

CHAPTER 12.

AN ACT TO INCORPORATE THE VILLAGE OF ELK RIVER.

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

SECTION 1. That all of sections thirty-three (33) and thirty-four (34) in township thirty-three (33) north, of range twenty-six (26) west, in Sherburne county, in the State of Minnesota, shall be known as the village of Elk River, and shall have the powers generally possessed by corporations at common law, and in addition thereto shall possess the powers hereinafter specifically granted, and be capable of contracting and being contracted with, suing and being sued, pleading and being impleaded, in all courts of law and equity, and may have a common seal, and may change and alter the same at pleasure, and also take, hold, purchase, lease, and convey real estate and personal estate and mixed estate, with-in or without the limits thereof, as the purposes of the village may require, and the authorities thereof shall have perpetual succession.

SEC. 2. The inhabitants of said village having the qualifications 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 year, and until their successors are elected and qualified. Also two (2) justices of the peace, who shall hold their offices for two (2) years and until their successors are elected and qualified. In addition to the above mentioned officers, the council shall have power to appoint a marshal and such other officers as to said council may seem necessary, and to define the duties of such officers and to remove such officers at pleasure.

SEC. 3. Each officer, before entering upon the duties of his office and within ten (10) days after receiving notice of his election, shall give notice in writing of his acceptance of the same, to the recorder of said village, and shall take and subscribe before some officer by law authorized to administer oaths an oath of office, to support the constitution of the State of Minnesota, and that he will faithfully perform the duties of his office in accordance with the law and the ordinances of said village, and in addition thereto, the treasurer, recorder, justices of the peace and marshal shall each give a bond, in a sum not less than two hundred dollars (\$200), to be determined by said council, conditioned for the faithful performance of the duties of their respective offices, which bond shall be filed with the recorder of said village.

SEC. 4. That the president, recorder, and trustees shall constitute the common council, to which body shall belong all the legis-

lative powers granted by this act to said corporation. All actions of the council intended to have the force of rules of law or authority or contract, shall be by ordinance, under the style of "*Be it ordained by the common council of the village of Elk River,*" but no ordinance shall embrace more than one subject, which shall be expressed by its title. The common council shall meet for the transaction of business at least once in three (3) months, and at such other times as said council may deem necessary, and a majority of said council shall be a quorum for the transaction of any business. The president, when present, shall preside at all meetings of the common council, but in case of his absence, the members present shall choose one of their number to preside during his absence, but no ordinance shall be passed except by a majority of all the members of the common council. A record, in book form, shall be kept by the recorder in which he shall record all the proceedings of the common council, and ayes and noes upon every ordinance voted upon shall be entered therein.

SEC. 5. That to the president shall belong the executive powers granted by this act to said corporation, except such of said powers as are specially vested in, or from their nature must necessarily pertain to the other executive officers of said corporation, whether said officers are created by this act or by the common council, he shall have power to call a meeting of the council, by giving such notice thereof as may have been provided by ordinance, or in default of provision, in such manner as he may deem meet and proper.

SEC. 6. That the recorder shall be the recording officer of the village and of the common council; he shall have the custody of the seal of said corporation, and all the records thereof, not necessarily and specifically appertaining to the other officers thereof. He shall keep all the accounts of the corporation; receive all claims against the same, and draw orders upon the treasurer for moneys payable by said corporation. But no such order shall ever be drawn by said recorder unless the same shall be in full or part payment of a claim against said corporation previously audited and allowed by the common council. He shall also make to the common council, at the close of each official year, a condensed report of all his doings as such officer during such year and he shall with all reasonable dispatch make such other report as the common council shall require.

SEC. 7. That the treasurer shall be the depository of all moneys belonging to said corporation, and shall from such moneys pay upon presentation all orders therefor drawn by the recorder and countersigned by the president.

