

Statutes
1878

THE
GENERAL STATUTES
OF THE
STATE OF MINNESOTA,

As Amended by Subsequent Legislation.

PREPARED BY
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WITH SUPPLEMENTS,
CONTAINING ALL THE GENERAL LAWS IN FORCE UP TO THE END OF
THE LEGISLATIVE SESSION OF 1883.

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that have been enacted for that purpose, and shall receive such compensation as is provided by law for such office. (1873, c. 30, § 1.)

*§ 13. **Removal for habitual drunkenness.** The habitual drunkenness of any person holding office under the constitution or laws of this state, shall be good cause for the removal from office by the authority and in the manner provided by law. (1878, c. 74, § 1.)

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*§§ 14, 15, 16, 17, 18, 19, 20, 21, 22, 23. See 1891 Supp't, pp. 19, 20.

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

§ 2. **Fraction of township, how organized.** A fraction of a township may be attached by said commissioners to an adjoining town, or be divided between two or more towns, or organized separately, according to the wishes of a majority of the legal voters to be affected thereby; and when rivers or lakes or creeks so divide a township as to make it inconvenient to do town business, the said commissioners may dispose of any fraction so formed by annexing the same to an adjoining township in the same county, if it shall seem to them proper, whenever petitioned to do so by not less than two-thirds of the legal voters residing in such fraction; and the fact that any such petition is so signed by two-thirds of such voters may be proved by the affidavit of any legal voter residing in such fraction, having knowledge of the fact; and any township having two or more villages or cities, each containing two hundred or more inhabitants, may petition the county commissioners for a division; and whenever the county commissioners are so petitioned, they may, if they think the interest of such town will be subserved thereby, proceed to divide such townships in such manner as will best suit the convenience of the state; *provided, however,* that at least twenty days' notice shall first be given by the county commissioners to the chairman of the board of supervisors of each township affected by the change, before action is taken thereon; *provided, further,* that nothing herein contained shall be construed to release any property in or belonging to that part of any township so detached, from any tax levied or assessed prior to such division being made; *provided,* that the part or portion of any town annexed to any other town, and any village or city separated from any town under the provisions of this act, shall not be released from, or in any way discharged from, the payment of any bonded or other indebtedness that may exist against the town from which separation has been made. (*As amended 1875, c. 36, § 1.*)

14 M. 437.

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

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

§ 5. **County auditor to send abstract of report to state auditor.** Each county auditor shall, within thirty days after such town is organized, transmit by mail to the auditor of state an abstract of such report, giving the bounds of each town, and the name designated; and said county auditor shall record, in a book for that purpose, a full description of each town.

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

§ 7. **Boundaries of towns to remain as now.** The limits and boundary lines of every organized township shall remain as now established, until otherwise provided by the board of county commissioners under the authority of law.

§ 8. **Powers.** Each town is a body corporate, and has capacity—

First. To sue and be sued.

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

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

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

*§ 9. **Relating to the title of burial lots.** The title to every lot or piece of land which shall have been used by the inhabitants of any town or village in this state as a cemetery or public burying-ground for the space of ten years, shall be deemed vested in such town or village, and shall be subject, in the same manner as other corporate property of towns or villages, to the government and direction of the same: *provided*, nothing herein contained be construed to apply to any lot or piece of ground used as a burying-ground, the title to which is vested, by deed or otherwise, in any cemetery association: *provided also*, that the provisions of this act shall not apply to or in any way affect the title to any tract or parcel of land now or hereafter [heretofore] occupied for a burying-ground, situated or lying within the corporate limits of the city of Stillwater. (1872, ¹³c. 32, § 1.)

§ 10. (SEC. 9.) **Limitation of powers.** No town shall possess or exercise any corporate powers except such as are enumerated in this chapter, or are especially given by law, or necessary to the exercise of the powers so enumerated or granted.

§ 11. (SEC. 10.) **Proceedings to be in name of town.** All acts or proceedings by or against a town in its corporate capacity, shall be in the name of such town; but every conveyance of land within the limits of such town, made in any manner for the use or benefit of its inhabitants, has the same effect as if made to the town by name.

§ 12. (SEC. 11.) **By-laws, when to take effect.** No by-law made by any town shall take effect before the same is published by posting up copies thereof in three of the most public places in the town; and such by-laws duly made and so published are binding upon all persons coming within the limits of the town, as well as upon the inhabitants thereof, and shall remain in force until altered or repealed at some subsequent town meeting.

