified list to said recorder, the said tax shall draw interest at the rate of ten (10) per cent. per annum until paid;\* and at any time before the first (1st) day of September, any party liable may pay any such tax and interest thereon as aforesaid to the village recorder, who shall thereupon pay the same over to the village treasurer, taking his receipt therefor. And such recorder on the first (1st) day of September, or within five (5) days thereafter, if any such tax remains unpaid, shall certify a copy of such delinquent taxes to the county auditor of his county, and the said auditor shall, upon the receipt of said statement and list, enter and carry out the same upon the proper tax lists, and they shall be collected the same as other taxes are collected, and when collected, pay over the same to the village treasurer. Every county treasurer who shall collect or receive any moneys on account of such delinquent taxes

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shall pay the same to the treasurer of the proper village, and take duplicate receipts therefor, and file one of said receipts with the records of said village.

1885, ch. 145, § 32, as amended 1889, ch. 123, approved April 23d, which inserted matter between \*\* . Supersedes and excepting the matter inserted same as § 32, ch. 73, acts 1883.

### DISCONTINUE STREET OR ALLEY.

SEC. 1234. **Petition — Notice.**— Upon the petition in writing of all the owners of lots or land on any street or alley in such village, and not otherwise, the board of trustees may discontinue such street or alley or any part thereof. At least one (1) week before acting on such petition, the council shall cause a written, or printed notice to be posted in three (3) public places in such village, stating when the petition will be acted on, and what street or part thereof is proposed to be vacated.

1885, ch. 145, § 29. Supersedes and same as § 29, ch. 73, acts 1883.

### ROAD DISTRICT.

SEC. 1235. **Constituted.**— The village so organized shall constitute one (1) road district, and the street commissioner or roadmaster thereof be appointed by the village council, and all taxes raised within the limits of said village for road purposes, shall be expended under the direction of the village council.

1885, ch. 145, § 43. Street commissioner elective, *ante*, § 1200. Superseded and same as § 43, ch. 73, acts 1883, and § 16, ch. 139, acts 1875. Acts 1879, ch. 48, added to this section in acts of 1875, ch. 139, the following: "And shall be paid over by the county treasurer, when collected, to the village treasurer, upon the warrant of the county auditor," which seems to be in force.

SEC. 1236. **Limitations.**— No part of the streets or highways of any village shall be in any road district established by the town board, nor be under the control of town officers. Nor shall the town be liable for any damages occasioned by any insufficiency or want of repair thereof; and all bridges in such village shall be built, maintained and repaired by the village in which the same are situated. No overseers of highways shall be elected in or for any such village, but the poll tax shall be collected as hereinafter provided, and shall be expended, and the streets, highways, and public places governed by the village council and officers of their appointment.

1885, ch. 145, § 33. Supersedes and same as § 33, ch. 73, acts 1883.

### INTOXICATING LIQUORS.

SEC. 1237. **License to traffic in.**— The legal voters of any incorporated village shall have the power and authority to vote upon and determine for themselves, the question whether license for the sale of intoxicating liquors as a beverage shall be granted by the council of said village or not; and it shall be the duty of the recorder of any such village, upon receiving a petition for that purpose of ten (10) or more legal voters of his village at any time not less than fifteen (15) days before any annual election of such village, to give at least ten (10) days' notice that the question of granting license for the sale of intoxicating liquors as a beverage in said village, will be submitted to the legal voters thereof at the next ensuing annual election, which question shall be determined by ballots containing the words, "In favor of license," or "Against license," as the case may be: *Provided, however*, that the neglect of the recorder to give the required notice shall not invalidate the vote and determination made under the provisions of this act, if the petition named shall have been duly filed. The votes upon said question shall be taken, canvassed, returned and announced in the same manner as is prescribed by law for taking, canvassing, returning and announcing the votes for the election of village officers, which determination so made shall continue until the same shall be reversed at a subsequent annual election in the same manner; and, if such returns show that a majority of the votes cast at such election on said

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question shall be "Against license," no license for the sale of intoxicating liquors shall be granted by the authorities of such village, except for medicinal or mechanical purposes, but if such returns show that a majority of the votes cast at such election, on said question, shall be "In favor of license," then the village council may grant license to any suitable person of lawful age for the sale of intoxicating liquors. The village council shall have the exclusive right to license persons, vending, dealing in or disposing of intoxicating liquors within the limits of such village, and persons so licensed shall not be required to obtain a license from the board of county commissioners, nor shall said commissioners have authority to license any person to vend, deal in or dispose of, or sell intoxicating liquors in any such village. And no person shall be licensed by such village council to deal in or sell intoxicating liquors as a beverage in such village, unless he shall fully comply with all the requirements, and be subject to all the penalties as provided in the general statutes of the state, relating to the sale of intoxicating liquors, except as herein provided: *And provided*, that no license shall be granted by such village for a less sum than one hundred (\$100) dollars, nor for a greater sum than five hundred (\$500) dollars, at the discretion of the village council, and that previous to granting any such license, a bond shall be executed with the same conditions, and with the same penal sum as required by the general statutes of this state; and the moneys received for such license shall be paid to the village treasurer for the use of such village; and all licenses granted by any such village council shall expire May first (1st) after the annual election in and for said village.

1885, ch. 145, § 48. Superseded but substantially § 48, ch. 73, acts 1883. Superseded § 18, ch. 139, acts 1875.

## DISSOLUTION OF VILLAGES.

**SEC. 1238. Petition for — Election on.**— Whenever an application, in writing, signed by one-third ( $\frac{1}{3}$ ) as many electors of any such village as voted for village officers at the last preceding election therefor, shall be presented to the village council, praying for a dissolution of the village corporation, such council shall submit to the electors of such village, at an annual election, or special election called by them therefor, the question whether or not such village corporation shall be dissolved; the form of the ballot shall be "For dissolution," or "Against dissolution:" said ballots shall be deposited in a separate box and such election shall be conducted, the votes thereat canvassed and a statement thereof made, filed and recorded as in other cases.

1885, ch. 145, § 56. Superseded but same as § 56, ch. 73, acts 1883.

**SEC. 1239. Result of election.**— If a majority of the ballots cast at such election, on such proposition, shall be for dissolution, such village shall at the expiration of six (6) months from the date of such election, cease to be an incorporated village. Within six (6) months the village council shall dispose of the village property, and settle, audit and allow all just claims against the village. They shall settle with the village treasurer and other officers of the village, and shall cause the assets of the village to be used in paying the debts thereof. If anything remain after paying the village debts, they may designate the manner in which the same shall be used. If they have not sufficiency of funds to pay the debts of the village, they may levy a tax to cover such deficiency, which shall be collected as other taxes and shall be paid out by the town treasurer in payment of the outstanding village orders or bonds.

1885, ch. 145, § 57. Supersedes and same as § 57, ch. 73, acts 1883.

## INCORPORATION LEGALIZED.

**SEC. 1240. Under acts 1883, ch. 73.**— That all villages heretofore declared or adjudged to be incorporated villages by any order or judgment of any of the district courts of this state, under chapter seventy-three (73) of the

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[SECS. 1241, 1242.]

general laws of A. D. one thousand eight hundred and eighty-three (1883), entitled "An act to provide for the incorporation of villages and to define their duties and powers, and to repeal certain laws in relation thereto," be and they are hereby duly incorporated as villages, with the same territorial boundaries specified in the order or judgment of the district court, declaring any such village to be an incorporated village under the provisions of said act, and all such villages shall possess and are hereby endowed with all the franchises, rights, powers and privileges, and subject to the duties in said act enumerated and contemplated; and all officers of any such village, and all persons acting as officers of any such village, shall continue to occupy their respective offices, and in like manner as if the said act had been constitutional and valid, and as if the court declaring or adjudging any such village or villages incorporated had been legally empowered so to do; and all official acts of all persons heretofore acting as officers of any such village are hereby legalized and declared to be of the same force and validity as if such village or villages had been duly organized and incorporated from the date of the entry of the judgment or filing of the order of the district court purporting to incorporate any such village under said act.

1885, ch. 231: "An act to incorporate and legalize the organization of certain villages." Approved January 29, 1885.

**SEC. 1241. Under any general or special act.**— That all villages heretofore incorporated under and by virtue of any act of the legislature, either general or special, that may have become re-incorporated or attempted to become incorporated under, or may have adopted or attempted to adopt any of the provisions of, chapter seventy-three (73) of the general laws of A. D. one thousand eight hundred and eighty-three (1883), be and the same hereby are duly incorporated, and all such villages shall possess and are hereby endowed with all the franchises, rights, powers and privileges and subject to all the duties in said act enumerated and contemplated. And all officers of any such village, and all persons acting as officers of any such village, shall continue to occupy their respective offices, in like manner as if said act had been constitutional and valid. And all votes taken by the electors of such villages, and all official acts of all persons heretofore acting as officers of any such village, are hereby legalized and declared to be of the same force and validity as if said act had been constitutional and valid.

1885, ch. 236: "An act to legalize the incorporation of certain villages." Approved March 7, 1885.

**SEC. 1242. Existing villages legalized.**— That all villages heretofore incorporated, or whose incorporation has been attempted under and by virtue of the provisions of any act of the legislature of this state, and which are now exercising or attempting to exercise corporate powers are hereby declared bodies corporate, and all such villages shall possess and are hereby endowed with all the franchises, rights, powers and privileges and are subject to all the duties conferred or attempted to be conferred on such corporations under the provisions of chapter one hundred and forty-five (145) of the general laws of A. D. one thousand eight hundred and eighty-five (1885), any defect or irregularity in the proceedings relating to such incorporation to the contrary notwithstanding.

1889, ch. 66: "An act to legalize the incorporation of certain villages." Approved April 22, 1889.

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SECS. 1243, 1244.]

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## TITLE 3.

CITIES.

### ORGANIZATION.

SEC. 1243. **Petition — Limitation — Powers.**—That cities may be organized within the limits of this state as herein provided. Whenever two-thirds of the legal voters residing within the limits of a territory comprising not less than two thousand inhabitants, and not more than fifteen thousand, and which territory they desire to have incorporated as a city, shall sign and have presented to the judge of probate of the county in which such territory is situated, a petition setting forth the metes and bounds of said city, and of the several wards thereof, and praying that said city may be incorporated under such name as may therein be designated, the judge of probate shall issue an order declaring such territory duly incorporated as a city, and shall designate therein the metes, bounds, wards and name thereof as in said petition described. And the said judge of probate shall in said order designate the time and place of holding the first election of officers for said city, which shall be not less than thirty nor more than sixty days from the presenting of said petition, and shall cause said order to be posted in five of the most public places in said city, at least for thirty days prior to the day of such election, and also cause the same to be published in some newspaper published in said city, at least once in each week for three consecutive weeks prior thereto, and if there be no newspaper published in said city, then in the paper published nearest thereto, and if there be more than one newspaper published in said city, then in one of such papers. Upon presenting the petition aforesaid to the judge of probate as aforesaid, the inhabitants within the metes and bounds therein described shall thenceforth be a body politic and corporate, subject to, and with power to act under the authority of, all the provisions of this act. They shall have power to sue and be sued; complain and defend in any court; make and use a common seal, and alter it at pleasure; and take, hold and purchase, lease and convey such real and personal or mixed estate as the purposes of the corporation may require, within or without the limits aforesaid; shall be capable of contracting and being contracted with; and shall have the general powers possessed by municipal corporations at common law, and in addition thereto, shall possess the powers hereinafter specifically granted; and the authorities thereof shall have perpetual succession.

\*And in case the territory included in any city which shall be hereafter formed and established under the provisions of this act, shall include the territory embraced in any village or borough corporation, such village or borough corporation shall, upon the establishment of such city corporation, cease; and such city corporation shall thereupon succeed to and become vested with and owners of all the property, real, personal and mixed, which belonged to or was owned by such village or borough corporation at the time when the same ceased to exist; and such city corporation shall also thereupon become and be liable and responsible for all the debts, obligations and liabilities then existing against such village or borough corporation, for any cause or consideration whatever, in the same manner and to the same extent as if such debts, obligations or liabilities had been originally contracted or incurred by such city corporation.

1870, ch. 31, subch. 1, § 2: "An act to authorize the incorporation of cities," approved March 5, 1870, as amended 1871, ch. 38, approved March 6th. Amendment below \*. 34 M. 419; 30 M. 30.

SEC. 1244. **First city election.**—That the said judge of probate, in his order designating the time and place of holding the first election of officers of any city incorporated under this act, shall name three electors of each

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[SECS. 1245-1248.]

ward who shall conduct the said first election for their respective wards, and who shall be the inspectors thereof, and shall take the usual oath or affirmation as prescribed in the general laws of the state to be taken by the judges and inspectors of elections, and shall have the power to appoint clerks of such elections, and to administer the necessary oaths; and the persons so named as inspectors of the election shall hold and conduct the same in the manner and under the same penalties as provided by the laws of this state regarding elections, and shall have power to fill vacancies in the board of inspectors as provided by law.

1872, ch. 91: "An act to amend ch. 31, laws 1870, relating to city elections," by adding to subch. 1 the foregoing section. Approved February 24, 1872.

## ELECTIONS.

SEC. 1245. **Annual election.**— There shall be an annual election for elective officers hereinafter provided, held on the first Tuesday of April of each and every year, at such place in each ward as the common council shall designate; and the polls shall be kept open from nine o'clock in the forenoon until five in the afternoon; and ten days' previous notice shall be given by the common council of the time and place of holding such election and of the officers to be elected, by posting notices thereof in three public places in each ward, and by publishing the same in at least one of the papers published in the city, if one shall be published in said city.

1870, ch. 31, subch. 2, § 1.

SEC. 1246. **Inspectors of elections — Duties.**— The elections in said city shall be held and conducted by the aldermen of each ward, and one other elector of each ward, to be appointed by the common council, who shall be inspectors of election, and shall take the usual oath or affirmation as prescribed by the general laws of the state to be taken by the judges and inspectors of elections, and shall have power to appoint clerks of such elections, and to administer the necessary oaths. Said elections shall be held and conducted in the same manner and under the same penalties, and vacancies in the board of inspectors thereof filled, as required by the laws of this state regarding elections; *provided*, that no candidate for office shall act as inspector or clerk at such election.