SEC. 8. The justices of the peace, provided for and elected under the provisions of this act, shall have and possess all the powers and jurisdiction of justices of the peace, provided for and elected under the general laws of the State, and in addition thereto shall have cognizance and jurisdiction of all suits, prosecutions and proceedings for the recovery of any fine, forfeiture or penalty, under any

by-law, ordinance or regulation of said corporation under this act, or for the breach or violation of any such by-law, ordinance or regulation, and in all cases of assaults, batteries or affrays not indictable, and for a breach or violation of any by-law, ordinance or regulation that shall be commenced in the name of the village of Elk River, and the same proceedings shall be had in all civil and criminal suits or prosecutions before said justices, when not otherwise herein directed, as are established and required to be had in civil and criminal actions by the general laws of the State, before justices of the peace. All fines, forfeitures and penalties imposed by, or recorded before said justices, or either of them, in any suit, prosecution or proceeding had and commenced in the name of said village, shall be promptly paid by said justice to the treasurer of said corporation for the use thereof. The justices of the peace shall take judicial notice of the by-laws, ordinances and regulations of said corporation, and it shall not be necessary in any action civil or criminal before said justices, or either of them, to plead or refer to the same in any manner whatever, in any pleading or complaint, but said by-laws, ordinances and regulations shall in said justices' courts, be held and deemed to be public law. The justice of the peace shall, at least once in three (3) months, make to the common council a full report of all moneys received by him for fines, penalties and forfeitures, and shall pay them into the hands of the treasurer, taking his receipt therefor, and justices of the peace elected or appointed in the village of Elk River, under the general laws of this State, and residing within the limits of the corporation upon filing the bond and oath of office herein before prescribed for the justices of the peace shall have concurrent jurisdiction with justices of the peace under the provisions of this act, and be subject to the same liabilities and restrictions, in case of prosecutions for a breach or violation of any ordinance, by-law or regulation of said corporation, or of this act or for an assault, battery or affray, not indictable, committed within the limits of said corporation. No appeal shall be allowed when the judgment or fine imposed, exclusive of costs, shall not exceed ten dollars (\$10). The fees of justices of the peace shall be the same as allowed and fixed by the general laws of the State for justices of the peace. All warrants, writs and process of every nature issued by such justices shall be directed to the marshal, appointed under the provisions of this act, or to the sheriff or any constable of the county of Sherburne, and may be executed or served by said marshal or by the sheriff or any constable of said county, and for such purpose said marshal, sheriff and constables shall have and possess the power and authority which by the general laws of the State they have and possess in the execution or service of warrants, writs and other processes issued by justices of the peace elected under such general laws.

SEC. 9. The marshal appointed under the provisions of this act shall be the ministerial officer of this council, and shall have and possess all the powers belonging to the constables elected under the general laws of the State, and his compensation shall be fixed

by ordinance of the council; and said marshal shall, within the county in which he resides, also have and exercise all the powers, and perform all the duties of, and when acting as such, receive the same compensation as constables elected under the general laws of the State.

SEC. 10. There shall be an annual election for elective officers herein provided for, on the first (1st) Tuesday in April in each and every year, and the polls shall be kept open from one (1) o'clock in the afternoon until four (4) o'clock in the afternoon. And ten (10) days previous notice shall be given by the recorder, of the time and place of holding such election, and the officers to be elected, by posting notices thereof in three (3) of the most public places in the village. At said election the trustees, or any two (2) of them, shall act as judges of election, and the recorder as clerk of election, and in case of inability or non-attendance of any of said officers, the vacancy shall be filled by appointment by those officers present. At the close of the polls the vote shall be counted and a true statement thereof proclaimed to the voters present by one (1) of the judges, and the recorder shall make true record thereof, and within five (5) days thereafter he shall give notice in writing to the persons so elected of their election. *Provided* that no failure of any recorder to give the notice provided by this section shall, in any manner invalidate any election.

SEC. 11. All elections by the people shall be by ballot, and each ballot shall contain all 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 casting of lots, in the presence of the village council, at such time and in such manner as they may direct.

