

## CHAPTER 46.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO INCORPORATE THE VILLAGE OF CANBY, IN THE COUNTY OF YELLOW MEDICINE," APPROVED JANUARY TWENTY-SEVENTH (27TH), ONE THOUSAND EIGHT HUNDRED AND SEVENTY-NINE (1879).

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

That chapter second (2d) of Special Laws of A. D. one thousand eight hundred and seventy-nine (1879), entitled "An act to incorporate the village of Canby, in the county of Yellow Medicine," approved January twenty-seventh (27th), A. D. one thousand eight hundred and seventy-nine (1879) be amended to read as follows:

## CHAPTER I.

SECTION 1. That all that district of country contained within the limits and boundaries hereinafter described, shall be a village by the name of the village of Canby, and the people who now do, and who hereafter may reside therein, shall be a municipal corporation by the name of the village of Canby, and by that name shall sue and be sued, and be impleaded 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; shall be capable of contracting and being contracted with, and 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.

SEC. 2. The following described territory shall be and constitute said village: All of sections three (3) and four (4) and the north half ( $\frac{1}{2}$ ) of sections nine (9) and ten (10), all in township one hundred and fourteen (114), range forty-five (45) west, in the county of Yellow Medicine, and the state of Minnesota.

## CHAPTER II.

SECTION 1. There shall be an annual election for elective officers hereinafter provided, held on the first (1st) Tuesday after the first (1st) Monday of January in each and every year, at such a place in the village as the common council shall designate, and the polls shall be kept open from one (1) o'clock in the afternoon till five (5) o'clock in the afternoon, and ten (10) 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 (3) of the most public places in said village, and publishing the same in at least one (1) newspaper published in said village: if any there be, for ten (10) days.

SEC. 2. The elective officers of said village shall be one (1) president, one (1) recorder, three (3) trustees, one (1) treasurer and one (1) justice of the peace, and each shall, except the justice of the peace hold their respective offices for the term of one (1) year, and until their

successors are elected and qualified. The justice of the peace shall be styled village justice, and shall hold his office for the term of two (2) years, and until his successor is elected and qualified. *Provided*, That the persons now holding the office of president, trustees, recorder, treasurer and justice of the peace in said village, shall hold their respective offices for the full term for which they were elected and until their successors are elected and qualified.

SEC. 3. 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 four-fifths ( $\frac{4}{5}$ ) of the common council; but no officer elected by the people shall be removed except for cause, nor until furnished with a written statement of the charges against him, nor until he shall have had a reasonable opportunity to be heard in his defense. The common council shall fix a time and place for the trial of such officer, of which not less than ten (10) 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.

SEC. 4. Whenever a vacancy shall occur in the office of president, trustees or recorder, 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. 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.

SEC. 5. All elections by the people shall be by ballot, and each ballot shall contain the names of the persons voted for, with a proper designation of the office written or printed thereon; and a plurality of votes shall constitute an election. When two (2) or more candidates for an elective office shall receive an equal number of votes for the same office, the election shall be determined by the casting of lots in the presence of the common council, at such time and in such manner as they shall direct.

SEC. 6. All persons entitled to vote for state or county officers, and who shall have resided in the county of Yellow Medicine for four (4) months next preceding the election, and ten (10) days in the village, shall be entitled to vote for any officer, or any matter to be voted upon under this law, and to hold any office hereby created.

All the territory so set apart for incorporation as the village of Canby, shall be and constitute a separate and independent organization and be entirely separated from the town of Norman for all purposes whatsoever, and constitute and be a separate election district for all elections whatsoever, and the mode of conducting all state and county elections in said village, shall be in the manner herein provided in reference to village elections, except that the returns thereof shall be made by the clerk or judges of election to the county auditor within the time and manner prescribed by law.

SEC. 7. The election in said village shall be held and conducted by

any two (2) members of the council who shall be the judges of the election, and the recorder shall act as clerk of election, and the judges of election may appoint one (1) additional clerk. The judges shall take the usual oath or affirmation as prescribed by the General Laws of the state to be taken by the judges of election, and shall have power to administer oaths. Said election shall be held and conducted in the same manner and under the same penalties as required by the laws of the state regulating elections.

SEC. 8. When the polls shall be closed, and the number of votes for each person voted for 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 village recorder within three (3) 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 (3) days thereafter. The recorder shall forthwith notify the officer or officers elected of their election, by written notice served upon such officer in person or left at their usual place of abode with some person of suitable age and discretion. Special elections to fill vacancies, or for any other purpose, shall be held and conducted in the same manner as in general and annual elections, and within such time as may be prescribed by resolution.

SEC. 9. Any officer removing from the village, or any officer who shall refuse or neglect after ten (10) days after notice of 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. The term of every officer elected under this law shall commence on the second (2d) Tuesday of January of the year for which he was elected, and shall, unless otherwise provided, continue for one (1) year, and until his successor is elected and qualified.

### CHAPTER III.

#### DUTY OF OFFICERS.

SECTION 1. 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 village; and the treasurer and marshal and village justice, and such other officers as the common council may direct, shall severally before entering upon the duties of their respective offices, execute to the village a bond, with at least two (2) 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 and liabilities, and such bond 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.