1870, ch. 31, subch. 2, § 9.

SEC. 1247. **Ballot — Tie vote.**— 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 or more candidates for an elective office shall receive an equal number of votes for the same office, the election shall be determined by the casting of lots in the presence of the common council, at such time and in such manner as they shall direct.

1870, ch. 31, subch. 2, § 7.

SEC. 1248. **Electors — Districts.**— All persons entitled to vote for state or county officers, and who shall have resided in the city for four months next preceding the election, and ten days in the ward where they offer to vote, shall be entitled to vote for any officer to be elected under this law, and to hold any office hereby created, provided their name shall have been duly inserted in the list of qualified electors of the ward in which they reside, as in the case of the election of state and county officers; and the different wards established by law shall constitute election districts for state and county as well as city elections, and the mode of conducting all state and county elections in said city shall be in the manner herein provided in reference to city elections, except that the returns thereof shall be made by the judges of election to the county auditor of the county within the time and manner prescribed by law.

1870, ch. 31, subch. 2, § 8.

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**SEC. 1249. Returns — Canvass — Notify persons elected.**— When a city election shall be closed, and the number of votes for each person voted shall have been counted and ascertained, the said judges shall make returns thereof, stating therein the number of votes for each person for each and every office, and shall deliver or cause to be delivered such returns to the clerk of the common council, within three days after any election, and the common council shall meet and canvass said returns, and declare the result, as it appears from the same, within three days thereafter. The recorder of the common council shall forthwith notify the officer or officers elected of their election, by written notice served upon such officers in person, or left at their usual place of abode, with some person of suitable age and discretion.

1870, ch. 31, subch. 2, § 10.

**SEC. 1250. Officers to be elected — Terms of.**— The elective officers of each city shall be a mayor, treasurer, recorder, one justice of the peace for each ward, who shall be styled city justice, all of whom shall be qualified voters of the city, and two aldermen in each ward, who shall be qualified voters therein; all other officers for said city shall be appointed by the common council, unless otherwise provided. At the first general election for city officers, there shall be elected in each ward two aldermen, one for one year, and one for two years; at every annual election thereafter one alderman shall be elected from each ward, who shall hold his office for two years, and until his successor is elected and qualified. The city justices shall hold their offices for two years, and until their successors are elected and qualified; all other elective officers shall hold their offices for one year and until their successors are elected and qualified.

1870, ch. 31, subch. 2, § 4.

**SEC. 1251. Commencement of term.**— The term of every officer elected under this law shall commence on the second Tuesday of April for the year for which he was elected, and shall, unless otherwise provided, continue for one year and until his successor is elected and qualified.

1870, ch. 31, subch. 2, § 13.

**SEC. 1252. Vacancies.**— Whenever a vacancy shall occur in the office of mayor or alderman, by death, removal, resignation, or otherwise, the common council shall have power, and it shall be their duty, to declare the office vacant, by resolution entered upon their minutes. Such vacancy shall be filled by a new election, which shall be ordered by the common council within ten days after said vacancy is declared, and held within twenty days after such declaration, and reasonable notice of such election shall be given. Any vacancy happening in any other office shall be filled by the common council, unless otherwise provided for. The person elected or appointed to fill a vacancy shall hold his office, and discharge the duties thereof, for the unexpired term, and with the same rights, and subject to the same liabilities, as the person whose office he may be elected or appointed to fill.

1870, ch. 31, subch. 2, § 6.

**SEC. 1253. Same — When deemed vacant.**— Any officer removing from the city or ward for which he is elected, or any officer who shall refuse or neglect, for ten days after notice of his election or appointment, to enter upon the discharge of the duties of his office, shall be deemed to have vacated his office, and the common council shall proceed to fill the vacancy as herein prescribed.

1870, ch. 31, subch. 2, § 12.

**SEC. 1254. Removal of officers.**— Every person appointed to any office by the common council, or elected to any office by the people, may be removed from said office by a vote of two-thirds of all the aldermen authorized to be elected. But no officer elected by the people shall be removed except for cause,

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nor unless furnished with a written statement of the charges against him, nor until he shall have had a reasonable opportunity to be heard in his defence. The common council shall fix a time and place for the trial of such officer, of which not less than ten days' notice shall be given, and have power to compel the attendance of witnesses and the production of books and papers, and to hear and determine the case; and if said officer shall neglect to appear and answer the charges against him, the common council may declare the office vacant.

1870, ch. 31, subch. 2, § 5.

**SEC. 1255. New election.**—Should there be a failure by the people to elect any officer herein required to be elected on the day designated, the common council may order a new election to be held, ten days' notice of the time and place being given.

1870, ch. 31, subch. 2, § 14.

**SEC. 1256. Special elections.**—Special elections to fill vacancies, or for any other purpose, shall be held and conducted by the aldermen of each ward, in the same manner, and the returns thereof made in the same form and manner, as in general and annual elections, and within such time as may be prescribed by resolution.

1870, ch. 31, subch. 2, § 11.

**SEC. 1257. Wards.**—Each city governed by this act shall be divided into not less than two nor more than five wards, as may be provided by ordinance of the city council thereof, and each ward shall contain, as nearly as practicable, an equal number of legal voters, and also an area equal to each other.

1870, ch. 31, subch. 2, § 2. 38 M. 225.

**SEC. 1258. Corporate name—Service of process.**—The corporate name of each city governed by this act shall be "The City of —," and all and every process and notice whatever affecting any such city shall be served upon the mayor, and in his absence, upon the president of the council, and in the absence of both, upon the clerk, and in the absence of these officers from the city, then by leaving a certified copy at the office of said clerk.

1870, ch. 31, subch. 2, § 3.

## OFFICERS.

**SEC. 1259. To give bonds.**—Every person elected or appointed to any office under this act, shall, before he enters upon the duties of his office, take and subscribe an oath of office, and file the same, duly certified by the officer taking the same, with the recorder of the city; and the treasurer and marshal, and such other officers as the common council may direct, shall severally, before entering upon the duties of their respective offices, execute to the city a bond, with at least two sureties, (to be approved by the common council,) who shall make affidavit that they are each worth the penalty specified in said bond, over and above all debts, exemptions or liabilities, and said bonds shall contain such penal sum and such conditions as the common council may deem proper; and they may from time to time require new or additional bonds, and remove from office any officer refusing or neglecting to give the same.

1870, ch. 31, subch. 3, § 1.

**SEC. 1260. Mayor.**—The mayor shall take care that the laws of the state and the ordinances of the city are duly observed and enforced, and that all other executive officers of the city discharge their respective duties. He shall from time to time give the common council such information and recommend such measures as he may deem advantageous to the city. The mayor shall be the chief executive officer and head of the police of the city, and shall appoint such police officers and watchmen, except when otherwise provided for; and in case of a riot or other disturbances, he may appoint as many special or

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temporary constables as he may deem necessary; and any police officer or watchman, appointed by the mayor as aforesaid, may be discharged from office by him whenever in his opinion the welfare of the city may demand it, or a reduction of their number renders it necessary.

1870, ch. 31, subch. 3, § 2.

**SEC. 1261. Same — Approve or veto laws and resolutions.**— All ordinances and resolutions shall, before they take effect, be presented to the mayor, and if he approve thereof, he shall sign the same; and such as he shall not sign he shall return to the common council with his objection thereto, by depositing with the recorder, to be presented to the common council at their next meeting thereafter; and upon the return of any resolution or ordinance by the mayor, the same vote by which the same was passed shall be reconsidered; and if, after such reconsideration, the common council shall pass the same by a vote of two-thirds of the members elected, it shall have the same effect as if approved by the mayor, and in such case the vote shall be by ayes and noes, which shall be entered in the record by the recorder. If an ordinance or resolution shall not be returned by the mayor within five days (Sundays excepted) after it shall have been presented to him, the same shall have the same effect as if approved by him.

1870, ch. 31, subch. 3, § 3.

**SEC. 1262. Officers of council — Acting mayor — Powers.**— At the first meeting of the common council in each year, they shall proceed to elect by ballot from their number a president and vice-president. The president shall preside over the meetings of the common council, and during the absence of the mayor from the city, or his inability from any cause to discharge the duties of his office, the said president shall exercise all the powers and discharge all the duties of the mayor. In case the president shall be absent at any meeting of the common council, the vice-president shall act as presiding officer for the time being, and discharge the duties of said president. The president of the common council, or temporary presiding officer, while performing the duties of mayor, shall be styled the acting mayor, and acts performed by him, while acting as mayor as aforesaid, shall have the same force and validity as if performed by the mayor. The mayor and president and vice-president of the common council shall have the right to administer oaths and affirmations.

1870, ch. 31, subch. 3, § 4.

**SEC. 1263. Recorder.**— There shall be a recorder of said city, styled the city recorder, who shall keep his office at the place of meeting of the common council, or such other place convenient thereto as the council may determine. He shall keep the corporate seal, and all the papers and records of the city; and keep a record of the proceedings of the common council, at whose meeting it shall be his duty to attend. Copies of all papers filed in office, and transcripts from all records of the common council, certified by him under the corporate seal, shall be evidence in all courts as if the original were produced. He shall draw and countersign all orders on the treasurer in pursuance of any order or resolution of the common council, and keep a full and accurate account thereof in books provided for that purpose. The city recorder shall have power to administer oaths and affirmations, and take acknowledgment of deeds and other writings.

1870, ch. 31, subch. 3, § 5.

**SEC. 1264. Same — Duties.**— It shall be the duty of the city recorder to report to the common council the financial condition of the city, whenever the common council shall require. He shall make and keep a list of outstanding city bonds, to whom issued, for what purpose, when and where payable, and the rate of interest they respectively bear, and recommend such action to the common council as will secure the punctual payment of the principal and interest of such bonds. He shall report annually, on or about the first day of April,

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[SECS. 1265, 1266.]

to the common council, an estimate of the expenses of the city, and likewise the revenue necessary to be raised for the current year; and the fiscal year shall commence on the first day of April.

1870, ch. 31, subch. 3, § 6.

**SEC. 1265. Same—Duties.**—He shall make or cause to be made estimates of the expenses of any work to be done by the city, and countersign all contracts made in behalf of the city, and certificates of work authorized by any committee of the common council or by any city 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 recorder. The city recorder shall keep regular books of account in which he shall enter all indebtedness of the city, and which shall at all times show the precise financial condition of the city, the amount of bonds, orders, certificates, or other evidences of indebtedness issued by the common council, the amount of all bonds, orders, certificates, or other evidences 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 with all receiving and disbursing officers of the city, showing the amount they have received from the different sources of revenue, and the amount which they have disbursed under the direction of the common council. He shall keep a list of all certificates issued for work or any other purpose, and, before the levy by the common council of any special tax upon the property in the city, or any part thereof, shall report to the common council a schedule of all lots or parcels of land which may be subject to the proposed special 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 said schedule shall be certified by the affidavit of the recorder, 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 common 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. If before the first day of January of any year, the amount expended, or to be expended, chargeable to any city fund, (adding thereto the current expenses estimated for the remainder of the fiscal year and chargeable to such fund,) shall be equal to three-fourths of the tax authorized to be raised or revenue estimated for such fund, he shall report at once the same to the common council, and he shall not countersign any contract chargeable to such fund until the amount of taxes actually collected be ascertained; and during the remainder of the fiscal year he shall not countersign any contract the expenses of which shall exceed the revenue actually collected for the fund to which such expenses are properly chargeable. The recorder shall examine all reports, books, papers, vouchers and accounts of the city treasurer, and from time to time shall perform such other duties as the common council may direct. All claims and demands against the city, before they are allowed by the common council, shall be audited and adjusted by the recorder. And he shall keep a record of all his acts and doings, and keep a book in which he shall enter all contracts, with an index thereto; such record shall be open to the inspection of all parties interested. He shall not be interested directly or indirectly in any contract or job to which the city is a party, or in which the city is interested; and any contract in which he may be interested shall be null and void.

1870, ch. 31, subch. 3, § 7.

**SEC. 1266. City attorney.**—The common council shall have power to elect an attorney for the city, who shall perform all professional services incident to his office, and, when required, shall furnish opinions upon any subject submitted to him by the common council or its committees.

1870, ch. 31, subch. 3, § 8.

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SECS. 1267-1270.]

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**SEC. 1267. Treasurer.**— The treasurer shall receive all moneys belonging to the city, including all taxes, license money and fines, and keep accurate and detailed account thereof, in such a manner as the common council shall from time to time direct. The treasurer shall exhibit to the common council, at least fifteen days before the annual election, or sooner if required by them, a full and detailed account of the receipts and expenditures after the date of the last annual report, and also of the state of the treasury, which account shall be filed with the clerk, and a copy of the same published in one or more of the city newspapers, or in the paper published nearest to said city. He shall also report to the common council at such times and in such manner as they may require.

1870, ch. 31, subch. 3, § 9.

**SEC. 1268. Chief of police — Policemen — Watchmen.**— There shall be a chief of police of said city, who shall be appointed by the mayor, by and with the consent of the common council, and who shall perform such duties as shall be prescribed by the common council for the preservation of the public peace. All police officers and watchmen of said city shall possess the powers of constables at common law, or by the laws of this state; and it shall be their duty to execute and serve all warrants, process, commitments, and all writs whatsoever, issued by the city justice, for any violation of the laws of the state of Minnesota, or of the ordinances or by-laws of said city; and also all writs and process whatever, issued by the city justice in civil actions; and they shall have authority to pursue and arrest any person fleeing from justice, in any part of the state, and, when performing the duties of constables aforesaid, shall be entitled to like fees. Watchmen shall have authority to arrest and detain any person guilty of any breach of the peace, or any violation of the laws of this state, or of the ordinances or by-laws of the city; and for these purposes shall possess the powers of constables at common law, while on duty.

1870, ch. 31, subch. 3, § 10.