§ 13. (SEC. 12.) **When annual town meeting to be held.** The citizens of the several towns of this state, qualified to vote at general elections, shall annually assemble and hold town meetings in their respective towns on the second Tuesday of March, at such place in each town as the electors thereof, at their annual town meetings, from time to time appoint; and notice of the time and place of holding such meetings shall be given by the town clerk, by posting up written or printed notices in three of the most public places in said town, at least ten days prior to said meeting. (*As amended 1870, c. 99, § 1.*)

§ 14. (SEC. 13.) **Three supervisors to be elected in each town.** There shall be elected at the annual town meeting in each town, three supervisors—one of whom shall be designated on the ballots as chairman—one town clerk, one treasurer, one assessor, two justices of the peace, two constables, and one overseer of highways for each road district in said town; but justices of the peace and constables shall be elected only once in two years, except to fill vacancies.

§ 15. (SEC. 14.) **Supervisors to be fence viewers.** The supervisors elected in every town are, by virtue of their office, fence viewers of such town.

§ 16. (SEC. 15.) **Powers of electors at town meetings.** The electors of each town have power, at their annual town meeting—

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

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

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

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

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

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

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

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

Ninth. To vote to raise such sums of money for the repair and construction of roads and bridges, for the support of the poor, and for other necessary town charges as they deem expedient: *provided*, that they may at their annual town meeting direct such an amount of the poll and road tax of the town to be expended on the highways in an adjoining town as they deem conducive to the interests of the town; which labor and tax shall be expended under the direction of the supervisors of the town furnishing the same: *provided further*, that where more than one entire congressional township is included within an organized town, the poll and road tax raised within the limits of each of such congressional townships shall be expended within such congressional township unless raised to be expended outside of such organized town, in an adjoining town. (*As amended 1869, c. 28, § 1.*)

12 M., 124; 15 M., 350.

§ 17. (SEC. 16.) **Special town meeting, when held.** Special town meetings may be held for the purpose of electing town officers to fill any vacancies that occur, also for the purpose of transacting any other lawful business, whenever the supervisors, town clerk, and justices of the peace, or any two of them, together with at least twelve other freeholders of the town, file in the office of the town clerk a written statement that a special meeting is necessary to the interests of the town.

§ 18. (SEC. 17.) **Town clerk to make record and post notices.** Every town clerk with whom such statement is filed, as required in the preceding section, shall record the same, and immediately cause notice to be posted up in five of the most public places in the town, giving at least ten days' notice of such special meeting; and if there is a newspaper printed in said town, he shall cause a copy of said notice to be published therein at least three days before the time appointed for such meeting.

23 M. 521.

§ 19. (SEC. 18.) **Contents of notice.** Every notice given for a special town meeting shall specify the purpose for which it is to be held, and no other business shall be transacted at such meeting than such as is specified in such notice. If vacancies in office are to be filled at such meeting, the notices shall specify in what office vacancies exist, how they occurred, who was the last incumbent, and when the legal term of each office expires.

§ 20. (SEC. 19.) **Town meeting, how organized.** The electors present at any time between nine and ten o'clock in the forenoon of the day of the annual town meeting,

or special town meeting, shall be called to order by the town clerk, if there is one present; in case there is none present, then the voters may elect, by acclamation, one of their number chairman. They shall then proceed to choose one of their number to preside as moderator of such meeting. The town clerk last before elected, shall be clerk of the meeting, and keep full minutes of its proceedings, in which he shall enter at length, every order or direction, and all rules and regulations made by the meeting. If the town clerk is absent, then such person as is elected for that purpose, shall act as clerk of the meeting.

§ 21. (SEC. 20.) **Business, how transacted.** At the opening of every town meeting, the moderator shall state the business to be transacted, and the order in which it shall be entertained, and no proposition to vote a tax shall be acted on out of the order of business as stated by the moderator; and no proposition to reconsider any vote shall be entertained at any town meeting, unless such proposition to reconsider is made within one hour from the time such vote was passed, or the motion for such reconsideration is sustained by a number of voters equal to a majority of all the names entered upon the poll-list at such election up to the time such motion is made; and all questions upon motions made at town meetings shall be determined by a majority of the electors voting, and the moderator shall ascertain and declare the result of the votes on each question.

§ 22. (SEC. 21.) **Challenges, how regulated.** If any person offering to vote at any election, or upon any question arising at such town meeting, is challenged as unqualified, the judges of the town meeting shall proceed thereupon in like manner as the judges at the general election are required to proceed, adapting the oath to the circumstances of the town meeting.

§ 23. (SEC. 22.) **Qualifications of voters.** No person is a voter at any town meeting unless he is qualified to vote at general elections, and has been, for the last ten days, an actual resident of the town wherein he offers to vote.

§ 24. (SEC. 23.) **Minutes of town meeting to be filed.** The minutes of the proceedings of every town meeting, subscribed by the clerk of said meeting, and by the judges, shall be filed in the office of the town clerk, within two days after such town meeting.