SEC. 2. The president shall take care that the laws of the state and the ordinances of the village are duly observed and enforced, and that all other executive officers of the village discharge their duties; he shall

from time to time give the common council such information, and recommend such measures as he may deem advantageous to the village. The president shall be the chief executive officer and head of the police of the village, 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 temporary police as he may deem necessary, and any police officer or watchman appointed by the president as aforesaid, may be discharged by him whenever in his opinion the welfare of the village may demand it, or a reduction of their number renders it necessary. The president shall preside at all meetings of the common council, and shall sign all ordinances, by-laws, rules or regulations passed by the common council: and in case the president shall be absent from any meeting of the village council (if there be a quorum), they shall proceed to elect of their own number a temporary presiding officer, who for the time shall discharge the duties of president. In case of the absence of the president from the village, or his inability for any reason to discharge the duties of his office, the said council shall elect by ballot, from their own number, an officer who shall be styled acting president, and all acts performed by him shall have the same force and validity as if performed by the president.

SEC. 3. There shall be a recorder of said village, styled the village recorder, who shall keep his office at the place of meeting of the common council, or at such other place convenient thereto as the council may determine; he shall keep the corporate seal, and all the papers and records of the village, and keep a record of the proceedings of the common council, at whose meetings it shall be his duty to attend; copies of all papers filed in his office and transcripts of 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 the books provided for that purpose. The village recorder shall have power to administer oaths and affirmations and take acknowledgments of deeds and other writings.

SEC. 4. It shall be the duty of the village recorder to report to the common council the financial condition of the village whenever the common council shall require; he shall make and keep a list of the outstanding village bonds (if any there be), 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 (1st) day of January, to the common council, an estimate of the expenses of the village, and likewise the revenue (if any) necessary to be raised for the current year.

SEC. 5. He shall make or cause to be made estimates of the expense of any work, to be done by the village, countersign all contracts made in behalf of the village, and certificates of work authorized by any committee of the common council, or by any village officer, and every contract made in behalf of the village, or to which the village is a party, shall be void, unless signed by the recorder. The

recorder shall keep regular books of account, in which he shall enter all indebtedness of the village, and which shall at all times show the precise financial condition of the village. The amount of bonds, orders, certificates or other evidence of indebtedness, issued by the common council, the amount of all bonds, orders, certificates, or other evidence of indebtedness which have been redeemed, and the amount of each outstanding; to countersign all bonds, orders and other evidence of indebtedness of the village, and to keep accurate accounts thereof; to keep accounts with all receiving and disbursing officers of the village, showing the amounts 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 on the last day of December, annually, make a full and accurate statement of the receipts and expenditures of the preceding year, which statement shall contain a full and correct description of each item, from whom and on what account expended, together with an accurate statement of the finances of said village at the end of the fiscal year, including all debts and liabilities of every description, and the assets and other means to discharge the same, and shall present the same to the common council for their approval, and shall within ten (10) days thereafter have the same posted up at the common council rooms, and in two (2) other public places in said village, and published in some newspaper in said village, if there is one, for two (2) successive weeks. 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 village 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 such 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 (1st) day of January of any year, the amount expended chargeable to any village 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 ( $\frac{3}{4}$ ) of the tax authorized to be raised, or revenues 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 the expenses are properly chargeable. 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 village is a party, or in which the village is interested, and any contract in which he may be interested shall be null and void.

SEC. 6. The common council shall have power to elect an attorney for the village and fix his compensation, 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.

SEC. 7. The treasurer shall be the depository of all moneys belonging to said corporation and shall receipt to the recorder therefor. The treasurer shall report to the common council at least fifteen (15) days before the annual election in each year, a full and detailed account of all moneys received and paid out by him, after the date of the last annual report, which report shall be filed with the recorder; *Provided*, That no moneys shall be paid out by said treasurer, except on order from the village recorder, as provided by this act, and no order shall be paid by him unless first endorsed in writing thereon, with the name of the payee therein, and the party receiving the money therefor.

SEC. 8. There shall be a marshal of said village, who shall be appointed by the common council for the preservation of the public peace; said marshal is hereby vested with all the powers of a sheriff or constable, in the service of writs as granted them by the laws of this state, and may pursue into any county in this state, and take and bring back for trial any offender against the ordinances of the village, and when performing the duties of sheriff aforesaid he shall be entitled to like fees.

SEC. 9. The common council shall at the first meeting after the annual election, or an adjournment thereof, elect by ballot a street commissioner who shall hold his office for one (1) 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 village, and carry into effect all orders and ordinances of the common council, in relation to work or improvements upon the public streets, roads and bridges, and public grounds of the village; 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 village.

SEC. 10. The common council of said village shall annually, in the month of January, appoint, by a majority vote of all the members of said council, a village assessor for said village of Canby, who shall have the same powers and authority, and perform the same duties as are or may be required by the laws of this state of town assessors; and he shall qualify and receive his compensation in the same manner as town assessors. Said assessor shall, whenever the village council shall so determine, make and return a census of the population of said village, in the manner and form prescribed by said council.