**SEC. 1269. Officers of the peace.**— The mayor or acting mayor, recorder, and each alderman, the city justices, police officers and watchmen, shall be officers of the peace, with powers of constables at common law, and may command the peace, suppress in a summary manner all rioting and disorderly behavior within the limits of the city, and for such purposes may command the assistance of the by-standers, and, if need be, of all the citizens and military companies; and if any person, by-stander, military officer or private, shall refuse to aid in maintaining the peace when so required, each person shall forfeit and pay a fine of fifty dollars; and in case where the civil powers may be required to suppress riots or disorderly behavior, the superior or senior officer present, in the order mentioned in this section, shall direct the proceedings.

1870, ch. 31, subch. 3, § 21.

**SEC. 1270. Street commissioner.**— The common council shall, at their first meeting after the annual election, or an adjournment thereof, elect by ballot a street commissioner, who shall hold his office for one year, and until his successor is elected and qualified. It shall be the duty of the street commissioner to superintend all work and improvements on the streets, bridges and public grounds of the city, and carry into effect all orders and ordinances of the common council in relation to work or improvements upon the streets, roads, bridges and public grounds of the city; and he shall be required to execute a bond, with sureties satisfactory to the common council, conditioned for the faithful performance of his duties, and that he will account for all moneys collected or received by him in his official capacity, or belonging to the city.

1870, ch. 31, subch. 3, § 11.

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[SECS. 1271-1274.]

**SEC. 1271. Assessor.**—The common council shall, in the month of April in each year, elect an assessor, who shall be styled the city assessor, who shall perform all duties in relation to the assessing of property for the purpose of levying of all city, county and state taxes. And upon the completion of the assessment roll, he shall return the same to the common council, who may alter, revise and equalize the same, as they may deem it just and proper. Said city assessor shall hold his office for one year, and until his successor is elected and qualified.

1870, ch. 31, subch. 3, § 12.

**SEC. 1272. City justices — Jurisdiction, etc.**—The justices of the peace of the city, styled city justices, shall possess all the authority, power and rights of a justice of the peace of the county under the laws of this state, and shall have, in addition thereto, exclusive jurisdiction to hear and try all complaints for violation of any provision or provisions of the city charter, or any ordinance, by-law, rule or regulation made or adopted under or by virtue thereof, and of all cases cognizable before a justice of the peace in which the city is a party, and of all writs, prosecutions and proceedings in the recovery of any fine, forfeiture or penalty under any by-law, ordinance or regulation of the said city or its charter, and in all cases of offences committed against the same. And the said city justices shall have jurisdiction in cases of larceny, and may hear and try the same where the amount claimed to have been stolen does not exceed the sum of twenty-five dollars. In all prosecutions for assaults, batteries and affrays, and for all other offences not indictable, and in all civil suits or proceedings before said city justices, the same forms and proceedings shall be had and used, where not otherwise directed, as are established and required to be had in civil and criminal actions by the laws of this state before a justice of the peace; and appeals from the judgment and decisions of said city justices shall be allowed as now provided by law for appeals from judgments rendered by justices of the peace. In all cases of convictions for assaults, batteries and affrays within said city, and in all cases of convictions under any ordinances of the city for breach of the peace, disorderly conduct, keeping houses of ill-fame, or frequenting the same, and of keeping and maintaining disorderly or ill-governed houses, the said justices shall have power, in addition to the fines or penalties imposed, to compel said offenders to give security for their good behavior, and to keep the peace, for a period not exceeding six months, and in a sum not exceeding five hundred dollars. The said justices shall have the same power and authority in cases of contempt as a justice of the peace under laws now in force. All fines and penalties imposed by the city justices for offences committed within the city limits, for the violation of any ordinance, by-law or regulation of said city, shall belong to and be a part of the finances of said city; for offences against the laws of the state, of the county treasury.

1870, ch. 31, subch. 3, § 13.

**SEC. 1273. Same — Reports of.**—The city justices shall, as often as the common council may require, report to the common council all the proceedings instituted before them in which the city is interested, and shall at the same time account for and pay over to the city treasurer all fines and penalties collected or received by them belonging to said city; and said justices shall be entitled to receive from the county such fees in criminal cases as are allowed by statute to justices of the peace for similar services.

1870, ch. 31, subch. 3, § 14.

**SEC. 1274. Same — Office — Issue process, when.**—Said justices shall be in attendance at their offices for the transaction of business at such reasonable hours as the common council may prescribe, and complaints may be made to, and writs and process issued by them at all times, in court or otherwise.

1870, ch. 31, subch. 3, § 15.

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SECS. 1275-1278.]

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**SEC. 1275. Same — Costs.**— In all suits brought on behalf of said city for the recovery of any forfeiture, fine or penalty, in all cases arising on complaints for the violation of any ordinance, by-law or regulation of said city, and on complaints for assault, battery or affray, or other misdemeanor, or criminal offence not indictable, committed within said city, the said justices shall be authorized to tax, with the other legal costs, one dollar for each trial, for the benefit of said city; and their residence in said city shall not deprive them of jurisdiction of actions brought in favor of or against said city, when said actions are otherwise within the jurisdiction of a justice of the peace.

1870, ch. 31, subch. 3, § 16.

**SEC. 1276. City surveyor.**— The common council, at their first meeting in each year, or as soon thereafter as may be, shall 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 common council shall 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 said city, and shall be carefully preserved in the office of the surveyor, open to the inspection of persons interested; and the same, together with all the books and papers appertaining to said office, shall be delivered over by the surveyor, at the expiration of his term of office, to his successor, or the common council.

1870, ch. 31, subch. 3, § 17.

**SEC. 1277. City printer.**— The common 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 week, in such manner as the council may direct, that sealed bids shall be received by the recorder of the common council for doing said printing. The bid or bids received by said clerk to do said printing shall be publicly opened and read by the recorder, at such time and place as the common council shall appoint, and the person or persons offering to do said printing for the lowest sum or price in any newspaper published in said city, and shall give satisfactory security for the performance of the work, shall be declared city printer for the ensuing year, and in the newspaper designated in said 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 common council to be published in a public newspaper. The city printer or printers, immediately after the publication of any notice, ordinance or resolution which is required to be published, shall file with the city recorder a copy of such publication, with his affidavit, or the 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 person will publish or offer to publish, in any newspaper published in said city, such ordinances or other matters as the common council may require to be published, at a rate not exceeding that now prescribed by statute for legal advertisements or notices, the common council may make such other provisions for publishing its ordinances, by-laws and matters requiring publication as it may think fit, anything herein contained to the contrary notwithstanding.

1870, ch. 31, subch. 3, § 18.

**SEC. 1278. Further duties — Compensation — Contracts.**— The common council shall have power at any time to require other and further duties to be performed by any officer whose duties are herein prescribed, not inconsistent with this act, and to appoint such other 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 common council, or appointed by the mayor, as hereinbefore provided, shall be appointed for a longer term than one year, and until his successor is elected or appointed

and duly qualified. The common council shall have the power, unless herein otherwise provided, to fix the compensation of all officers elected or appointed under this act, and such compensation shall be fixed by resolution; and in regard to all offices created by this charter, the compensation shall be fixed within three months from the first organization and meeting of the common council; after the first year, the compensation of officers shall be fixed for the fiscal year in the month of April of each year, except for such offices as may hereafter be created, in regard to which the compensation shall be fixed at the time of the creation of such office; nor shall the compensation of any officer, after having been fixed, be increased or diminished during the term for which such officer was elected or appointed. No officer elected or appointed to office under the provisions 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.

1870, ch. 31, subch. 3, § 20.

**SEC. 1279. Transfer to successor.**— If any person having been an officer of said city, shall not, within ten 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 city, or pertaining to the office he may have held, he shall forfeit and pay to the use of the city one thousand dollars, besides all damages caused by his neglect or his refusal so to deliver; and said successor may receive possession of such books, papers and effects, in the manner prescribed by the laws of this state.

1870, ch. 31, subch. 3, § 19.

**SEC. 1280. Warrants — When no fees.**— All warrants issued by city justices for the violation of any general laws of this state shall run to the sheriff or any constable of the county, or to the chief of police or any policeman of the city; but no chief of police or policeman or marshal, where he goes outside of the county to make an arrest, shall receive any fees therefor, unless the commissioners of the county are satisfied that a delay in obtaining the sheriff or his deputy, or a constable, to make the arrest, might endanger an escape. This act shall take effect and be in force from and after its passage; anything in the charter of the city of St. Paul or other city to the contrary notwithstanding.

1872, ch. 69, §§ 1, 2.

#### COMMON COUNCIL — GENERAL POWERS AND DUTIES.

**SEC. 1281. Council — Quorum — Style of ordinances.**— The aldermen shall constitute the common council, and the style of all ordinances shall be, "The common council of the city of — do ordain," etc. The common council shall meet at such time and place as they by resolution may direct. A majority of the aldermen shall constitute a quorum.

1870, ch. 31, subch. 4, § 1. 29 M. 457.

**SEC. 1282. Meetings — Qualification of members.**— The common council shall hold stated meetings, and the mayor may call special meetings, by notice to each of the members, to be delivered personally or left at their usual place of abode. The common council shall be the judges of the election and qualification of its own members, and in such cases shall have power to send for persons and papers, and shall also determine the rules of its own proceedings, and have power to compel the attendance of absent members.

1870, ch. 31, subch. 4, § 2. 22 M. 218.

**SEC. 1283. Powers.**— The common council shall have the management and control of the finances and all the property of the city, and shall likewise, in addition to the power herein vested in them, have full power and authority

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to make, enact, ordain, establish, publish, enforce, alter, modify, amend and repeal all such ordinances, by-laws, rules and regulations for the government and good order of the city, for the suppression of vice and intemperance, and for the prevention of crime, as they shall deem expedient; they shall have power to establish and maintain a city prison: *provided*, that until otherwise ordered by the common council, the county jail of the county shall be used as a city prison, and it shall be the duty of the sheriff or jailor of the county to take into custody and safely keep in said jail all persons committed thereto until discharged according to law. The common 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 provisions of any ordinance or by-law passed or ordained by them, and all such ordinances, rules and by-laws are hereby declared to have all force of law: *provided*, that they be not repugnant to the constitution and laws of the United States, or of this state; and for these purposes shall have authority by ordinance, resolution or by-law —

1. **Amusements.**— To license and regulate the exhibitions of common showmen, and shows of all kinds, or the exhibition of caravans, circuses, concerts or theatrical performances, billiard tables, nine or ten-pin alleys, bowling saloons, to grant licenses to and regulate auctions and auctioneers, tavern keepers and victualling-house keepers, and all persons dealing in spirituous, vinous or fermented liquors: *provided*, that all licenses for so dealing in spirituous, vinous or fermented liquors, shall not be less than fifty dollars a year, and no license shall be granted for a less term than one year, and all licenses shall commence and terminate on the first day of May of each year.

2. **Gaming, etc.**— To restraint and prohibit all descriptions of gambling and fraudulent devices and practices, and all playing of cards, dice, or other games of chance, for the purpose of gambling, in said city; and to restrain any person from selling, giving or dealing in spirituous, vinous or fermented liquors, unless duly licensed by the common council.

33 M. 103; 23 M. 10.

3. **Peace, etc.**— To prevent any riots, disorderly assemblages in said city and provide for the arrest of and punishment of any person or persons who shall be guilty of the same, to suppress disorderly houses, and houses of ill-fame, and to provide for the arrest and punishment of the keepers thereof, and to authorize the seizure and destruction of all implements used for the purpose of gambling.

4. **Nuisances.**— To compel the owner or owners of any cellar, tallow-chandler shop, soap factory, tannery, stable, barn, privy, sewer, or other unwholesome structure or place, to cleanse, remove or abate the same from time to time, as often as may be deemed necessary for the health, comfort and convenience of the inhabitants of said city.

5. **Slaughter-houses, etc.**— To direct the location and management of slaughter-houses and markets, breweries and distilleries, and to establish rates for and license vendors of gunpowder, and regulate the storage, keeping and conveying of gunpowder or other combustible materials.

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

23 M. 10.

7. **Driving, etc.**— To prevent and punish immoderate driving or riding in the streets, to regulate [the speed of] cars and locomotives in said city, and to prevent their obstructing the streets of said city; to compel persons to fasten their horses or other animals attached to vehicles or otherwise, while standing in the streets; and to regulate places of bathing and swimming in the waters within the limits of the city.

8. **Restrain cattle, etc.**— To restrain the running at large of cattle, swine, sheep, poultry and geese, and to authorize the distraining and sale of the same, and to impose penalties on the owners of such animals for violation of the ordinances: *provided*, that when a sale of such animals shall be made, the proceeds thereof, after deducting the expenses of distraining, keeping, advertising and selling such animals, shall be deposited in the office of the treasurer of said city, for the use and benefit of the owners thereof, if called for by such owner within one year from the day of such sale.

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

10. **Meats.**— To prevent any person from bringing, depositing or having within said city any putrid carcass or unwholesome substance, and to require the removal of the same by any person who shall have upon his premises any such substances, or any putrid or unsound meat, flesh, or fish, or hides or skins of any kind, and to authorize the removal of the same at the expense of the owners.

11. **Pounds — Water-works.**— To establish and construct public pounds, pumps, wells, cisterns, reservoirs and hydrants; to erect lamps, and provide for the lighting of the city, and to control the erection of gas works or other works for lighting the streets, public grounds and public buildings, and to create, alter and extend lamp districts; to regulate and license hacks, carts, omnibuses, and the charges of hackmen, draymen, cabmen and omnibus drivers in the city.

12. **Boards of health.**— To establish and regulate boards of health, provide hospitals and hospital grounds, and the registration of births and deaths, and the returns of bills of mortality, and to regulate or prevent, if deemed expedient, the burial of the dead within the city limits.

13. **Bread.**— To regulate the size and weight of bread, and to provide for the seizure and forfeiture of bread baked contrary thereto.

14. **Sidewalks.**— To prevent all persons riding or driving any horse, mule or ox, or other animal, on the sidewalks in said city, or in any way doing any damage to said sidewalks.

15. **Fire arms and fire works.**— To prevent the discharging of fire arms or crackers, and to prevent the exhibition of any fireworks in any situation which may be considered by the common council dangerous to the city or any property therein, or annoying to any of the citizens thereof.