SEC. 12. The common council shall have the management and control of the finances and all the property of the corporation, and shall also, in addition to the power therein vested in them, have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify, amend and repeal all such ordinances, rules and by-laws and regulations for the government and good order of the village, for the suppression of vice and intemperance, and for the prevention of crime, as they shall deem expedient. The common council shall have full power and authority to declare and impose fines, penalties and punishments, and to enforce the same against any person or persons who may violate any of the provisions of any ordinance, rule, by-law or regulation passed and ordained by them, and all such ordinances, rules, by-laws and regulations are hereby declared to be and have the force of law. *Provided*, that they be not repugnant to the Constitution of the United States or of this State, and for those purposes shall have authority by ordinances, rules, by-laws or regulations, viz.:

First. To provide for the construction and maintenance of suitable sidewalks and street crossings as they shall deem expedi-

ent at the expense of the owners of the lots or parts of lots respectively opposite and adjoining to such sidewalks or crossings, or out of the common fund of the village.

Second. To prevent riot, noise, disturbances of public or religious meetings, and to punish any person or persons who may be so engaged, and generally to promote good order and the public peace.

Third. To prevent the encumbering of streets, sidewalks, crossings, alleys or public grounds with carriages, carts, wagons, sleighs, boxes, lumber, firewood or any other material or substance whatever.

Fourth. To restrain the running at large of cattle, horses, swine, sheep, nules, poultry and geese, and to authorize the impounding and distraining and sale of the same.

Fifth. To prevent open or notorious drunkenness, brawling or obscenity in the streets, alleys or public places, and to provide for the punishment of all persons so violating the ordinance or ordinances in such cases made and provided.

Sixth. To prevent all persons from doing damage to sidewalks, shade trees, public wells, cisterns or pumps.

Seventh. To direct the location and management of slaughter houses and markets in said village, and to regulate the sale, storage and conveyance of gunpowder or other combustible material.

Eighth. To compel the owners or agents of any yard, pen, stable, privy, sewer or any unwholesome or nauseous place, to clean, remove, or abate the same as the village council may deem necessary for the health, comfort and convenience of the inhabitants of said village.

Ninth. To prevent the dangerous construction and condition of chimneys, fire places, hearths, stoves, stovepipes, ovens, boilers and boiler stacks, and apparatus used in and about any building, and to cause the same to be put in a safe and secure condition at the expense of the owner or owners. To prevent the depositing of ashes in unsafe places, or the throwing of the same in the streets, alleys or highways of said village. To regulate and prevent the use of firearms in said village, and to establish such regulations for the prevention and extinguishment of fires as they may deem expedient and proper, and may also provide for the sinking of wells, cisterns or tanks, and furnish them with buckets, pumps and hose; and may also direct the owners, agents or lessees of any building or buildings in any exposed part of the village to procure and keep constantly on hand ready for immediate use, ladders of sufficient length to reach the highest part of their buildings, and may also direct that tubs or barrels of water or brine may be kept filled at all times.

Tenth. To license and regulate the exhibition of common showmen and shows of all kinds, or the exhibition of caravans, circuses, menageries, concerts or theatrical performances, billiard table, nine or ten pin alley, and bowling saloons.

Eleventh. To prohibit and restrain all descriptions of gaming

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

Twelfth. To prevent and punish horse-racing, immoderate riding or driving in the streets, to compel the persons to fasten their horses, or animals attached to vehicles, or otherwise, while standing the streets, and to regulate places of bathing and swimming within in the limits of said village.

Thirteenth. To restrain and punish vagrants, tramps, mendicants, street beggars, and prostitutes, and to suppress houses of ill fame.

Fourteenth. To establish and regulate boards of health, provide hospitals and pest houses, and prevent the spread of infectious diseases.

Fifteenth. To license and regulate and restrain hawkers, peddlers, auctions and auctioneers.

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

Seventeenth. To prevent any person from bringing, depositing, or having within said village any putrid carcass or other unwholesome substance, and to require the removal of the same by any person who shall have any such substance or putrid or unsound beef, fish, pork, hides or skins of any kind, and on default to authorize the removal thereof, by some competent officer at the expense of such person or persons.

Eighteenth. To prevent the shooting of firearms or firecrackers, and to prevent the exhibition of any fireworks in any situation which may be considered by the council as dangerous to the village or any property therein, or annoying to any citizen thereof.