SEC. 11. The justice of the peace of the village, shall be styled village justice, shall possess all the power, authority and rights of justice of the peace of the county under the laws of the state, and shall have in addition thereto, exclusive jurisdiction to hear and try all complaints for violation of any provision or provisions of the village charter or any ordinance, by-law, rule or regulation, made or adopted

under or by virtue thereof; and all cases cognizable before a justice of the peace in which the village 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 said village or its charter, and in all cases committed against the same; and the village justice 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 (\$25.00) dollars, and in all prosecutions as above and for all other offences not indictable, there shall be no appeal from the village justice and no change of venue.

All warrants, process or writs issued by the village justice shall run in the name of the village of Canby, and be directed to the village marshal, sheriff or any constable of said county, and may be substantially in the following form. to-wit:

STATE OF MINNESOTA,

VILLAGE OF CANBY.

} ss.

County of Yellow Medicine. }

The village of Canby to the village marshal, sheriff or any constable of said county:

Whereas                      has this day complained in writing to me on oath that                      did, on the day of                      A. D. 18                      , at the village of Canby, and within the corporate limits thereof, in said county,                      did (here insert the complaint whatever it may be) contrary to the provisions of an (ordinance, by-law or rule as the case may be) of the village of Canby, entitled (here insert the title of ordinance or number of the section of the by-law or rule, as the case may be), and prays that the said                      might be arrested and dealt with according to law. Now therefore, you are commanded forthwith to apprehend the said                      , and bring him before me to be dealt with according to law.

Given under my hand this                      day of                      A. D. 18                      .

Justice of the Peace.

In all civil suits or proceedings before said village justice, the same form and proceeding shall be had and used where not otherwise directed, as are established and required to be had in criminal and civil actions, by the laws of this state, before a justice of the peace; and appeals from the judgment and decisions of said village justice, shall be allowed in all civil suits as now provided by law for appeals from judgments rendered by justices of the peace. In all cases of conviction of assault, batteries or affrays within said village, and in all cases of conviction under any ordinance of the village for breach of the peace, disorderly conduct, keeping houses of ill-fame or frequenting the same, and of keeping or maintaining disorderly or ill-governed houses, the said justice shall have power, in addition to the fine or penalty imposed, to compel said offenders to give security for their good behavior, and to keep the peace for a period not exceeding six (6) months, and in a sum not exceeding five hundred (\$500) dollars. The said justice 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 village justice for offences committed within the village limits, for the violation of any ordinance, by-law,

or regulation of said village, shall belong to and be a part of the finances of said village.

SEC. 12. The village justice shall on the first (1st) Monday in each and every month, report to the common council, all the proceedings instituted before him, in which the village is interested, and shall at the same time account for and pay over to the village recorder, all fines and penalties collected or received by him, belonging to the said village; and said justice shall be entitled to receive from the county such fees in criminal cases as are allowed by the statute to justices of the peace for similar services.

SEC. 13. Said justice shall be in attendance at his office 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 him at all times, in court or otherwise.

SEC. 14. In all suits brought on behalf of said village for the recovery of any forfeiture, fines or penalty, in all cases arising on complaints for the violation of any ordinances, by-laws or regulation of said village, and on complaints for assault, battery or affray, or other misdemeanor or other criminal offense not indictable, committed within said village, the said justice shall be authorized to tax, with the other legal costs, two (\$2) dollars for each trial, for the benefit of said village, and his residence in said village shall not deprive him of jurisdiction of actions brought in favor of or against said village, when such actions are otherwise within the jurisdiction of a justice of the peace. If the village justice is a party at interest, or is deprived of jurisdiction in any case under the laws of this state, then the president of the common council shall designate a justice of the peace, of an adjoining election district, before whom the case shall be tried in the same manner as before a village justice.

SEC. 15. The common council at their first meeting in each year, or as soon as may be thereafter, may elect a village surveyor, who shall be a practical surveyor and engineer; 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 village shall be carefully preserved in the office of the village recorder, open to the inspection of persons interested.

SEC. 16. The common council at their first (1st) meeting after each annual election may designate an official paper, published in said village, to do the village printing, by resolution entered upon their minutes, and the compensation for such printing shall not exceed the statute rates allowed; and in the newspaper designated, shall be published all ordinances, by-laws, rules and resolutions, and other proceedings and matters required by this act or by the by-laws, rules and resolutions 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 village printer or printers, immediately after the publication of any notice or ordinance or resolution, which is required to be published, shall file with the village 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.



SEC. 17. If any person having been an officer of said village, shall not within ten (10) days after notification and request, deliver to his successor in office, all property, books, papers and effects of every description in his possession, belonging to said village or pertaining to the office he may have held, he shall forfeit and pay to the use of the village, not less than twenty-five (\$25.00) dollars, nor more than one hundred (\$100.00) dollars, besides all damages caused by his neglect or his refusal to so deliver; and said successor may receive possession of said books, papers and effects, in the manner prescribed by the laws of this state.

SEC. 18. 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 president as hereinbefore provided, shall be appointed for a longer term than one (1) 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. No officer elected or appointed to office under this charter, shall be a party to or interested in any contract, in which the village is interested, made while such officer is holding office.