16. **Drunkenness and obscenity.**— To prevent open and notorious drunkenness, brawling and obscenity in the streets or public places of the city, and to provide for the arrest and punishment of all persons who shall be guilty of the same.

17. **Runners.**— To restrain and regulate parties, runners, agents and solicitors for boats, vessels, stages, cars and public houses or other establishments.

18. **Markets.**— To establish public markets and other public buildings, and make rules and regulations for the government of the same; to appoint suitable officers for overseeing and regulating such markets, and to restrain all persons from interrupting or interfering with the due observance of such rules and regulations.

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

12 M. 41.

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

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21. **Sidewalks, etc.**— To compel the owner or occupant of buildings or grounds to remove snow, dirt or rubbish from the sidewalk, street or alley opposite thereto, and to compel such owner or occupant to remove from the lot owned or occupied by him, all such substances as the board of health shall direct, and, in his default, to authorize the removal or destruction thereof by some officer, at the expense of such owner or occupant.

22. **Quarantine.**— To regulate, control and prevent the landing of persons from boats, vessels, or other conveyances whereon are contagious or infectious diseases or disorders, and to make such disposition of such persons as to preserve the health of the city.

23. **Auctions.**— To regulate the time, manner and place of holding public auctions and vendues, and sales at public outcry.

24. **Watchmen and police.**— To provide for watchmen, and to prescribe their number and duties, and regulate the same, and to create and establish the police of said city, and to prescribe the number of police officers and their duties, and to regulate the same.

25. **Weights and measures.**— To provide by ordinance for a standard of weights and measures; for the appointment of a city sealer, and require all weights and measures to be sealed by the city sealer; and to provide for the punishment of the use of false weights and measures.

26. **Inspection.**— To regulate the inspection of flour, pork, beef, fish, salt, whiskey, and other liquors and provisions; and to appoint inspectors, measurers, weighers and gaugers; to regulate their duties and prescribe their compensation.

27. **Shade trees.**— To direct and regulate the planting and preservation of ornamental trees in the streets, alleys, highways and public grounds of the city.

28. **Nuisances.**— To remove and abate any nuisance injurious to the public health or safety, and to remove or require to be removed any building, which, by reason of dilapidation, defects in structure, or other causes, may have or shall become imminently dangerous to life and property; and to provide for the punishment of all persons who shall cause or maintain such nuisances, and to charge and assess the expense of removing or abating the same upon the lot or lots upon which such nuisance or dangerous building may be maintained.

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

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

31. **Vagrants and beggars.**— To restrain and punish vagrants, mendicants, street beggars, and provide for the punishment of the same.

32. **Punishment.**— Fines, penalties and punishments, imposed by the common council for the breach of any ordinance, by-law or regulation of said city, may extend to a fine not exceeding one hundred dollars, and imprisonment in the city prison or county jail not exceeding thirty days, or both, and to be fed on bread and water at the discretion of the city justice; and offenders against the same may be required to give security for their good behavior, and to keep the peace, for a period of not exceeding six months, and in a sum not exceeding five hundred dollars.

1870, ch. 31, subch. 4, § 3.

SEC. 1284. **Purchase and hold real and personal property.**— Each city may purchase and hold real and personal estate for public purposes, suffi-

cient for the convenience of the inhabitants thereof, and may sell and convey the same, and the same shall be free from taxation.

1870, ch. 31, subch. 10, § 6.

**SEC. 1285. Public nuisances.**— The power conferred upon the common council to provide for the abatement or removal of nuisances, shall not bar or hinder suits, prosecutions or proceedings in the courts according to law. Depots, houses or buildings of any kind within the limits of said city, wherein more than twenty-five pounds of gunpowder, or more than five barrels of thirty-six gallons each, (or such greater or less quantity as said common council may direct by ordinance,) of petroleum, kerosene, naphtha, or other inflammable or explosive oils or substances are deposited, stored or kept at any one time, gambling houses, houses of ill fame, disorderly taverns, and houses or places where spirituous, vinous or fermented liquors are sold without license required therefor, within the limits of said city, are hereby declared and shall be deemed public or common nuisances.

1870, ch. 31, subch. 4, § 5.

**SEC. 1286. Officers' accounts audited — Delinquencies.**— The common council shall examine, audit and adjust the accounts of the recorder, treasurer, street commissioners, city justice, and all other officers and agents of the city, at such times as they may deem proper, and also at the end of each year, and before the terms for which the officers of said city were elected or appointed shall have expired. And the common council shall require each and every such officer and agent to exhibit his books, accounts and vouchers for such examination and settlement; and if any such officer or agent shall refuse to comply with the orders of said council, in the discharge of their said duties, in pursuance of this section, or shall neglect or refuse to render his accounts, or present his books and vouchers to the council, or a committee thereof, it shall be the duty of the common council to declare the office of such person vacant. And the common council shall institute suits and proceedings at law against any officer and agent of said city who may be found delinquent or defaulting in his accounts, or in the discharge of his official duties, and shall make a full record of all such settlement and adjustment.

1870, ch. 31, subch. 4, § 6.

**SEC. 1287. Ordinances — Evidence — Appropriations.**— All ordinances, regulations, resolutions and by-laws shall be passed by an affirmative vote of a majority of the members of the common council present, by ayes and noes, and published in the official paper, and posted in three conspicuous places in each ward for two weeks, before the same shall be in force; and shall be admitted as evidence in any court in the state, without further proof; they shall be recorded by the city recorder in books provided for that purpose. No appropriation shall be made without a vote of a majority of the members of the council present in its favor, which vote shall be taken by ayes and noes, and entered among the proceedings of the council.

1870, ch. 31, subch. 4, § 4.

**SEC. 1288. Bonds — Interest — Sinking fund — Passage of ordinances.**— That the common council of the city shall have full power from time to time to borrow money to pay the indebtedness of the city, and in order to pay such indebtedness the city may issue city bonds therefor, bearing interest not to exceed ten per cent. per annum, redeemable at any time within ten years, at the discretion of the common council: *provided*, that at no time shall it be lawful for said indebtedness, bonded or otherwise, to exceed the sum of fifteen thousand dollars, unless the same be authorized by two-thirds vote of the legal votes cast at the election held for such purposes: *and provided further*, that the city council shall each and every year levy a tax of one mill on the dollar of the taxable property of the city for each thousand dollars that may be

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SECS. 1289-1293.]

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funded by the said city into bonds, to pay the interest on said bonds, and create a sinking fund to pay the same when due.

**All laws, ordinances, regulations and by-laws** shall be passed by an affirmative vote of a majority of the common council, and be signed by the mayor, and shall be published in the official paper of the city, before the same shall be in force; and within twenty days thereafter they shall be recorded by the recorder in books provided for that purpose; but before any of the said laws, ordinances, regulations or by-laws shall be recorded, the publication thereof, as aforesaid, shall be proved by the affidavit of the foreman or publisher of such newspaper, and the said affidavit shall be recorded therewith, and at all times shall be deemed and taken as sufficient evidence of such publication.

1870, ch. 31, subch. 4, § 7. This section abrogates acts 1868, ch. 51.

**SEC. 1289. Vote reconsidered.**—No vote of the common council shall be reconsidered or rescinded at a subsequent meeting, unless at such subsequent meeting there be present as large a number of aldermen as were present when the vote was taken.

1870, ch. 31, subch. 10, § 1.

**SEC. 1290. Remission of penalties.**—No penalty or judgment recovered in favor of the city shall be remitted or discharged, except by the vote of two-thirds of the aldermen elect.

1870, ch. 31, subch. 10, § 2.

## TAXES.

**SEC. 1291. Purpose — Limit.**—The common council shall have power to levy, upon all the taxable property of said city, taxes to provide for the current expenses of the city government and police, for the opening, maintaining and improvement of public grounds, and the construction of buildings and improvements of a general character: *provided*, that such taxes shall in no year exceed one per cent. of the assessed valuation.

1870, ch. 31, subch. 5, § 1.

**SEC. 1292. Levy of poll-tax.**—It shall be lawful for the common council of said city, at any time, to levy a corporation poll-tax upon every qualified voter in said city: *provided*, that said tax shall not in any one year exceed the sum of two dollars on each person.

1870, ch. 31, subch. 5, § 8.

**SEC. 1293. Assessments for improvements.**—The common council shall have power to levy a special tax upon all the taxable property in the city, or of the different wards of the same, for the purpose of constructing and maintaining bridges and culverts, and opening, constructing, maintaining and repairing roads, highways, streets and alleys; for the construction of reservoirs, cisterns, sewers, drains and street gutters, and grading of streets, and for other purposes conducive to good order and cleanliness, and to protection against crime, disease and fire: *provided*, that such taxes shall, in no year, exceed one per cent. of the assessed valuation: *and provided further*, that for the improvements in this section mentioned, the common council shall have power to assess the tax to pay the same upon the ward or wards benefited by such improvements, in such manner and to such extent as the common council may think just and equitable. The tax shall be apportioned upon a cash valuation of the property which it shall be determined is liable to assessment for such improvements. No debt shall be incurred or created by the city, the common council, or any officer of the city, except pursuant to the authority herein expressly given for that purpose; and no order or orders shall be issued upon the city treasury exceeding the amount of tax collected, or assessed and in process of collection.

1870, ch. 31, subch. 5, § 2.

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[SECS. 1294-1299.]

**SEC. 1294. Annual levy — Special election to issue bonds.**— The common council shall have power, and it shall be the duty of the common council, to levy annually, upon the taxable property of said city, taxes sufficient to pay all bonds or other indebtedness due and payable in any year, and the interest on bonds or other indebtedness due or payable in any year, unless that previously to the first day of September in each year some other adequate provision has been made for the payment of the same. The common council shall have the power to issue bonds and levy taxes exceeding the amount authorized by other sections of this act: *provided*, the same be authorized by a majority of the voters present and voting at an election to be held for that purpose. The time, place and manner of holding such election to be prescribed by the common council, the same notice to be given as at other elections. And no bonds for any purpose shall be issued by the common council unless so authorized.

1870, ch. 31, subch. 5, § 3.

**SEC. 1295. Manner of.**— Taxes may be levied by resolution of the common council, and no tax shall be invalid by reason of any informality in the manner of levying the same, nor because the amount levied shall exceed the amount required to be raised for the special purpose for which the same is levied; but in such case the surplus shall, if the tax be a general tax, go into the general fund of the city; if it be a bond or interest tax, it shall be kept and used for the future payment of principal or interest of the same class of bonds, or the purchase thereof before due; if it be for improvements, it shall be kept and used for future improvements of the same character.

1870, ch. 31, subch. 5, § 4. 20 M. 468.

**SEC. 1296. Collecting taxes.**— The common council shall cause to be transmitted to the county auditor of the county, on or before the first day of September of each year, a statement of all taxes by them levied; and such taxes shall be collected, and the payment thereof enforced, with and in like manner as state and county taxes are paid and the payment thereof enforced, and the county treasurer of said county shall pay such taxes over as fast as collected, to the treasurer of said city.

1870, ch. 31, subch. 5, § 5.

**SEC. 1297. Same — Poll tax.**— The street commissioner shall collect the corporation or poll tax which may be levied by the common council, and said street commissioner shall have all the power as possessed by road supervisors as provided by the laws of the state, and shall report to the common council when required.

1870, ch. 31, subch. 5, § 8. 20 M. 396.

**SEC. 1298. Payment of money out of treasury.**— No money shall be paid out of the city treasury unless such payment be authorized by a vote of the common council, and these shall be drawn out only upon orders by the mayor and countersigned by the recorder, which orders shall specify the purpose for which they were drawn, and the fund out of which they are payable, and the name of the person in whose favor the same are drawn, and may be made payable to the order of such person, or to the bearer, as the common council may determine.

1870, ch. 31, subch. 5, § 6.

**SEC. 1299. Orders paid and cancelled.**— When any such order shall have been paid or received by the treasurer, it shall not again be issued, but he shall immediately cancel the same, and file the same away in his office, keeping the orders drawn upon each fund separate.

1870, ch. 31, subch. 5, § 7.

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SECS. 1300, 1301.]

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## OPENING AND VACATING STREETS, ALLEYS, ETC.

**SEC. 1300. Control of.**—The common council shall have the care, supervision and control of all public highways, bridges, streets, alleys, public squares and grounds within the limits of said city, and shall cause all streets which may have been opened and graded, to be kept open and in repair, and free from nuisances.

1870, ch. 31, subch. 6, § 1. 17 M. 308; 18 M. 279; 19 M. 245, 300; 20 M. 117; 21 M. 65; 22 M. 443.

**SEC. 1301. Taking private property.**—The common council of said city, by a vote of not less than two-thirds of the members present, and constituting a quorum of any stated or special meeting, such vote to embrace a majority of all the members elect, shall have power to lay out, open, alter and vacate public squares, streets, grounds, highways and alleys, and to widen and straighten the same: *provided*, that whenever it shall be required to take private property for the purposes above stated, they shall proceed in the manner hereinafter provided.

1. **Commissioners.**—The common council, upon ordering an improvement above mentioned to be made, shall appoint as many commissioners as there may be wards, of said city, selecting one from each ward, who shall be a disinterested freeholder and qualified voter of said city, to view the premises, and assess the damages which may be occasioned, by the taking of private property or otherwise, in making said improvement. Said commissioners shall be notified as soon as practicable by the city clerk of said city, to attend at his office, at a time to be fixed by him for the purpose of qualifying and entering upon their duties; and in case any such commissioner, upon being so notified, shall neglect or refuse to attend as aforesaid, he shall forfeit and pay a fine to said city, not exceeding fifty dollars, and shall be liable to be prosecuted therefor before the city justice of said city, as in the case of fines imposed for a violation of an ordinance of said city; and the commissioners in attendance shall be authorized to appoint another commissioner or commissioners in place of any absentee or absentees aforesaid, selected from the ward in each case not represented, and possessing the qualifications aforesaid. In all other cases of vacancy the common council shall fill such vacancy.

2. **Oath and return.**—The commissioners shall be sworn by the city clerk to discharge their duties as commissioners in the matter with impartiality and fidelity, and to make due return of their actions and doings to the common council.