§ 25. (SEC. 24.) **Proclamation of opening of polls, etc.** Before the electors proceed to elect any town officer, proclamation shall be made of the opening of the polls, by the moderator, and proclamation shall, in like manner, be made of the adjournment, and of the opening and closing of the polls, until the election is ended.

§ 26. (SEC. 25.) **Officers, how elected.** The supervisors, treasurer, town clerk, assessor, justices of the peace, constables and overseer of the poor, in each township, shall be elected by ballot. All other officers, if not otherwise provided by law shall be chosen either by yeas or nays, or by a division, as the electors determine.

*§ 27. **Restraining cattle—votes must be by ballot.** All votes regulating the time and manner of running at large of cattle, horses, mules, asses and sheep, within the several towns of the state of Minnesota, shall be by ballot, either printed or written, or partly printed and partly written, and shall be in these words: "In favor of restraining cattle," or "Against restraining cattle," and shall be placed in the same ballot box with the votes cast for town officers, and be canvassed and returned in the same manner in which other ballots are now required to be canvassed and returned. (1877 c. 133, § 1.)

§ 28. (SEC. 26.) **Names voted for to be on one ballot.** When the electors vote by ballot, all the officers voted for shall be named in one ballot, which shall contain, written or printed or partly written and partly printed, the names of the persons voted for, and the offices to which such persons are intended to be chosen, and shall be delivered to one of the judges so folded as to conceal its contents.

§ 29. (SEC. 27.) **Poll-list to be kept.** When the election is by ballot, a poll-list shall be kept by the clerk of the meeting, on which shall be entered the name of each person whose vote is received.

§ 30. (SEC. 28.) **Judge to deposit ballots in box.** When the election is by ballot, one of the judges shall deposit the ballots in a box provided for that purpose.

§ 31. (SEC. 29.) **Canvass of votes to be public.** At the close of every election by ballot, the judges shall proceed publicly to canvass the votes, which canvass, when commenced, shall continue without adjournment or interruption, until the same is completed.

§ 32. (SEC. 30.) **Manner of making canvass.** The canvass shall be conducted by taking a ballot at a time from the ballot-box, and counting until the number of ballots is equal to the number of names on the poll-list; and if there are any left in the box, they shall be immediately destroyed; and the person having the greatest number of votes for any office shall be declared duly elected: *provided*, that if two or more persons have an equal and the highest number of votes for any office, the judges of election shall at once publicly, by lot, determine who of such persons shall be declared elected. If, on opening the ballots, two or more ballots are found to be so folded that it is apparent that the same person voted them, the board shall destroy such votes immediately. (*As amended 1876, c. 76, § 1.*)

§ 33. (SEC. 31.) **Result of canvass to be read to meeting.** The canvass being completed a statement of the result shall be entered at length by the clerk of the meeting in the minutes of its proceedings, to be kept by him as before required, which shall be publicly read by him to the meeting; and such reading shall be deemed notice of the result of the election to every person whose name is entered on the poll-list as a voter.

§ 34. (SEC. 32.) **Persons elected to be notified.** The clerk of every town meeting, within ten days thereafter, shall transmit to each person elected to any town office, whose name is not entered on the poll-list as a voter, notice of his election.

§ 35. (SEC. 33.) **Who are eligible to town offices.** Every person qualified to vote at town meetings, is eligible to any town office.

§ 36. (SEC. 34.) **Officers to take oath.** Every person elected or appointed to the office of supervisor, town clerk, assessor, treasurer, or constable, within ten days after he is notified of his election or appointment, shall take and subscribe, before the town clerk or justice of the peace, an oath to support the constitution of the United States, and of the state of Minnesota, and faithfully to discharge the duties of his office (naming the same), to the best of his ability. Such oath shall be administered without fee, and certified by the officer before whom it was taken, with the date of taking the same.

§ 37. (SEC. 35.) **Certificate of oath to be filed.** The person taking such oath shall immediately, and before entering upon the duties of his office, file the certificate of such oath in the office of the town clerk.

§ 38. (SEC. 36.) **Effect of not filing oath or bond.** If any person elected or appointed to any town office, of whom an oath or bond is required, neglects to file the same within the time prescribed by law, such neglect shall be deemed a refusal to serve in such office.

§ 39. (SEC. 37.) **Overseers of highways and pound masters to file notice of acceptance of office.** Every person elected or appointed to the office of overseer of highways or pound master, before he enters on the duties of his office, and within ten days after he is notified of his election or appointment, shall file in the office of the town clerk, a notice signifying his acceptance of such office. A neglect to file such notice shall be deemed a refusal to serve.

§ 40. (SEC. 38.) **Treasurer to give bond.** Every person appointed or elected to the office of treasurer before he enters upon the duties of his office, shall execute and deliver to the supervisors of the town and their successors in office, a bond, with one or more sureties to be approved by the chairman of the board, in double the probable amount of money to be received by him, which amount

shall be determined by said board, conditioned for the faithful execution of his duties as such treasurer.