SEC. 19. The president, recorder and each councilman, village justice, marshal, police officers and watchmen shall be officers of the peace, with power of constable at common law, and may command the peace, suppress in a summary manner all rioting and disorderly behavior within the limits of the village, and for such purpose may command the assistance of the by-standers, and if need be of 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 (\$50) 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.

## CHAPTER IV.

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

SECTION 1. The president, recorder and three (3) trustees shall constitute the common council, and the style of all ordinances shall be "The council of the village of Canby do ordain." The style of all by-laws shall be "The common council of the village of Canby do enact. The style of all rules shall be "The common council of the village of Canby do adopt." The common council shall meet at such a time and place as they by resolution may direct. A majority of the common council shall constitute a quorum for the transaction of any business.

SEC. 2. The common council shall hold stated meetings, and the president or recorder 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 elections and qualifications of its own members, and in each case 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.

SEC. 3. The common council shall have control and the management of the finances of all the property of the village, and shall likewise, in addition to the powers herein vested in them, have full powers and authority 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 village, and for the prevention of crime, and for the suppression of vice and intemperance, as they shall deem expedient. They shall have power to establish and maintain a village prison. The common council shall have full power and authority to declare and impose penalties and punishments, and to enforce the same against any person 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-laws:

*First.*—To license and regulate the exhibitions of common showmen and shows of all kinds, or the exhibitions of caravans, circuses, concerts or theatrical performances, billiard tables, pigeon hole tables, nine or ten pin alleys, bowling saloons; to grant license to and regulate auctions and auctioneers, peddlars, tavern and hotel keepers, butcher shops and victualling house keepers, merchants, and dealers in manufactured articles, druggists and apothecaries. The village council shall have the exclusive right to license and regulate the vending of, dealing in, or disposing of spirituous, vinous, malt or fermented liquors within the corporate limits of said village, upon the applicant complying with the following conditions, and be subject to all the penalties as provided in the General Statutes of the state of Minnesota. *And provided further*; That no license shall be granted for less than the sum of one hundred dollars (\$100.00), nor for a greater sum than three hundred dollars (\$300.00) per year or any part thereof, at the discretion of the village council. Any person applying for license to sell spirituous, vinous, malt or fermented liquors within the corporate limits of said village shall, before the same is issued and granted, pay to the village treasurer of said village, a sum not less than one hundred dollars (\$100.00) nor greater than three hundred dollars (\$300.00), at the discretion of the village council, and shall file with the village recorder the receipt of the village treasurer therefor, and shall also file with the village recorder a bond in the same penal sum and containing the same conditions and requirements provided for in the General Laws of the state of Minnesota relating to the same matter, except that the same shall run to, and in case of default be payable to said village council for the use and benefit of said corporate village. *Provided further*, That all licenses of whatever nature,

granted by the village council shall expire within ten (10) days after the next general election in said village.

*Second.*—To restrain 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 village, and to restrain any person from selling, giving or dealing in spirituous or vinous or fermented liquors, unless duly authorized by the common council.

*Third.*—To prevent any riots or disorderly assemblages in said village, and to provide for the arrest and punishment of any person 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.

*Fourth.*—To compel the owner or owners of any tallow chandler's shop, soap factory, tannery, stable, barn, privy, sewer, slaughter house, or other unwholesome structure or place, to cleanse, remove or abate the same from time to time, as often as it may be deemed necessary for the health, comfort or convenience of the inhabitants of said village.

*Fifth.*—To direct the location and management of slaughter houses and markets, breweries, distilleries, and to establish rates for and license venders of gunpowder and regulate the storage, keeping and conveying of gunpowder or other combustible material.

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

*Seventh.*—To prevent and punish immoderate driving or riding in the streets; to regulate the speed of cars and locomotives in said village, and to prevent their obstructing the streets of said village for more than ten (10) minutes, accidents excepted; and to compel persons to fasten their horses or other animals attached to vehicles or otherwise while standing in the streets; and to regulate places for bathing or swimming in the waters within the limits of the village.

*Eighth.*—To restrain the running at large of horses, cattle, swine, sheep, poultry and geese, and to authorize the distraining and sale of the same, and to impose penalties on the owners of said animals for the violation of this ordinance; *Provided*, That when a sale of such animals shall be made, the proceeds therefrom, after deducting the expenses of the distraining, keeping, advertising and selling such animals, shall be deposited in the office of the treasury of said village for the use and benefit of the owners thereof, if called for by such owners within one (1) year from the day of such sale.

*Ninth.*—To license the keeping of dogs, and to regulate and restrain the keeping and running at large of dogs, and to authorize the destruction of all dogs found running at large within said village contrary to provisions of ordinances thereof.

*Tenth.*—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 upon his premises any such substance, or any putrid or un-

sound meat, flesh or fish, hides or skins of any kind, and to authorize the removal of the same at their expense.

*Eleventh.*—To establish and construct public pounds, pumps, wells, cisterns, reservoirs and hydrants; to erect lamps and provide for the lighting of the village, 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 districts; to regulate and license hacks, carts, omnibuses, and the charges of hackmen, draymen, cabmen and omnibus drivers in the village.