23 M. 167.

3. **Survey — Plat — Notice.**—The said commissioners shall, with all reasonable speed, with the assistance of the city surveyor of said city, cause a survey and plat of the proposed improvement to be made and filed with the city clerk, exhibiting, as far as practicable, the land or parcels of property required to be taken, or which may be damaged thereby; and shall thereupon give notice by publication in the official newspaper of said city, for at least ten days, to the effect that such plat has been filed, and that the said commissioners will meet at a place and time designated by them, and thence proceed to view the premises, and assess the damages for property to be taken, or which may be damaged by such improvement.

4. **Proceedings — View — Assessment.**—At the time and place according to said notice, the said commissioners shall view the premises, and may hear any evidence or proof offered by the parties interested, and adjourn from day to day, if necessary for the purpose aforesaid. When their view and hearing aforesaid shall be concluded, they shall determine and assess the amount of damages to be paid to the owner or owners of each parcel of property proposed to be taken, or which may be damaged by said improvement, and in so doing shall take into consideration the value of the property pro-

posed to be taken, with such other damage as may be incident thereto, and also the advantages which will accrue to such owner or owners in making such improvement.

5. **When building taken or removed.**— If there should be any building standing in whole or in part upon the land to be taken, the said commissioners shall in each case determine and assess the amount of damages which should be paid to the owner or owners thereof, in case such building, or so much thereof as might be necessary, should be taken; and shall also determine and assess the amount of damages to be paid to such owner or owners in case he or they should elect to remove such building; and the damages in relation to buildings aforesaid shall be assessed separately from the damages in relation to the land upon which they are erected.

6. **Divided ownership.**— If the lands and buildings belong to different persons, or if the land be subject to lease, mortgage or judgment, or if there be any estate in it less than an estate in fee, [the] injury or damage done to such persons or interests respectively may be awarded to them by the commissioners, less the benefit resulting to them from the improvement.

7. **Report to council.**— The said commissioners, having ascertained and assessed the damage aforesaid, shall make and file with the city clerk a written report to the common council, of their action in the premises, embracing a schedule or assessment of the damages in each case, with a description of the land and the name of the owners, if known to them, and also a statement of the costs of the proceeding.

8. **Confirmation — Election to remove buildings.**— Upon such report being filed in the office of the city clerk, said city clerk shall give at least ten days' notice by publication in the official newspaper of said city, to the effect that such assessment has been returned, and that the same will be confirmed by the common council, at a meeting thereof, to be named in said notice, unless objections are made in writing by persons interested in any land required to be taken. Any persons interested in buildings standing in whole or in part upon any land required to be taken by such improvement, shall, on or before the time specified in said notice, notify the common council in writing of their election to remove such buildings, according to the award of the commissioners. The common council, upon the day fixed for the consideration of such report, or at such subsequent meeting to which the same may stand over or be referred, shall have power, in their discretion, to confirm, revise or annul the assessment, giving due consideration to any objections interposed by parties interested.

9. **Payment of damages.**— The damages assessed shall be paid out of the general funds of said city, and shall be paid or tendered, or deposited and set apart in the treasury of said city, to and for the use of the parties entitled thereto, within six months from the confirmation of such assessment and report; and the land or property required to be taken for the purposes aforesaid shall not be appropriated until the damages awarded therefor to the owner thereof, shall be paid or tendered to the owner or his agent, or deposited and set apart for his use as aforesaid; and in case the said city should be unable to determine to whom the damages in any particular case so awarded should be paid, or in case of disputed claims in relation thereto, the damages in such case may be deposited, by order of the common council, in the district court of the county, in the same manner as moneys are paid into court, until the parties entitled thereto shall substantiate their claim to the same.

10. **Removal of buildings.**— In case any owner or owners of buildings as aforesaid shall have elected in manner aforesaid to remove his or their buildings, he or they shall so remove them within thirty days from the confirmation of said report, or within such further time as the common council may allow for the purpose, and shall thereupon be entitled to payment from said city of the amount of damages awarded in such case, in case of removal.

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SECS. 1302, 1303.]

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When such person or persons shall not have elected to remove such buildings, or shall have neglected (after having elected to remove) to remove the same, within the time prescribed, such buildings, or so much thereof as may be necessary, upon payment or depositing the damages awarded for such taking, in manner aforesaid, may be then taken and appropriated, sold or disposed of, as the common council shall direct, and the same or the proceeds thereof shall belong to said city.

**11. Guardians.**—When any known owner of lands or tenements, affected by and proceeding under this act, shall be an infant, or labor under legal disability, the judge of the district court of the county, or, in his absence, the judge of any court of record, may, upon application of said commissioners, or of said city, or such party, or his next friend, appoint a suitable guardian for such party, and all notices required by this act shall be served upon such guardian.

**12. Appeals.**—Any person feeling himself aggrieved by such assessment, may by notice in writing served on the mayor of said city, a copy whereof, with proof of service, shall be filed in the office of the clerk of the district court of the county, within twenty days from the time of confirmation of said report or assessment, appeal from such assessment to the district court aforesaid, when such appeal shall be tried by the court and jury, as in ordinary cases; but no pleadings shall be required; and the party appealing shall specify, in the notice of appeal, the grounds of objection to such assessment, and shall not be entitled to have any other objections than those specified, considered; and a transcript of such report, certified by the city clerk, or the original thereof, shall be *prima facie* evidence of the facts therein stated, and that such assessment was regular and just, and made in conformity to law. The judgment of such court therein shall be final. Such appeal shall be entered and brought on for trial, and be governed by the same rules in all other respects, as appeals from justices of the peace in civil suits.

1870, ch. 31, subch. 6, § 2. 20 M. 491; 23 M. 167.

**SEC. 1302. Survey and profile.**—Whenever any public ground, street or alley shall be laid out, widened or enlarged, under the provisions of this chapter, the common council shall cause an accurate survey and profile thereof to be made and filed in the office of the city surveyor, and also filed in the office of the register of deeds of the county.

1870, ch. 31, subch. 6, § 3.

**SEC. 1303. Vacation of streets, public grounds, etc.**—No public grounds, streets, alleys or highways within said city shall be vacated or discontinued by the common council, except upon the petition of a majority of the owners of property on the line of such public grounds, streets, alleys or highways, resident within the said city; such petition shall set forth the facts and reasons for such vacation, accompanied by a plat of such public grounds, streets, alleys or highways proposed to be vacated, and shall be verified by the oath of at least two of the petitioners. The common council shall thereupon, if they deem it expedient that the matter should be proceeded with, order the petition to be filed of record with the city clerk, who shall give notice by publication in the official paper of said city, for four weeks, at least once a week, to the effect that such petition has been filed as aforesaid, and stating in brief its object, and that said petition will be heard and considered by the common council, or a committee appointed by them, on a certain day and place therein specified, not less than ten days from the expiration of such publication. The common council, or such committee as may be appointed by them for the purpose, at the time and place appointed, shall investigate and consider the said matter, and shall hear the testimony and evidence on the part of parties interested. The common council thereupon, after hearing the same, or upon the report of such committee in favor of granting such petition, may, by resolution passed by a two-thirds vote of all the members elect,

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[SECS. 1304-1309.]

declare such public grounds, streets, alleys or highways, vacated; which said resolution, after the same shall go into effect, shall be published as in the case of ordinances, and thereupon a transcript of such resolution, duly certified by the city clerk, shall be filed for record and duly recorded in the office of the register of deeds of the county.

1870, ch. 31, subch. 6, § 4.

SEC. 1304. **Same — Appeal.**— Any person aggrieved thereby may, within twenty days after the publication thereof, appeal to the district court of the county, under the same regulations as in the case of opening streets and alleys, and the judgment of the court thereon shall be final.

1870, ch. 31, subch. 6, § 5.

SEC. 1305. **Record of proceedings.**— It shall be the duty of the clerk to keep in his office a record of all proceedings taken under this chapter; and, after the confirmation of any report mentioned in sections two and four of this chapter, said clerk shall carefully record and transcribe in such record all the proceedings taken in relation to the matter in said report, including all petitions, orders and appointments of commissioners, returns and reports of commissioners, notices and proofs of publication thereof, and orders or resolutions of the council; and the said record, or a certified transcript thereof, or the original papers, petitions, proofs of publication, orders or resolutions on file in his office, shall be *prima facie* evidence of the facts therein contained, in any court in this state.

1870, ch. 31, subch. 6, § 6.

## STREET GRADES AND SIDEWALKS.

SEC. 1306. **Grade of streets — Profiles.**— The common council may cause to be established from time to time, and as rapidly as the convenience of the inhabitants may require, under the direction of the city surveyor, the grade of all streets, sidewalks and alleys in said city, and it shall cause accurate profiles thereof to be made and kept in the office of the city surveyor.

1870, ch. 31, subch. 8, § 1. 22 M. 13.

SEC. 1307. **Width and material of sidewalks.**— The common council shall prescribe the width of sidewalks, and may establish different widths in different localities, and determine the kind of material of which they shall be constructed, having regard to the business and the amount of travel in the vicinity of each.

1870, ch. 31, subch. 8, § 5.

SEC. 1308. **Construction and repair of sidewalks.**— Whenever the common council shall deem it necessary to construct or repair any sidewalk in said city, they shall require the street commissioner to notify all owners and occupants of any lot or lots, or parcels of land adjoining such sidewalk, to construct or repair the same at his or their own proper expense and charge, within a time designated by the publication in the official paper of said city, for not less than two weeks, of a notice to said owners or occupants, setting forth what work is to be done, and the character of the same, by such owners or occupants, and the time within which they are required to do the same.

1870, ch. 31, subch. 8, § 2.

SEC. 1309. **Same — Assessments for.**— If such work is not done, and the said sidewalks not built or repaired, in the manner and within the time prescribed, the common council may order the same to be done by the street commissioner, at the expense of the lots and parcels of land adjoining said sidewalks, and said expenses shall be assessed upon such lots and parcels of land so chargeable, by the street commissioner, and returned by him to the

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common council. And said assessment so made and returned, if approved by the common council, shall become a lien upon said lots and parcels of land, as in case of city, county and state taxes.

1870, ch. 31, subch. 8, § 3.

**SEC. 1310. Collection of.**—If said assessment be not paid to the street commissioner or the city treasurer, on or before the twentieth day of August, in any year, the common council shall cause a statement of the same to be transmitted, with the city taxes levied for that year, to the auditor of the county, on or before the first day of September in each year, and the said auditor shall insert the same with the other taxes in the duplicate statement of taxes annually transmitted by him to the county treasurer for collection, and payment thereof enforced with and in like manner as city, county and state taxes are collected, and payment thereof enforced.

1870, ch. 31, subch. 8, § 4.

## LIGHTING OF STREETS—SUPPLY OF WATER.

**SEC. 1311. Contract for.**—The common council shall have authority to contract with any person, persons or corporation for the lighting of such streets or parts of streets and public places as they shall deem proper for the convenience and safety of the inhabitants.

1870, ch. 31, subch. 9, § 1.

**SEC. 1312. Laying gas-pipes.**—The common council may permit the laying of gas-pipes in any and all the streets, alleys, highways and public grounds of the city; but in all cases the common council shall regulate the laying of the same, so that said gas-pipes may not at any time interfere with the construction of common sewers or the lateral branches thereof, or with the proper and convenient location of water-mains and pipes, and may at any time require the location of any gas-pipe to be changed, if the same shall be found to interfere with the proper and convenient location of common sewers or water-mains and pipes.

1870, ch. 31, subch. 9, § 2.

**SEC. 1313. Laying water-pipes.**—The common council may permit any party or corporation to lay water-mains and pipes in any and all streets, alleys, highways and public grounds of the city, and shall regulate the position of the same, so that [they] shall not obstruct or interfere with common sewers, or with the proper drainage of the city.

1870, ch. 31, subch. 9, § 3.

## FIRE DEPARTMENT.

**SEC. 1314. Fire-engines — Exemptions of firemen.**—The common council shall have power to purchase fire-engines and all other apparatus which may be required for the extinguishment of fires, and to authorize the formation of fire-engine and hook-and-ladder and hose companies, and to provide for the proper support and regulation of the same, and to order such companies to be disbanded, their public meetings prohibited, and their apparatus to be given up. Every member of each company which may be authorized to be formed, shall be exempt from highway work and poll-tax, from serving on juries, and from military duty, during the continuance of such membership.

1870, ch. 31, subch. 7, § 3.

**SEC. 1315. Officers of.**—The common council shall have power to appoint the chief engineer and two assistant engineers of the fire department, and also one firewarden in each ward, and to prescribe the duties of such officers.

1870, ch. 31, subch. 7, § 4.

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[SECS. 1316-1318.]

**SEC. 1316. Fire limits — Regulations.**—The common council, for the purpose of guarding against the calamities of fire, shall have power to prescribe the limits within which wooden buildings, or other buildings the material or construction of which shall be regarded as dangerous to surrounding property, shall not hereafter be erected, placed or repaired, and to direct that all and any buildings within the limits prescribed shall hereafter be built and constructed in such manner, and of such materials, as, in the judgment of the common council, shall [not] be dangerous to surrounding property; and to prohibit the repairing or rebuilding of wooden buildings within the fire limits, when the same shall have been damaged by fire or otherwise to the extent of fifty per cent. of the value thereof, and to prescribe the manner of ascertaining such damages. The common council shall have power, by resolution, to order any building, structure, or materials therefor, hereafter erected, or in process of erection, of which the construction or materials may be dangerous to surrounding property, to be taken down or removed beyond the fire limits of the city; and shall have power to prescribe the notice to be given to the owner or agent to remove such building, and, in case the same is not removed in pursuance of the notice given, to order the same taken down, removed by the police, or in such manner as the common council may see fit. And the common council may prescribe penalties for the violation of any of the provisions of this section, or of any ordinance made or enacted to carry out the provisions thereof, not exceeding one hundred dollars, which may be imposed by a city justice, upon the complaint of any citizen.

1870, ch. 31, subch. 7, § 1.