Nineteenth. To compel the owners or occupants of buildings or grounds to remove snow, dirt or rubbish from sidewalks, streets or alleys opposite thereto, and to compel such owner or occupant to remove from the lot owned or occupied by him, all substances as the board of health may direct, and in his default to authorize the removal or destruction thereof by some officer of the village at the expense of such owner or occupant.

Twentieth. To provide for watchmen, and to prescribe their numbers and duties and regulate the same, and to create and establish the police of said village and to prescribe the number of police officers and their duties, and to regulate the same.

Twenty-first. To appropriate money to provide for the payments of the debts and expenses of the village; to appropriate money for the improvement of roads in said village, or roads leading into the same, and for all other purposes deemed necessary by the common council for the interest and welfare of said village.

Twenty-second. To provide a suitable place in which to confine those, who, for the violation of any ordinance, rule or by-law, en-

acted by said council may be liable to such confinement.

Twenty-third. Fines, penalties and punishments imposed by common council, for the breach of any by-law, ordinance or regulation of said village may extend to a fine not exceeding one hundred dollars (\$100) or imprisonment not exceeding thirty (30) days, or both such fine and imprisonment, and offenders against the same may be required 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 (\$500).

SEC. 13. 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.

SEC. 14. All ordinances, regulations, resolutions, and by-laws, shall be passed by the affirmative vote of a majority of the common council by ayes and noes and published at least once in the official paper before the same shall be in force and shall be admitted as evidence in any court in this State without further proof. They shall be recorded by the recorder in books to be provided for that purpose.

SEC. 15. The power conferred upon the common council to provide for the abatement or removal of nuisances, shall not bar or hinder suits, prosecutions, or proceedings in the courts according to law. Gambling houses, houses of ill fame, disorderly taverns, and houses or places where spirituous, vinous, fermented or malt liquors are sold without license required therefor, within the limits of said village are hereby declared and shall be deemed common nuisances.

SEC. 16. The council shall examine, audit and adjust, the accounts of the recorder, treasurer, justices, marshal, and all other officers and agents, of the town, at such times as they may deem proper, and also at the end of each year, and before the term for which the officers of said village were elected or appointed shall have expired. And the common council shall require 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 discharge of their said duties in pursuance of this section or shall neglect or refuse to render his account or present his books and vouchers to said 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 order suits and proceedings at law against any officer or agent of said village 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 settlements or adjustments.

SEC. 17. All actions brought to recover any fine, penalty or forfeiture under this act or the ordinances, police or health regulations made in pursuance thereof, shall be brought in the corporate name of the village.

SEC. 18. In all prosecutions for any violation of this act, or of any ordinance of the village, the first (1st) process shall be by warrant. *Provided*, that no warrant shall be necessary in any case of arrest or apprehension of any person or persons, while in the act of violating any law of the State of Minnesota, or ordinance of the village, 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 by warrant.

SEC. 19. The marshal and other police officers are hereby vested with all the powers of a sheriff or constable in the service of writs as granted to them by the laws of the State and may pursue into any county of this State, and take and bring back for trial any offender against the ordinances of said village.

SEC. 20. When any suit or action shall be commenced against said village, the service therein shall be made by copy left with the recorder of the village.

SEC. 21. No law of this State contravening the provisions of this act shall be considered as repealing, amending or modifying the same, except such purpose be expressly set forth in such law.

SEC. 22. The common council shall have the exclusive right to license persons vending or dealing in spirituous, vinous, fermented, mixed, malt or intoxicating liquors within the limits of said village of Elk River, and persons so licensed shall not be required to obtain a license from the board of county commissioners. *Provided*, that no license shall be granted for less than one hundred dollars (\$100) nor more than two hundred dollars (\$200) per year. *Provided further*, that said common council may grant license for the sale of malt liquors on, or to any druggist, for the sale of spirituous or vinous liquors, for medicinal or communion purposes, for a sum not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100) per year. Previous to the granting of any such license a bond shall be filed with the recorder and approved by the common council with the same penal sum and with the same conditions as are required by chapter sixteen (16) of the general statutes. The common council shall have full power and authority to declare and impose fines, penalties and punishments, and to enforce the same against any person or persons, who may violate this section of this act and any ordinance or regulation made in accordance therewith, or who may vend or traffic in spirituous, vinous, fermented, malt or intoxicating liquors unless duly licensed by said common council, said fine to be not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100), for each and every offence, and in case of conviction, under this section of this act and any ordinances, or regulations made in accordance therewith, there shall be no appeal allowed from the decision of

the justice, when the judgment or fine imposed shall not exceed twenty-five dollars (\$25) exclusive of costs.