*Twelfth.*—To establish and regulate boards of health, provide hospitals and hospital grounds, and the registration of births and deaths, and the return of bills of mortality; and to regulate or prevent, if deemed expedient, burials of the dead within the village limits.

*Thirteenth.*—To prevent all persons riding or driving horses, mules or ox or other animals on the sidewalks in said village, or in any way doing any damage to said sidewalks.

*Fourteenth.*—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 council as dangerous to the village or any property therein, or annoying any of the citizens thereof.

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

*Sixteenth.*—To establish public markets and fairs and public buildings for the same; and to make rules and regulations for the management of the same; to appoint suitable officers for overseeing and regulating such fairs and markets, and to restrain all persons from interfering with the due observance of such rules and regulations.

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

*Eighteenth.*—To compel the owner of 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, and in his default to authorize the removal or destruction thereof by some officer, at the expense of such owner or occupant.

*Nineteenth.*—To regulate, control and prevent the landing of persons from the cars 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 village.

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

*Twenty-first.*—To provide for watchmen, and to prescribe their number 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-second.* To provide by ordinance for a standard of weights and measures, for appointment of a village sealer, and to provide for the punishment of false weights and measures.

*Twenty-third.* To regulate the inspection of flour, pork, beef, fish, salt, whisky and other liquors and provisions; and to appoint inspectors, weighers, measurers and gaugers; to regulate their duties and prescribe their compensation.

*Twenty-fourth.* To direct and regulate the planting and preservation of ornamental trees in the streets, alleys, highways and public grounds of the village.

*Twenty-fifth.* To remove and abate any nuisance, obstruction or encroachment upon the streets, alleys, public grounds and highways of said village.

*Twenty-sixth.* 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 buildings may be maintained.

*Twenty-seventh.* 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 village, and to make quarantine laws and enforce the same within the village.

*Twenty-eighth.* To restrain and punish vagrants, mendicants, street begging, and provide for the punishment of the same.

*Twenty-ninth.* Fines, penalties and punishments imposed by the common council for the breach of any ordinance, by-law or regulation of said village, may extend to a fine not exceeding one hundred (\$100) dollars, or imprisonment in the village prison or county jail not exceeding thirty (30) days, or both, and to be fed on bread and water, at the discretion of the village justice, 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 (6) months, and in a sum not exceeding five hundred (\$500) dollars.

*Thirtieth.* To appropriate money and provide for the debts and expenses of the village, and provide needful buildings for the use of the village, and for the erection thereof.

*Thirty-first.* To provide for the taking from time to time the enumeration of the inhabitants of the village.

SEC. 4. 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, shall be published in the official paper, and posted in two (2) public places in said village, for two (2) weeks, and the same shall be in force from and after their passage and shall be admitted as evidence in any court in the state without further proof; they shall be recorded by the village recorder in books to be provided therefor. 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.

SEC. 5. The power conferred upon the common council to provide for the abatements of any nuisance, shall not bar or hinder suits,

prosecutions or proceedings in courts according to law. Depot houses, or buildings of any kind within the limits of said village, wherein more than twenty-five (25) pounds of gunpowder, or more than five (5) barrels of thirty-six (36) 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 or saloons, and houses or places where spirituous, vinous or fermented liquors are sold without license required therefor within the limits of said village, are hereby declared and shall be deemed public or common nuisances.

SEC. 6. The common council shall examine, audit and adjust the accounts of the recorder, treasurer, street commissioner, village justice, and all other officers or agents of the village, at such times as they shall 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 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 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 settlement or adjustment.

SEC. 7. The common council of said village may revoke any license granted under the provisions of this chapter whenever they deem it proper; and every license granted by the common council of said village shall cease to be in force from and after any violation of any of the conditions of the bond required by this chapter is proved before any court having competent jurisdiction; and thereafter the person who has so violated the conditions of said bond shall be liable to all the penalties imposed on persons selling liquor without license, and shall be further liable for all damages done by persons intoxicated by liquors obtained from him; and the sureties on said bond shall be jointly and severally liable with the principal, for the payment of said damages, to be recovered in a civil action.

SEC. 8. Whoever sells or barter any spirituous, vinous, fermented or malt liquors in a less quantity than five (5) gallons within the corporate limits of said village, without first having obtained license therefor, agreeably to the provisions of this chapter, or disposes of any spirituous, vinous, fermented or malt liquors under any pretext or in any manner, shall be deemed guilty of a misdemeanor, and shall upon conviction thereof before the village justice of said village, be fined for every such offense in any sum not less than twenty-five dollars (\$25.00), nor greater than one hundred dollars (\$100.00), for the use of said village; and upon default of the payment of such fine, he shall be committed to the village prison, or in case there be no village prison, in the common jail of the county for a term not exceeding sixty (60) days, or until such fine is paid.

## CHAPTER V.

## TAXES.

SECTION 1. The common council shall have power to levy upon all taxable property of said village, taxes to provide for the current expenses of the village government: for the opening, maintaining and improvement of the public grounds, roads and the construction of buildings and improvements of a general character. *Provided*, That such taxes shall in no year exceed three (3) per cent. of the assessed valuation.