**SEC. 1317. Precautions against fire.**—The common council shall have power to prevent the dangerous construction and condition of chimneys, fire-places, hearths, stoves, stove-pipes, ovens, boilers, and apparatus used in and about any building, and to cause the same to be removed, or placed in a safe or secure condition, when considered dangerous; to prevent the deposit of ashes in unsafe places, and the throwing of ashes in the streets and alleys; to require the inhabitants to provide as many fire buckets, and in such manner and time as they shall prescribe, and to regulate the use of them in time of fire; to regulate and prevent the carrying on of manufactures dangerous in causing or promoting fires; to regulate and prevent the use of fire-arms and fireworks; to compel owners or occupants of buildings to have scuttles in the roofs, and stairs or ladders to the same; to authorize the mayor, aldermen, fire-wardens and other officers of the city to keep away from the vicinity of any fire all idle and suspected persons, and to compel all bystanders to aid in the extinguishment of fires and the preservation of property exposed to danger thereat; and generally to establish such regulations for the prevention and extinguishment of fires as the common council may deem expedient.

1870, ch. 31, subch. 7, § 2.

**SEC. 1318. Summary arrests at fires.**—Whenever any person shall refuse to obey any lawful order of any engineer, firewarden, mayor or alderman, at any fire, it shall be lawful for the officer giving such order, to arrest, or direct orally any constable, police officer, watchman or any citizen, to arrest such person, and confine him temporarily in any safe place, until such fire shall be extinguished; and in the same manner such officers, or any of them, may arrest, or direct the arrest and confinement of any person at such fire who shall be intoxicated or disorderly; and any person who shall refuse to obey any such lawful order, or who shall refuse to arrest or aid in arresting any person so refusing to obey, shall be liable to such penalty as the common council may prescribe, not exceeding a fine of fifty dollars.

1870, ch. 31, subch. 7, § 5.

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SECS. 1319-1323.] TOWNSHIPS, ETC.—GENERAL PROVISIONS.

## VIOLATION OF ORDINANCES.

SEC. 1319. **Procedure.**—In all prosecutions for any violation of this act, the first process shall be by warrant on complaint being made: *provided*, that no warrant shall be necessary in any case of the arrest of any person or persons while in the act of violating any law of the state of Minnesota, or ordinance or by-law of the city; but the person or persons so arrested may be proceeded against, tried, convicted and punished or discharged in the same manner as if the arrest had been made by warrant. All warrants, process or writs by a city justice for the violation of an ordinance and by-laws of said city, shall be directed to the chief of police or any police officer of said city.

1870, ch. 31, subch. 10, § 3.

SEC. 1320. **Same — Enforcement of.**—In all cases of the imposition of any fine or penalty or of the rendering of any judgment by a city justice of said city, pursuant to any statute of the state of Minnesota, or pursuant to any ordinance or by-law of the said city, as punishment for any offence, or for the violation of any ordinance or by-law as aforesaid, the offender shall be forthwith committed to the city prison of said city, or if there be no city prison, to the common jail of the county, and be there imprisoned for a term not exceeding three months, in the discretion of the city justice, unless the said fine or penalty be sooner paid or satisfied; and from the time of the arrest of any person or persons for any offence whatever, until the time of trial, the person or persons so arrested may be imprisoned in the city prison, or in case there be no city prison, in the common jail of the county.

1870, ch. 31, subch. 10, § 4.

## COMPETENCY OF CITIZENS.

SEC. 1321. **When city party in interest.**—No person shall be an incompetent judge, justice, 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.

1870, ch. 31, subch. 10, § 5. 28 M. 196.

## REPEAL OR AMENDMENT.

SEC. 1322. **Effect of.**—No law of the state concerning the provisions of this act shall be considered as repealing, amendatory or modifying the same, unless said purpose be expressly set forth in such law.

1870, ch. 31, subch. 10, § 7.

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## TITLE 4.

### GENERAL PROVISIONS.

### PLEADING ORDINANCES.

SEC. 1323. **Sufficiency of.**—It shall not be necessary in any pleading or complaint in civil or criminal proceedings for a violation of any ordinance of any city or village in this state, to set out or recite such ordinance or any section thereof at large. But it shall be sufficient in all such pleadings or complaints, to state that the offence set forth in such complaint was committed contrary to the form of such ordinance or of any specified section thereof.

1881, Ex. S. ch. 59: "An act relating to the manner of pleading city and village ordinances in civil and criminal proceedings thereunder." Approved November 17, 1881.

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TOWNSHIPS, ETC.—GENERAL PROVISIONS. [SECS. 1324–1327.]

## LICENSE HOME PRODUCTS.

SEC. 1324. **Of manufacturer, mechanic, nurseryman.**— Any manufacturer, mechanic or nurseryman, having a legal residence in this state, may sell his own work or production, except spirituous, vinous, or malt liquor, manufactured or grown in this state, by paying to the proper authority of any village, town or city of this state, a sum not exceeding five dollars (\$5), any law or provisions of law organizing any such village, town or city, to the contrary notwithstanding.

1877, ch. 108: "An act authorizing residents of this state to vend their own productions therein by paying a license fee of not exceeding five dollars." Approved March 3, 1877, and repeals all acts and parts of acts conflicting with this act.

## JUDGMENTS AGAINST CITY, VILLAGE OR BOROUGH.

SEC. 1325. **How paid.**— When a judgment is recovered against any city, village or borough in this state, no execution shall issue on such judgment, but the same if for the recovery of money shall be paid by the treasurer of such city, village or borough upon demand, and the delivery to him of a certified copy of the docket of such judgment from any moneys in his hands belonging to such city, village or borough and which has not been otherwise appropriated, and if such treasurer shall not have sufficient of such moneys in his hands to pay such judgment then such treasurer shall pay upon such judgment so much of such moneys as shall be in his hands, and such treasurer shall hereafter retain all such moneys as he may receive and pay the same to the owner of such judgment or demand until such judgment be fully paid, and if such treasurer fails so to pay such judgment, he and his bondsmen shall be personally liable for the amounts not so paid, unless the collection of such judgment is stayed on appeal: *provided*, that the treasurer of said city, village or borough shall retain of the moneys belonging to the same a sum sufficient to pay the necessary current expenses of said city, village or borough.

1885, ch. 196, § 1: "An act relating to the collection of judgments." Approved March 4, 1885.

SEC. 1326. **Levy to pay.**— Whenever a judgment against a city, village or borough remains unpaid at the time required by law for the officers of any city, village or borough to levy taxes to be collected in such city, village or borough for the ensuing year, it shall be the duty of such officers to levy the amount of such judgment in addition to any other taxes levied by them and to certify the same and the purpose thereof to the county auditor, who shall extend the amount of such judgment upon the taxable property of such city, village or borough, and the same shall be collected with the other taxes for that year, and the amount so collected shall not be used or appropriated for any other purpose; *provided*, that if such officers refuse or neglect for the space of thirty (30) days after being requested by the owner of such judgment to set apart and provide sufficient funds so that said judgment shall be paid before the time for the collection of the next tax levy, it shall then and thereupon become the duty of such officers and they shall levy the amount of such judgment and certify the same and the purpose thereof to the county auditor, and such amount shall be extended in the tax duplicate and collected as hereinafter provided.

1885, ch. 196, § 2.

SEC. 1327. **Execution, when.**— If payment of such judgment is not made within twenty (20) days after the time fixed by law for the county treasurer to pay over to the treasurer of such city, village or borough of the moneys in his hands belonging to such city, village or borough, next, after the rendition of such judgment, execution may be issued on such judgment, but only the property of such city, village or borough shall be liable thereon.

1885, ch. 196, § 3.

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SECS. 1328-1333.] TOWNSHIPS, ETC.—GENERAL PROVISIONS.

SEC. 1328. **Act applies.**—This act shall apply to any city, village or borough organized or created under any general or special law of this state except where the act under which any city, village or borough is organized and created shall provide some other mode for the collection of judgments.

1885, ch. 196, § 4.

## PUBLIC BUILDINGS, CONSTRUCTION OF.

SEC. 1329. **Election for — Bonds.**—Whenever the council of any city, borough or village in this state, having a population not exceeding ten (10,000) thousand inhabitants, and who are authorized to erect buildings therefor, and levy taxes to pay for the same, shall determine that it is for the interest of such city, borough or village to erect a building for the purpose of a city hall, market house, engine house, city offices or city prison, or one building for all or several of these purposes combined, it shall be lawful for them and they are hereby authorized and empowered to issue for that purpose at any time, the bonds of such city, borough or village, as hereinafter stated, with interest coupons, attached to an amount not exceeding two (2) per cent. of the total assessed valuation thereof, as the same appears by the assessment of the preceding year, and with the proceeds of such bonds to erect any such hall, market house, engine house, city offices or city prison or building for all or several of these purposes combined. *Provided*, that whenever the council of any city, borough or village in this state contemplating the erection of any such building, the proposition shall first be submitted to the legal voters within the limits of such city, borough or village for their approval or rejection; and if a majority of the electors present and voting is in favor of such proposition, then such council shall proceed as herein provided; but if such majority is opposed, then it shall be illegal for such council to issue any bonds or other evidences of indebtedness for any such purposes.

1881, ch. 93, § 1: "An act to authorize certain cities, boroughs and villages to issue bonds for the erection of public buildings, and provide for the payment of the same." Approved March 7, 1881.

SEC. 1330. **Bonds to pay.**—Said bonds shall be issued in such sum as said council shall determine by resolution, not exceeding five hundred dollars (\$500) each, with interest coupons attached, and payable in not less than five (5), nor more than twenty (20) years from the date of issue, as such council shall determine, with interest at a rate not to exceed seven (7) per cent. per annum, payable semi-annually.

1881, ch. 93, § 3.

SEC. 1331. **Issuance of.**—The bonds and coupons issued under this act shall be signed by the mayor or other chief executive officer of such city, borough or village, and be attested by the recorder or clerk thereof; and said bonds shall be sealed with the seal of such city, borough or village; and such recorder or clerk shall keep a true record of all the bonds issued under the provisions of this act.

1881, ch. 93, § 5.

SEC. 1332. **Negotiate.**—Such council shall not have authority to negotiate said bonds at less than their par value.

1881, ch. 93, § 6.

SEC. 1333. **Rents of public hall.**—Any such council is hereby authorized and empowered, if desired by them, to so erect and construct any such building that there may be therein a hall suitable to be used by the public for exhibitions, lectures or other public entertainments or purposes; and to fix the rate of and collect rent for the use of the same from parties renting and using the same for any such exhibitions, entertainments or purposes. All rents, revenue or income received by any such city, borough or village, for or on account of the use or rent of said hall shall be set apart in the treasury of said

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TOWNSHIPS, ETC.—GENERAL PROVISIONS. [SECS. 1334—1336.]

city for the exclusive purpose of paying the interest upon said bonds; and if, at the end of each year, when said bonds become due, there is found to be a greater sum derived from said rent than is required to pay the interest due upon said bonds, the said council shall cause such excess to be invested in unquestioned securities, or unquestioned bonds of such city, borough or village, or of the state of Minnesota, or some city or county therein, to create a sinking fund to pay said bonds at maturity. After the interest and principal of said bonds have been paid the revenue derived thereafter from the rent of said hall shall belong to and be a part of the general revenue fund of such city, borough or village.

1881, ch. 93, § 2.

**SEC. 1334. Levy to pay deficiency.**—The council of any such city, borough or village, in case there is not sufficient revenue derived from the rent of any public hall as aforesaid, shall annually levy and include in the general tax thereof an amount sufficient to pay all the interest on such of said bonds as may be issued; and before the principal or any part thereof becomes due a sufficient amount to pay such principal, or to create a sinking fund to pay the same or any part thereof.

1881, ch. 93, § 4.

## MATERIAL FOR HIGHWAYS AND STREETS.

**SEC. 1335. Condemnation of ground containing.**—Whenever it shall be deemed necessary for the public good by any board of county commissioners of any county, any board of supervisors of any township, any board of trustees of any incorporated village, or the board of aldermen of any city for the purpose of making, repairing or improving any of the public highways or streets within their respective jurisdiction, they may for the uses and purposes herein specified enter upon and condemn any plot of ground not exceeding five (5) acres, together with the right of way to the same anywhere within two (2) miles of the public highway or street where the same is to be used as hereinafter provided; *provided*, that the same shall be largely composed of gravel or stone, and suitable for road purposes.

1885, ch. 273, § 1: "An act empowering township and other officers to condemn certain lands to improve and repair the public highways and streets under their jurisdiction." Approved March 5, 1885.

**SEC. 1336. Proceedings to condemn.**—Whenever any board of county commissioners of any county, the board of supervisors of any township, the board of trustees of any incorporated village, or the aldermen of any city, wish to procure land as provided in section one (1) of this act, and cannot agree with the owner or owners of land proposed to be taken for such purposes, application may be made to the district court of the judicial district and in the county wherein said land is situated, giving twenty (20) days' notice thereof to the owner or owners by leaving a copy with him or them, or at their usual place of abode, and said court shall appoint a committee of three (3) disinterested persons who, having been sworn faithfully and impartially to discharge the duties of their appointment, and after giving at least five (5) days' notice to the owner or owners of the time and place of their meeting, shall proceed to examine the premises and determine on the public necessity of procuring said land, and upon the quantity, boundaries, damage and value of the land which they should deem proper to be taken for the purposes specified, and make report thereof in writing to said district court, by filing the same in the office of the clerk thereof, and shall give the same notice of the filing of their report or of their meeting, and the parties interested may appear before said court and be heard thereon at such time as the court may appoint, and if said committee shall report that the demand for public good requires the acquisition of said territory and the court shall accept the same, the decision of such court thereon shall have the effect of a judgment, and execution

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SECS. 1337-1340.] TOWNSHIPS, ETC.—GENERAL PROVISIONS.

may be issued thereon accordingly in favor of the person or persons to whom damage may be assessed for the amount thereof; but said land shall not be taken or used, or any stone or gravel or other material taken therefrom until the damages so assessed shall be paid to said owner or owners, or deposited with the treasurer of the county for his or their use, which shall be done within thirty (30) days after such report shall be accepted, and the title of such land shall therefore be vested in the proper officers of such county, town, village or city making claim to it, under the provisions of this act; and a copy of the report of said committee and of the judgment of the court thereon, certified by the clerk thereof, together with a certificate of the payment of the damages determined by the committee, sworn to by the chairman of the board of officers acquiring title thereto, shall be recorded in the office of the register of deeds in the county where said premises are located, and such record shall be notice to all parties of the title acquired therein, and may be used in evidence of such title in all the courts in this state; *provided*, that the right of way shall be of sufficient width to allow teams to pass, and shall be, by most practicable way, to nearest highway.