SEC. 23. That for the purpose of the first election under this act, W. T. Struble, L. Pollard and B. A. Latte shall be inspectors of election and also the board of canvassers for such election and shall perform all the duties and possess all the powers of inspectors of election and board of canvassers prescribed by this act. They shall appoint the place of holding the polls of such election and post notices thereof ten (10) days before the same. At said election all the officers provided for by this act shall be elected. *Provided*, in case any of the foregoing board of canvassers should not be present, or should fail to act as such inspectors, then, in that case, it may be lawful for the by-standers to fill any such vacancy that may occur in such board.

SEC. 24. That the village of Elk River, organized as herein before set forth, shall constitute one (1) road district. And the street commissioner or road master thereof be appointed by the common council, and all taxes raised within the limits of said village for road purposes, shall be expended under the direction of the village council. And all taxes levied within the limits of said village for road and bridge purposes, and collected by the county treasurer of said Sherburne county, shall be paid by him to the treasurer of said village.

SEC. 25. The common council of said village may levy a tax for any legitimate object, but in no case shall the tax so levied exceed the sum of five mills upon the dollar valuation in any one year, and all taxes levied, except for improvements of streets, sidewalks and crossings, shall be levied and collected as prescribed by the statutes of the State, for the levying and collecting of township taxes. *Provided*, that the recorder of said village shall make an annual return to the county auditor of all taxes levied and assessed by them and the county auditor, shall, upon the receipt of the same, enter and carry out the said tax or taxes against the property within the said village and collect the same as other taxes are collected; and when collected, turn over the same to the village treasurer.

SEC. 26. The common council may prescribe the width of sidewalks and establish the grades of the same, and may determine the kind of material of which they shall be constructed, and the manner of construction.

SEC. 27. The common council shall have power to establish the grade of any street in said village and to regulate the grading of the same.

SEC. 28. In any action brought to recover any penalty or damages under this act or under any ordinance made by the common council it shall be sufficient to complain that the defendant is indebted to the village to the amount of said penalty or damages, and to refer to the act or ordinance under which the same is claimed, and give the special matter in evidence under it. All civil cases shall be under the control or direction of the common

council. They shall have power to settle, compromise, or prosecute all such actions on the part of the village when said village shall be a party or be interested in such actions, and no person shall be an incompetent juror by reason of being an inhabitant of said village, in an action in which the village shall be a party.

SEC. 29. All fines and penalties, and sums received from licenses, 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 this act.

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

SEC. 31. The treasurer shall make and deliver to the common council, at least ten (10) days before the annual election, or sooner if required by them, a full and detailed statement of all the receipts and expenditures since the date of the last annual report, and also the state of the treasury, which statements shall be filed with the recorder.

SEC. 32. No member of the village council shall be a party to, or interested in any job or contract with the village, and a contract in which any member of said council may be interested shall be null and void, and no member of the common council except the recorder, shall receive any compensation for his services as such member.

SEC. 33. The officers of said village shall all be residents thereof, and legal voters therein, and any and all vacancies occurring in the offices of said village shall be filled by appointment made by the common council.

SEC. 34. This act shall take effect and be in force from and after its passage.

Approved February 19, 1881.

CHAPTER 13.

AN ACT TO INCORPORATE THE VILLAGE OF EVANSVILLE.

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

SECTION 1. That the following described territory in the county of Douglas in said State, to-wit: The southwest quarter of section two (2), the south-east quarter of section three (3), and the north-west quarter of section eleven (11), in township one hundred and twenty-nine (129), of range forty (40), be and the