SEC. 2. The common council shall have power to levy a special tax upon all the taxable property of the village, or of the different road districts therein, for the purpose of constructing, maintaining bridges, culverts and openings; 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 of good order and cleanliness, and to protection against crimes, disease and fire. *Provided*, That such taxes shall in no year exceed two (2) 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 the person paying the same, upon the road district 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. The common council shall also have the power to levy upon every male inhabitant of said village, between the ages of twenty-one (21) and fifty (50) years, except idiots, lunatics, paupers and such others as are exempt by law, a capitation or poll tax of not less than two (2) or more than four (4) days work upon the streets, highways or other public improvements within their respective road districts in said village, of which such inhabitant is a resident. All persons liable to pay such poll tax may in lieu of work, pay the street commissioners one dollar and a half (\$1.50) per day for each day such person is assessed to work. All moneys so received shall be expended upon the streets, highways and other public improvements within the road district wherein the person paying the same may reside; such poll tax shall be levied by the common council at their first meeting after the annual election of each year, and shall be collected by the street commissioners in the manner prescribed by the laws of this state for the collection of highway labor taxes in towns by overseers of highways; *Provided*, Any person so assessed, who does not commute as hereinbefore provided, or who refuses or neglects to appear and perform such labor, shall thereupon become liable to pay the full amount of such assessment in money at the same rate per day as prescribed in section eighteen (18) of chapter thirteen (13) of the General Laws of this state.

SEC. 3. 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 village, taxes sufficient to pay all bonds and other indebtedness due and payable in any year, and the interest on bonds or other indebtedness due or payable in any year, unless other adequate pro-

vision 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 any 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 for any purpose unless so authorized.

SEC. 4. 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 of 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 village; if it be a bond or interest tax, it shall be kept and used for the further 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.

SEC. 5 The common council shall cause to be transmitted to the county auditor of the county of Yellow Medicine, on or before the first (1st) day of September of each year, a statement of all taxes by them levied; 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 with, and in like manner as state and county taxes are paid, and the payment enforced; and the county treasurer of said county shall pay such taxes over as fast as collected into the treasury of said village.

SEC. 6. No money shall be paid out of the village treasury unless such payment be authorized by a vote of the common council, and shall be drawn out only upon orders signed by the president 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.

SEC. 7. 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 order drawn upon each fund separate.

## CHAPTER VI.

### OPENING AND VACATING STREETS, ALLEYS, ETC.

SECTION 1. 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 village, and shall cause all streets which may have been opened and graded to be kept open and in repair, and free from nuisances.

SEC. 2. The common council of said village, by a vote of not less than four-fifths ( $\frac{4}{5}$ ) of all the members present and constituting a quorum of any stated or special meeting, such vote to embrace a ma-



majority of all the members elect, shall have power to lay out, open, alter and vacate public squares, streets, grounds, highways, alleys, and to widen and straighten the same. *Provided*, That whenever it shall be required to take private property for the purpose above stated, they shall proceed in the manner hereinafter provided.

*First.*—The common council upon ordering an improvement as above mentioned to be made, shall appoint three (3) commissioners who shall be disinterested freeholders and qualified voters of said village, to view the premises and assess the damage 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 recorder of said village, to attend at his office, at a time to be fixed by him, for the purpose of qualifying and entering upon the discharge of their duties, and in case any such commissioner upon being notified, shall neglect or refuse to attend as aforesaid, he shall forfeit and pay a fine to said village not exceeding fifty dollars (\$50), and shall be liable to be prosecuted therefor before the village justice of said village, as in case of fines imposed for the violation of an ordinance of said village, and the commissioners in attendance shall be authorized to appoint another commissioner or commissioners in place of any absentee or absentees aforesaid, who shall be eligible and qualified under the provisions of this section, to hold said office. In all other cases of vacancy the common council shall fill said vacancy.

*Second.*—The commissioners shall be sworn by the village recorder to discharge their duties as commissioners in the matter with impartiality and fidelity, and to make returns of their actions and doings to the common council.

*Third.*—The said commissioners having ascertained and assessed the damages aforesaid, shall make and file with the recorder a written report to the common council of their action in the premises, embracing a schedule of the 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 cost of the proceedings.

*Fourth.*—Upon such report being filed in the office of the recorder, said recorder shall give at least ten (10) days notice by publication in the official paper of said village, 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 person interested in any building standing in whole or in part upon any land required to be taken for such improvement, shall, on or before the time specified in said notice, notify the common council in writing of their election to remove such building 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 any of the parties interested.

*Fifth.*—The damages assessed shall be paid out of the general fund of the village, and shall be paid or tendered or deposited or set apart in the treasury of said village to and for the use of the parties entitled

thereto, within six (6) months from the confirmation of such assessment and report, and the land or property required to be taken for the purpose of as 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 or set apart for his use as aforesaid, and in any case the said village should be unable to determine to whom damages in any particular case so awarded should be paid, or in case of disputed deposited 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.