1885, ch. 273, § 2.

## CONDEMNING PROPERTY FOR WATER WORKS.

**SEC. 1337. Municipal corporation empowered to condemn.**— All municipal corporations in this state, and all corporations organized for the purpose of supplying any town, city or village in this state, or the inhabitants thereof, with water, are hereby authorized to exercise the power of eminent domain, and to condemn, take and use private property for the use of such corporations when necessary or convenient to carry out the purposes and objects of said corporation.

1889, ch. 65, § 1, entitled "An act to authorize all municipal corporations and corporations organized for the purpose of constructing and maintaining water works for the purpose of supplying any town, city or village with water, to condemn and take private property for the use of such corporation, and to enter upon private property for the purpose of making surveys and locating such water works." Approved April 8, 1889.

**SEC. 1338. Same.**— Whenever such municipal or other corporation in the construction of its water works, or in enlarging or extending the same, shall deem it desirable to condemn, take, use or occupy private property in the construction of its said works, or in making new lines of work, said corporation may condemn, take and use said private property, first making just compensation therefor, and proceed as hereinafter provided.

1889, ch. 65, § 2.

**SEC. 1339. Take water from river, lake or creek.**— Whenever such corporation in the construction of its water works, or in extending its said water works, or in making new lines of work, shall deem it necessary, it may, as hereinafter provided, draw water from any river, lake or creek by means of pipes, ditches, drains, conduits, aqueducts, or other means of conducting water so as to connect such rivers, lakes or creeks with its said works, and may erect and construct dams, bulk-heads, gates and other needed structures and means of controlling said water and its protection and, in general, do any other act necessary or convenient in accomplishing the purpose contemplated by this act.

1889, ch. 65, § 3.

**SEC. 1340. Procedure to condemn.**— Whenever such corporation shall propose to construct or extend its said works, or shall propose to extend its line of works so as to connect with any river, lake or creek, and to direct the water of any river, lake, creek or body of water within its said water works, it shall proceed as follows: The said corporation shall cause to be made a survey of the line along which it proposes to construct or extend said works

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and of all lands or other property to be affected by flowage, drainage or by the construction of ditches, drains, conduits, aqueducts or otherwise, and for that purpose such corporation may, by its officers and agents, enter upon any land for the purpose of making such surveys and measurements or for obtaining any other necessary information relative to the construction or extension of said water works, doing no unnecessary damage to said real estate. After such survey shall have been made and such line located it shall cause to be made a map showing the location of said line, extension and improvements, and the lands necessary to be taken for such construction, extension or improvement, and all lands or other property to be affected by flowage, drainage or otherwise. Said map shall be verified under oath by the surveyor making the same as just and correct, as he verily believes. Said map shall also be acknowledged by the mayor, clerk or recorder, or other proper officer of such city, town or village so seeking to condemn and take such real estate, or by the president, secretary or director of the corporation so seeking to condemn and take such real estate, and thereupon said map shall be filed as a record in the office of the register of deeds in and for the county in which said real estate so sought to be condemned, taken and used is situate, and a duly certified copy of said map shall be filed in the office of the clerk of the district court in said county.

1889, ch. 65, § 4.

**SEC. 1341. Same — Petition.**—After the making and filing of the map and certified copy thereof in the office of register of deeds and clerk of the district court in the county where said real estate so sought to be condemned and taken is situate, the corporation so intending and desiring to condemn, take and use said real estate, may present to the district court in and for said county in which said lands so proposed to be taken, condemned and used shall be situate, a petition signed by the president and secretary of such corporation, or by the mayor, recorder or other executive officer of said city, town or village, setting forth a description of said enterprise to be prosecuted by them, and describing with reasonable certainty and by reference to said map or plat, or otherwise, the lands, property and estate which it will be necessary to appropriate, take, use, overflow, drain or otherwise affect, setting forth the name of each and every owner, encumbrancer, or other person interested in the same or any part thereof, so far as the same can be ascertained by the public records, and by view of the premises, or other inquiry touching the occupation thereof, and praying the appointment of three competent disinterested persons as commissioners to ascertain and determine the compensation to be made to such owner or owners, respectively, and to all tenants, encumbrancers and others interested, for the taking or injuriously affecting such lands or real estate.

1889, ch. 65, § 5.

**SEC. 1342. Notice of.**—A notice stating briefly the object of the petition and containing a description of the lands proposed to be taken, and stating the time and place, when and where the same will be presented to said court, shall be served on each and every person named therein as owner, encumbrancer, tenant or otherwise interested therein, at least ten (10) days previous to the time designated in said notice for the presentation of said petition. Such service shall be made by delivering a copy of said notice to each person named therein if a resident of this state, or in case of the absence of such person, by leaving a copy of such notice at his or her usual place of abode, with some person of suitable age and discretion then resident therein. In case of domestic corporation such service may be made upon the president, secretary or any director or trustee of such corporation; in case of minors or their guardians, or in case no guardian shall have been appointed, then on the person having the care and custody of such minor; in case of idiots, lunatics or distracted persons, on their guardian or committee; or in case no guardian

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SECS. 1343, 1344.] TOWNSHIPS, ETC.—GENERAL PROVISIONS.

or committee shall have been appointed, then on the person in whose care or charge they are found; in case of feme covert, on the husband as well as on the feme covert. In all cases where the owner or persons claiming an interest in such real property is a non-resident of this state, or where the residence of such owner or person is unknown and an affidavit by the agent or attorney of the corporation shall be filed showing that such owner or person is a non-resident of this state, or that, after diligent inquiry, the residence is unknown, or cannot be ascertained by such deponent, service of such notice may be made by the publication thereof in any newspaper published in the county where such lands are situate once a week for three successive weeks; and in case no newspaper shall be published in said county, then such publication may be had in a newspaper published at the seat of government in this state, and such publication shall be deemed service upon each of such non-resident persons, or persons whose residence is unknown. Due proof of the service of such notice, by the affidavit of the person serving the same or by the printer's affidavit of publication, shall be filed with the clerk of such district court before the presentation of such petition. Want of service of such notice shall render the subsequent proceedings void as to the person not served; but all persons having been served with the notice as herein provided, either by publication or otherwise, shall be bound by the subsequent proceedings. In cases where the enterprise shall be located through or upon school or university lands, or any other lands belonging to this state, such notice shall be served upon the secretary of state or his assistant, and the commissioners shall award the damages to the state in like manner as to private persons or corporations.

1889, ch. 65, § 6.

**SEC. 1343. Commissioners.**—The court may, upon the application of the petitioner or owner or party interested, for reasonable cause, adjourn the proceedings from time to time, and may order new or further notice to be given to any person whose interest may be affected. At the hearing of said petition, if the court shall have satisfactory proof that all parties interested in the lands described in said petition have been duly served with said notice, as above prescribed, the court may then proceed to determine, first (1st), whether the public interests require the prosecution of said enterprise set forth and described in said petition; second, as to whether it is necessary in the prosecution of said enterprise to take, condemn, use, overflow, drain or otherwise appropriate, injure or use said real estate mentioned and described in the petition, or any part thereof, the said court may, in its discretion, authorize the condemning, taking, using of the whole or any part of the real estate mentioned and described in said petition.

When the court is satisfied by competent proof, it shall make an order, which shall be entered in the minutes of said court, and filed in the office of the clerk thereof, determining whether the public interests require the prosecution of the enterprise set forth and described in the petition, and the real estate necessary to be taken and condemned under said proceedings. The court may make an order to be recorded in the minutes thereof, appointing three (3) competent, disinterested persons, resident in said county, commissioners to ascertain and determine the amount to be paid by such corporation to each of such owners or persons interested, as compensation for his or her damages by reason of taking or injuriously affecting any such land or real estate, and specifying the time and place of the first meeting of said commissioners, and fixing their compensation. Before entering upon their duties, such commissioners shall severally take and subscribe an oath, before some person qualified to administer oaths, faithfully and impartially to discharge the duties of their appointment.

1889, ch. 65, § 7.

**SEC. 1344. Same — Examination of.**—The commissioners so appointed shall meet at the time and place mentioned in the order appointing them, and

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to proceed to examine all of the real estate described in said petition and map proposed to be used or taken for said improvement, or so much thereof as is designated in the order of the court to be taken, injuriously affected, appropriated or used in said improvement, construction or extension of said water works, and shall hear the allegation and testimony of all persons interested, and proceed to make in each case a separate assessment of damages which will result to any parties, persons, corporation or company, by reason of the construction or extension of said water works, or the taking, using or injuriously affecting said real estate, and shall determine, appraise and award to the owners of such land, property, easement, or any other right proposed to be taken or injuriously affected, the amount of damages arising to them respectively from the taking or injuriously affecting their said lands, property, right or estate thereof, for the purposes of said enterprise or improvement.

1889, ch. 65, § 8.

**SEC. 1345. Same — Report of.**— Within sixty (60) days after completing their examination and the making of said appraising and assessments of damages, the said commissioners shall file a report of their doings in the premises in the office of the clerk of said court, accompanied by all papers, maps and records placed in their hands as such commissioners, or received by them in the course of the discharge of their duties, and thereupon the corporation so seeking to condemn, take and use said lands, shall notify all parties interested in such report that the same is made and filed, and such notice shall be served as provided for by section six (6) of this chapter; *provided*, that if any such party shall have appeared by attorney service may be made upon such attorney.

1889, ch. 65, § 9.

**SEC. 1346. Payment of damages.**— Upon the filing of said report, the petitioners or any officers of or other persons duly appointed by said corporation, may make payment of the damages assessed to parties entitled to the same, in the manner following:

First. To parties laboring under no disability.

Second. To guardians of infants, husbands or trustees of *femes covert*.

Third. To guardians of insane persons, idiots, lunatics and persons under other disability; and receipts for such payments filed in the office of the clerk aforesaid shall stop the parties giving them, and their principals when they act in a representative capacity, from all further claims or proceedings in the premises. Payments to parties residing in the state, but not in the county where said real estate sought to be condemned is situate, as well as to infants, insane persons, and other persons under disability who have no guardians; and payments to parties residing out of the state, and to persons whose names are unknown, and to persons who refuse to receive the payments when tendered, shall be made by depositing the same with the clerk of said court, to be paid out under the direction of the judge thereof; and such deposits shall have the same effect as the first-mentioned receipts, unless an appeal is taken by the party entitled thereto.

1889, ch. 65, § 10.

**SEC. 1347. Defective title — Interpleader.**— Whenever the title to any tract of land is deemed to be in doubt, and such commissioners have assessed damages for the taking or injuriously affecting a part thereof, the corporation so seeking to condemn, take or use said lands, may make and file with the clerk of said court an affidavit of one of the officers or attorney of such corporation, to the effect that there exists reasonable doubt as to who is entitled to such damages or any portion thereof, and upon making and filing such affidavit may pay into court the amount of damages so assessed and allowed to any tract or parcel mentioned in said affidavit and the report of said commissioners; and thereupon said corporation shall be released and discharged from any further liability therefor, unless upon appeal the owner should recover a greater amount of damages, and in that case only for the amount in

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SECS. 1348, 1349.] TOWNSHIPS, ETC.—GENERAL PROVISIONS.

excess of the sum so paid into court. Any person claiming title to said real estate, or claiming to be entitled to any money so paid into court, may apply to the court therefor, and upon furnishing evidence satisfactory to the court that the person so applying is entitled to the said money so paid into court or any part thereof, the court shall make an order directing the payment to such claimant the portion of such money as he should be found entitled to. But if, upon such application, the court should determine that the title to the tract or tracts specified in the application of such claimant was in such condition as to require that an action be commenced to determine the conflicting claims thereto, he shall refuse such order until such action is commenced, and the conflicting claims to such real estate determined according to law.

1889, ch. 65, § 11.

SEC. 1348. **Appeals.**— Appeals from the assessment made by the commissioners may be taken and prosecuted in the court where the report of such commissioners is filed, by any party interested, and a written notice of such appeal shall be served upon the appellee in the same manner as a summons in a civil action is served. Such notice shall be served at least twenty (20) days before the hearing of said appeal, and no appeal shall be taken after the expiration of thirty (30) days from the time of the notification of the filing of the report aforesaid, and the construction of said water works, or the extension thereof, or the extension of the line of said works, shall not be hindered, delayed or prevented by the prosecution of said appeal, provided the corporation execute and file with the clerk of the court in which said appeal is pending a bond to be approved by said clerk with sufficient surety conditioned, that the person executing the same and surety shall pay whatever amount may be required by the judgment of the court therein, and abide any rule or order of the court in relation to the matter in controversy. Said appeal shall bring before the appellate court the propriety of the amount of damage in respect to the parties to the appeal, and unless the parties otherwise agree the matter shall be submitted to the jury and tried as other appeal cases are tried, and the court or jury, as the case may be, shall reassess the damages aforesaid.

1889, ch. 65, § 12.

SEC. 1349. **Judgment.**— Upon verdict or assessment judgment shall be entered declaring that upon payment of the verdict or assessment and costs, if any, the right to construct said water works or the extension thereof, and to do the acts in controversy in said appeal, or to take, use and appropriate the real estate sought to be condemned for the purposes set forth in the petition shall, as against the parties interested in the verdict or assessment, be and remain in said corporation, its successors and assigns forever, and payment of such judgment may be made as payments of assessments by the commissioners are made, as herein provided. All awards for compensation and damage for the taking of lands for public use on behalf of such companies where no appeal is taken shall draw interest at the rate of seven (7) per cent. per annum from the time of the filing of such award until paid, and where an appeal is taken the verdict in such appeal shall draw interest at a like rate until paid. If such award, when no appeal is taken, is not paid within sixty (60) days after the filing of such award, or in case an appeal is taken within sixty (60) days after the entering of such final judgment, the court before whom such proceedings were initiated and such award filed or judgment entered shall, upon motion of the owner of the property sought to be condemned, vacate and set aside such proceedings, including the award and judgment, if any, and when such proceedings are discontinued by the corporation, or vacated and set aside by the judge or court, the owner of such property, or his heirs or legal representatives, shall have the right to recover from the corporation initiating such condemnatory proceedings, reasonable costs and expenses, including counsel fees.