*Sixth.*—In case any owner or owners of buildings, as aforesaid, shall have elected in the manner as aforesaid, to remove his or their building, he or they shall remove them within thirty (30) 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 village of the amount of damages awarded in such case, in case of removal. 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 shall be necessary, upon payment or depositing the damages awarded for such taking in manner aforesaid, may then be taken and appropriated, sold or disposed of, as the common council shall direct, and the same or the proceeds thereof shall belong to said village.

*Seventh.*—When any known owner of lands or tenements affected by the proceedings under this act, shall be an infant or labor under any 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 of said village, 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.

*Eighth.*—Any person feeling himself aggrieved by such assessment may, by notice in writing, served upon the president of said village, 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 (20) days from the time of confirmation of said report or assessment, appeal from such assessment to the district court aforesaid, and 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 and considered, and a transcript of such report, certified by the recorder, 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 appeals 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.

SEC. 3. Whenever any public grounds, 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 village recorder, and also filed in the office of the register of deeds of the county.

SEC. 4. No public grounds, streets, alleys or highways within the village shall be vacated or discontinued by the common council, except upon the petition of a majority of the owners of property or residents on the line of such public grounds, streets, alleys or highways, residents within the village. Such petition shall set forth the facts and reasons for such vacation, accompanied by a plat of such public grounds, and shall be verified by the oath of at least two (2) 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 recorder, who shall give notice by publication in the official paper of said village for four (4) 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 (10) days from the expiration of such publication. The common council shall, or such committee as may be appointed by them for that 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 the 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 a resolution passed by a two-thirds ( $\frac{2}{3}$ ) vote of all the members present, 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 recorder, shall be filed for record and duly recorded in the office of the register of deeds of the county.

SEC. 5. Any person aggrieved thereby may within twenty (20) 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.

SEC. 6. It shall be the duty of the recorder to keep in his office a record of all proceedings taken under this chapter, and after the confirmation of any report mentioned in section two (2) or four (4) of this chapter, said recorder 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, notice and proofs of publications thereof, and orders and 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.

## CHAPTER VII.

### FIRE DEPARTMENT.

SECTION 1. 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 material as in the judgment of the common council shall not be dangerous to the 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 (50) 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 thereof, 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 village, 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 or removed in such manner as the 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 (\$100) dollars which shall be imposed by the village justice upon the complaint of any citizen.

SEC. 2. 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 replaced 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 or alleys, to prevent the deposit or piling of cord wood in close proximity to buildings where it endangers any of the surrounding property and to cause its removal, 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 the manufactures dangerous in causing or promoting fires, to regulate and prevent the use of fire arms and fire works, to compel owners or occupants of buildings to have scuttles in the roof, and stairs or ladders to the same; to authorize the president or any member of the common council or other officer of the village, 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 regulation for the preservation and extinguishment of fires as the common council may deem expedient.

SEC. 3. 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, 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 or poll tax, from

serving juries and from military duty during the continuance of such membership, and shall elect their own officers and make their own by-laws, subject, however, to the approval of the common council.

SEC. 4. The common council shall have power to appoint one (1) or more fire wardens, whose duty it shall be to enter into, at reasonable times, and examine all dwelling houses, lots, yards, enclosures and buildings of every description, in order to discover whether any of them are in a dangerous condition, and to cause such as they may deem dangerous, to be put in a safe condition.

SEC. 5. Whenever any person shall refuse any lawful order of any engineer, fire-warden or member of the common council, at any fire it shall be lawful for the officer giving such orders, to arrest or direct orally any constable, the marshal, or any 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 such lawful order, or 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 (\$50.00) dollars.

## CHAPTER VIII.

### STREETS, GRADES AND SIDEWALKS.

SECTION 1. 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 village surveyor, the grade of all streets, sidewalks and alleys in said village, and it shall cause accurate profiles thereof to be made and kept in the office of the village recorder.

SEC. 2. Whenever the common council shall deem it necessary to construct or repair any sidewalk in said village, they shall require the street commissioner to notify all owners and occupants of any lot or lots or parcel of land adjoining the sidewalk, to construct or repair the same at his or their own expense and charge, within a time designated by the publication in the official paper of said village, for not less than two (2) weeks, of a notice to such owners or occupants setting forth what work is to be done, and the character of the same, by such owners and occupants, and the time within which they are to do the same.

SEC. 3. If such work is not done and the said sidewalk 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 sidewalk, and said expense shall be assessed upon such lots or parcels of land so chargeable, by the street commissioner, in such manner that every such lot will be charged with the whole expense of the sidewalk adjoining thereto. After such assessment is made it shall be returned by the street commissioner to the 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 other taxes for state, county or village purposes.

SEC. 4. If said assessment be not paid to the street commissioner or the recorder on or before the twentieth (20th) day of August in any year, the common council shall cause a statement of the same to be transmitted with the village taxes levied for that year, to the auditor of the county, on or before the first (1st) 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 village, county and state taxes are collected and payment thereof enforced.

SEC. 5. 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 the same shall be constructed, having regard to the business and amount of travel in the vicinity of each.

SEC. 6. The expenses of constructing or repairing sidewalks in said village, shall include all stone work, excavations or fillings to make same upon established grades.

SEC. 7. All sidewalks constructed or repaired by the owner or occupant of any lot or parcel of land in pursuance of notice under this act, or without such notice, shall be subject to the approval of the street commissioner of said village.

## CHAPTER IX.

### MISCELLANEOUS PROVISIONS.

SECTION 1. In all cases of the imposition of any fine or penalty, or the rendering of any judgment by the village justice of said village, pursuant to any statute of the state of Minnesota, or pursuant to any ordinance or by-law of said village, as a punishment for any offence, or for the violation of any ordinance or by-law as aforesaid, the offender shall be forthwith committed to the village prison of said village, or if there be no village prison, to the common jail of the county, and to be there imprisoned for a term not exceeding ninety (90) days, in the discretion of the village 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 village prison, or in case there be no village prison, in the common jail of the county; *Provided*. That the village justice shall have full power and authority to order that any one convicted of any offence before said village justice, subjecting such offender to imprisonment under the charter and ordinances of said village, may be kept at hard labor in any workhouse established by the village council for that purpose, (power to establish which is here specially granted to the village council;) or, in case of a male offender, may be kept at hard labor during his term of imprisonment in such workhouse, or upon the public streets and improvements of said village; or in case any is committed by said justice upon non-payment of a fine imposed, the person so committed may be kept at hard labor as above until such person shall have worked out the amount of such fine at the rate of one dollar (\$1) per day, for a time not exceeding the term of such commitment; and

the village council shall have full power to establish by ordinance, all needful regulations for the security of such persons thus employed, and to prevent escape and secure proper discipline.

SEC. 2. No judgment recovered in favor of the village shall be remitted or discharged, except by a unanimous vote of the village council.

SEC. 3. The village of Canby shall not be liable in any case for board or jail fees of any person who may be committed by any officer or magistrate of the village to the common jail of Yellow Medicine county under the state laws, but shall be liable therefor in case of such commitment for violations of village ordinances. The sheriff and keeper of the common jail of Yellow Medicine county, shall receive and safely keep all persons committed to said jail by the village justice of the village of Canby for offences against the ordinances of said village until such person shall be discharged by process of law, and for such services and keeping shall receive the same compensation as is allowed by the county of Yellow Medicine for similar services.

SEC. 4. All real and personal property belonging to the village of Canby, shall be exempt from all taxation whatsoever, and from levy and sale under or by virtue of any execution.

SEC. 5. Before any account, claim or demand against the village for any property or service for which the village is liable, shall be audited or allowed by the village council or paid, the person in whose favor such account, claim or demand shall be, or his agent, shall reduce the same to writing, in items, and shall verify the same to the same effect and conditions, and be liable to the same punishments and penalties as are required and fixed by the General Laws of the state in regard to claims against towns and counties. *Provided*, That the provisions of this section shall not apply to any claim or demand for an annual or monthly salary. And the members of the village council, in auditing and allowing said claims or demands, shall be governed by said general law, and be subject to the same penalties and punishments therein provided, if they do audit and allow any account, claim or demand against the village which is not so verified and itemized.

SEC. 6. In all prosecutions for any violation of this act, the first (1st) process shall be by warrant on complaint being made.

*Provided*, That no warrant shall be necessary in any cases 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 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 made by warrant.

SEC. 7. No person shall be an incompetent judge, justice, witness or juror, by reason of his having been a resident of said village, in any proceeding or action in which the village shall be a party in interest.

SEC. 8. Chapter two (2) of Special Laws of the year one thousand eight hundred and seventy-nine (1879), this act which is amendatory thereof, shall be cited as the *special charter* of the village of Canby, and chapter one hundred and thirty-nine (139), General Laws of the state of Minnesota for the year one thousand eight hundred and seventy-five (1875) and amendments thereto, shall be cited as the *general charter* of the village of Canby.

SEC. 9. In any action brought to recover any penalty or damage

under this act, or under any ordinance made by the common council, it shall be sufficient to complain that the defendant is indebted to the village for the amount of said penalty or damage, and to refer to the act or ordinance under which the same is claimed, and to give the special matter in evidence under it. All civil cases [actions] shall be under the direction and control of the common council. They shall have power to settle, compromise or prosecute all such actions on the part of the village when said village shall be a party or be interested in such action.

SEC. 10. All acts heretofore passed for the incorporation of the village of Canby, which are in opposition or in any manner conflict with this act, are hereby repealed, but all ordinances, resolutions, regulations, rules, by-laws and orders of the common council of said village, or parts thereof not repealed, suspended or made void by this act, shall continue and remain in full force and effect until altered, amended, repealed or suspended by the common council of said village.

SEC. 11. All and every process and notice whatever, affecting such village, shall be served upon the president of the common council, or in his absence, upon the village recorder, and in the absence of both these officers, by leaving a certified copy thereof at the office of the recorder.

SEC. 12. This act is hereby declared to be a public act, and may be read in evidence in all courts of law in this state without proof.

SEC. 13. The common council of said village shall have power to purchase, establish and maintain ground for a village cemetery, and by ordinance provide for the proper management and regulation of the same.

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

Approved March 6, 1883.