1889, ch. 65, § 13.

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## CONTAGIOUS DISEASES AMONG DOMESTIC ANIMALS.

Local board of health, see ch. 6.

**SEC. 1350. Local board of health — Duties of.**—The local board of health of towns, villages and cities, in case of existence in this state of the disease called pleuro-pneumonia among cattle, or farcy or glanders among horses, or any other contagious or infectious disease among domestic animals, shall cause the animals in their respective towns, villages or cities, which are infected, or which have been exposed to infection, to be secured or collected in some suitable place or places within their respective towns, villages or cities, and kept isolated; and when taken from the possession of their owners one-fifth ( $\frac{1}{5}$ ) of the expense of their maintenance shall be paid by the town, village or city wherein the animal is kept, and four-fifths ( $\frac{4}{5}$ ) by the state; such isolation to continue as long as the existence of such disease or other circumstances may render it necessary.

1885, ch. 200: "An act to prevent the spread of contagious or infectious diseases among cattle, horses and other domestic animals." Approved March 7, 1885.

**SEC. 1351. Regulations of.**—The said local boards of health may make regulations in writing to regulate or prohibit the passage from, to or through their respective towns, villages or cities, or from place to place within the same, of any cattle or other domestic animals, and may arrest and detain, at the cost of the owners thereof, all animals found passing in violation of such regulations, and may take all necessary measures for the enforcement of such prohibition, and also for preventing the spread of any disease among the animals to their respective town, village or city, and the immediate vicinity thereof.

1885, ch. 200, § 5.

**SEC. 1352. Same.**—Such regulations shall be recorded upon the records of their respective towns, villages and cities, and shall be published in such towns, villages and cities in such manner as may be provided in such regulations.

1885, ch. 200, § 6.

**SEC. 1353. Disobedience of orders.**—Any person disobeying the orders of said local boards of health, made in conformity with the preceding provisions, or driving or transporting any animals contrary to the regulations made, recorded, and published as aforesaid, shall be punished by a fine of not less than one hundred (100) dollars, nor exceeding five hundred (500) dollars, or by imprisonment of not less than thirty (30) days nor exceeding one (1) year.

1885, ch. 200, § 7.

**SEC. 1354. Inclosures for animals.**—The said local boards of health may, within their respective towns, villages and cities, prohibit the departure of animals from any inclosure, or exclude animals therefrom.

1885, ch. 200, § 4.

**SEC. 1355. Notice of disease.**—Whoever knows or has reason to suspect the existence of any such disease among the animals in his possession, or under his care, shall forthwith give notice thereof to the said local boards of health of the town, village or city where such animals are kept, and for failure so to do, shall be punished by a fine of not less than fifty (50) dollars, nor exceeding five hundred (500) dollars, or by imprisonment of not less than thirty (30) days, nor more than one (1) year.

1885, ch. 200, § 8.

**SEC. 1356. Notify state board.**—The local boards of health, within twenty-four (24) hours after they have notice that any domestic animals in their respective towns, villages and cities are infected with or have been exposed to any such disease, shall give notice thereof in writing to the state board of health.

1885, ch. 200, § 12.

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**SEC. 1357. May order animal killed.**—The said local boards of health, when any such animal is adjudged by a veterinary surgeon or physician, by them selected, to be infected with any contagious or infectious disease, may in their discretion order such diseased animal to be forthwith killed and buried at the expense of such town, village or city.

1885, ch. 200, § 2.

**SEC. 1358. Appraisement of animal.**—The said local boards of health may cause all such animals that have been within the state for six (6) months next preceding the adjudication mentioned in section two (2) to be appraised by three (3) competent and disinterested men under oath, at the value thereof at the time of the appraisement, and in making such appraisement the appraisers shall take into consideration the fact of the existence of such disease in such animals, and the amount of the appraisement shall be paid as provided in section one (1), except as provided in section fifteen (15) of this act.

1885, ch. 200, § 3.

**SEC. 1359. Appraisement in writing.**—All appraisements made shall be in writing and signed by the appraisers and certified by the local boards of health or state board of health respectively, to the governor and to the treasurer of the several towns, villages and cities wherein the cattle appraised were kept.

1885, ch. 200, § 17.

**SEC. 1360. Neglect of duty.**—Any member of any local board of health who neglect or refuse to carry into effect the preceding provisions shall be punished by a fine of not less than one hundred (100) dollars, nor more than five hundred (500) dollars for each day's neglect.

1885, ch. 200, § 9.

**SEC. 1361. Two or more may act together.**—The state board of health may by order require any two (2) or more local boards of health to act together for the purposes of this act.

1885, ch. 200, § 22.

## STATE BOARD.

**SEC. 1362. Power.**—The state board of health, shall have all the power and authority herein conferred upon local boards of health.

1885, ch. 200, § 11.

**SEC. 1363. To make regulations.**—The state board of health may make all necessary regulations for the quarantine of such animals, and extirpation of such disease, and may direct local boards of health to enforce and carry into effect all such regulations as may from time to time be made for that end; and any member of any local board of health who refuses or neglects to enforce or carry out any regulation of the state board of health shall be punished by a fine of not less than one hundred (100) dollars nor more than five hundred (500) dollars for every offense.

1885, ch. 200, § 13.

**SEC. 1364. Same.**—When the state board of health make and publish any regulations concerning the extirpation, care or treatment of animals infected with, or which have been exposed to, any contagious disease, such regulations shall supersede those made by the local boards of health; and said local boards of health shall carry out and enforce all orders and directions of the state board of health to them directed.

1885, ch. 200, § 10.

**SEC. 1365. Failure to obey regulations.**—Any person who fails to comply with the regulation made or an order given by the state board of

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health shall be punished by fine not exceeding five hundred dollars (\$500) or by imprisonment not exceeding one (1) year.

1885, ch. 200, § 16.

SEC. 1366. **May make examinations.**—The state board of health may examine, under oath, all persons believed to possess knowledge of material facts concerning the existence or dissemination or danger of dissemination of disease among domestic animals; and for this purpose shall have all the power vested in justices of the peace to take depositions and to compel witnesses to attend and testify. All costs and expenses incurred in producing the attendance of such witnesses shall be certified by the state board of health and paid from the treasury of the state upon being certified to and approved by the governor.

1885, ch. 200, § 18.

SEC. 1367. **Order animal killed.**—The state board of health, when, in their judgment the public requires it, may cause to be killed and buried any domestic animals which are infected with or have been exposed to such disease; and except, as provided in the following section, shall cause such animals to be appraised in the manner provided above, and the appraised value of such animals shall be paid, one-fifth ( $\frac{1}{5}$ ) by the town, village or city in which such animals were kept and the remainder by the state.

1885, ch. 200, § 14.

SEC. 1368. **When without appraisalment.**—In all cases of farcy or glanders, the state board of health, having condemned the animal infected therewith, shall cause such animal to be killed, without an appraisalment or compensation to the owner thereof, but may pay the owner an equitable sum for the killing and burial thereof.

1885, ch. 200, § 15.

SEC. 1369. **Post-mortem.**—Whenever animals are exposed to contagious diseases or killed by an order of the state board of health, and upon a post-mortem examination are found to have been entirely free from disease, the state board of health shall cause the same to be sold under their direction, first giving to the purchaser notice of the facts, and if said purchaser, or any other person, shall sell said slaughtered animals or any part thereof, he shall in like manner give notice to the parties to whom such sales are made, and the proceeds of the sales, made by order of the state board of health, shall be applied in payment of the appraised value of said animals.

1885, ch. 200, § 19.

SEC. 1370. **Keep record.**—The state board of health shall keep a full record of their doings and report the same to the legislature unless sooner required by the governor.

1885, ch. 200, § 21.

SEC. 1371. **Violation of act.**—Whoever violates any of the provisions of the preceding section shall be punished by a fine not exceeding one hundred dollars (\$100) and the cost of prosecution.

1885, ch. 200, § 20.

SEC. 1372. **Appropriations.**—The sum of three thousand dollars (\$3,000), or so much thereof as necessary, is hereby annually appropriated for the payment of expenses incurred by the state in enforcing this act; said expenses to be approved by the state board of health and by the governor.

1885, ch. 200, § 23.

## OFFENSIVE TRADES AND EMPLOYMENTS.

SEC. 1373. **Assignment of places.**—The board of health of each town, village or city in this state shall from time to time assign certain places within such town for the exercise of any trade or employment which is a nuisance or

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hurtful to the inhabitants, or dangerous to the public health, or the exercise of which is attended by noisome or injurious odors, or is otherwise injurious to the estates of such inhabitants; and may prohibit the exercise of such trade or employment in places not so assigned. Said board may also forbid such exercise within the limits of the town or particular locality thereof. All such assignments shall be entered in the records of the town and may be revoked when said board shall think proper.

1885, ch. 222, § 1: "An act to regulate offensive trades and employments." Approved March 7, 1885.

**SEC. 1374. Penalty for violation.**—It shall not be lawful for any person or corporation to exercise within any town, village or city any trade or employment mentioned in section one (1) of this act without having first obtained from the board of health of such town, village or city permission so to do, and the assignment provided in said section; and any person or corporation violating the provisions of this section shall forfeit and pay the sum of fifty dollars (\$50) for each and every day that any such trade or employment is exercised or carried on, to be recovered in any court having jurisdiction thereof and sitting within the county where any such trade or employment is exercised or carried on; such action shall be commenced and prosecuted by such board in its name and for its benefit.

1885, ch. 222, § 2.

**SEC. 1375. Revocation of assignment.**—When any assignment mentioned in section one (1) hereof shall be revoked, said board shall serve upon the occupant, corporation or person having charge of the premises where such trade or employment is exercised a written notice of such revocation. If the person or corporation upon whom such order is served, for twenty-four (24) hours after such service, refuses or neglects to obey the same, said board shall take all necessary measures, by injunction or otherwise, to prevent such exercise; and the person or corporation so refusing or neglecting shall forfeit and pay the sum of one hundred dollars (\$100) for each and every day that such trade or employment shall be exercised after the service of such notice, to be recovered in the manner and by the party and for the benefit as provided in section two (2) hereof.

1885, ch. 222, § 3.

**SEC. 1376. Appeal.**—Any person or corporation aggrieved by any order of such board, may appeal therefrom to the district court of the county in which such trade or employment is exercised. Such appeal shall be taken by the filing of such aggrieved person or corporation, within five (5) days after the service of such order, in the office of the clerk of said court, of a notice of such appeal, together with a bond in the sum of not less than five hundred (500) dollars, with two (2) or more sureties, to be approved by the judge of said court, conditioned for the prosecution of such appeal to judgment and for the payment of all costs and expenses that may be awarded against such appellant, and by the service of a copy of such notice and bond upon such board. If such appeal be taken within twenty (20) days next before the time appointed for holding a general term of said court within said county, the same shall be heard at such time as other civil causes; and at the request of either party shall be tried by jury. If such appeal is taken more than twenty (20) days before any such term, the judge shall, by order, appoint a time and place for the hearing of such appeal, and shall, if the appellant demand a trial by jury, direct the sheriff of such county to summon a jury of twelve (12) persons having the qualifications of jurors, to appear at the time and place named in said order, to serve as jurors in said cause. Any person so summoned may be challenged as in civil actions. If a sufficient number of such persons so summoned do not appear, the court shall require talesmen to be called as in other cases, and said appeal shall be tried as other civil causes. During the pendency of such appeal, such trade or employment shall not be exercised contrary to the

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order of said board; and upon the violation of any such order the appeal shall forthwith be dismissed. Upon the return of the verdict of the jury the court may either alter or amend the order of the board or affirm or amend it in full, to conform to such verdict. If the matter be tried by the court it shall have and exercise the same power.

1885, ch. 222, § 4.

**SEC. 1377. State board of health may revoke.**— When any building or premises within any city, village or town are occupied or used for the exercise of any trade or employment aforesaid, the state board of health shall, upon application made to it for that purpose, appoint a time and place for hearing the parties, and give notice of not less than ten (10) days thereof to the complainant and the party against whom such application is made, and after such hearing may, if in its judgment the public health or the public comfort and convenience so require, order any person to desist and cease from further carrying on such trade or occupation in such building or premises; and any person or corporation thereafter continuing to occupy such building or premises shall forfeit and pay the sum of one hundred (100) dollars for every day of such occupancy or use, to be recovered in any court having jurisdiction thereof by action commenced and prosecuted in the name of the board of health of such city, village or town, and for its use and benefit. Any person or corporation aggrieved by any such order may appeal therefrom, and said appeal shall be taken, prosecuted and determined in the same manner provided in section four (4) of this act. During the pendency of such appeal such trade or employment shall not be exercised contrary to the orders of said state board, and upon the violation of [any] such order the appeal shall forthwith be dismissed.

1885, ch. 222, § 7.

**SEC. 1378. Court may revoke on complaint.**— When it appears on a trial before the district court for the proper county, upon a complaint made by any person that any place or building assigned as provided in section one (1) of this act has become a nuisance by reason of offensive smells or exhalations proceeding from the same, or is otherwise hurtful or dangerous to the neighborhood or to travelers, said court may revoke such assignment and prohibit the further use of such place or building for the exercise of either of the aforesaid trades or employments, and may cause such nuisance to be removed or prevented.

1885, ch. 222, § 6.

**SEC. 1379. Injunction.**— The district court or the judge thereof may issue an injunction or other proper writ to enforce the orders of said state board issued under the provisions of this act.

1885, ch. 222, § 8.

**SEC. 1380. Action for damages.**— Any person injured, either in his comfort or the enjoyment of his estate, by the exercise of any such trade or employment, may have and maintain an action for the damages sustained thereby.

1885, ch. 222, § 5.

**SEC. 1381. Other remedies preserved.**— Nothing in this act contained shall be so construed as to impair any other remedies which may exist in cases of nuisance.

1885, ch. 222, § 9.