§ 41. (Sec. 39.) **Bond to be approved and filed.** The said chairman shall within six days thereafter, file such bond, with said approval indorsed thereon, in the office of the register of deeds, who shall record the same in a book provided for that purpose.

§ 42. (Sec. 40.) **Constables to take oath and give bond.** Every person chosen to the office of constable, before he enters upon the duties of his office, and within eight days after he is notified of his election or appointment, shall take and subscribe the oath of office prescribed by law, and execute a bond to the board of supervisors in such penal sum as the supervisors direct, with one or more sufficient sureties to be approved by the chairman of said board or the town clerk, conditioned for the faithful discharge of his duties. The chairman of said board or the town clerk shall, if such bond is approved, indorse his approval thereon, and cause such bond to be filed with the town clerk for the benefit of any person aggrieved by acts or omissions of said constable; and any person so aggrieved, or the town, may maintain an action on said bond against said constable and sureties.

§ 43. (Sec. 41.) **Justices to take oath and give bond.** Every person elected or appointed to the office of justice of the peace, shall, within ten days after receiving notice thereof, take and subscribe before any other officer duly authorized to administer oaths, an oath to support the constitution of the United States, and of the state of Minnesota, and faithfully and impartially to discharge the duties of his office, according to the best of his ability. He shall also execute a bond to the board of supervisors, with two or more sufficient sureties, to be approved by the chairman, in the penal sum of not less than five hundred dollars, nor more than one thousand dollars, conditioned for the faithful discharge of his official duties. Said chairman shall indorse thereon his approval of the sureties named in such bond, and such justice shall immediately file the same, together with his oath of office, duly certified, with the clerk of the district court of the proper county, for the benefit of any person aggrieved by the acts of said justice; and any person aggrieved may maintain an action on said bond in his own name against said justice and his sureties.

§ 44. (Sec. 42.) **Effect of neglect to give bond.** If any person elected or appointed to the office of treasurer or constable does not give such security, and take such oath as is required above, within the time limited for that purpose, such neglect shall be deemed a refusal to serve.

§ 45. (Sec. 43.) **Penalty for entering on duties before taking oath.** If any town officer who is required by law to take the oath of office, enters upon the duties of his office before taking such oath, he forfeits to such town the sum of fifty dollars.

*§ 46. **Town officers must not be interested in contracts.** No town officer shall become a party to or interested, directly or indirectly, in any contract made by the board of which he may be a member; and every contract or payment voted for or made contrary to the provision of this section, is void; and any violation of this section, hereafter committed, shall be a malfeasance in office, which will subject the officer so offending to be removed from office. (1877, c. 136, § 1.)

§ 47. (Sec. 44.) **Term of office.** Town officers, except justices of the peace and constables, hold their offices for one year, and until others are elected or appointed in their places, and are qualified. The justices of the peace and constables shall hold their offices for two years, and until others are chosen and qualified,

§ 48. (Sec. 45.) **Vacancies, how filled.** Whenever any town fails to elect the proper number of town officers, or when any person elected to a town office fails to qualify, or whenever any vacancy happens in any town office, from death, resignation, removal from the town, or other cause, the justices of the peace of the town, together with the board of supervisors, or a majority of them, shall fill the vacancy by appointment, by warrant under their hand; and the persons

so appointed shall hold their offices until the next annual town meeting, and until others are elected and qualified in their places, and shall have the same powers, and be subject to the same duties and penalties, as if they had been duly elected.

§ 49. (SEC. 46.) **Vacancies in board of appointment, how filled.** Whenever a vacancy occurs, from any cause, in any of the offices enumerated in the foregoing section, composing the board of appointment for the appointment of town officers in case of vacancy, the remaining officers, of such appointing board, shall fill any vacancy thus occurring.

*§ 50. **County auditor to appoint assessors, when.** When any township assessor is elected, and fails or refuses to qualify to discharge the duties of his office, or if the electors of said township fail, from any reason whatever, to elect an assessor, and the town board of said township fails or refuses to appoint an assessor for said township on or before the first day of June of that year for which said assessor is to serve, then it shall be the duty of the county auditor to appoint an assessor for said township, who shall be a resident of said county. (1872, c. 34, § 1.)

§ 51. (SEC. 47.) **Proceedings when town fails to elect officers.** In case any town refuses or neglects to organize and elect town officers at the time fixed by law for holding annual town meetings, twelve freeholders of the town may call a town meeting for the purpose aforesaid, by posting up notices in three public places in such town, giving at least ten days notice of such meeting, which notice shall set forth the time and place and object of such meeting; and the electors, when assembled by virtue of such notice, shall possess all the powers conferred upon them at the annual town meeting. In case no such notice is given, as aforesaid, within thirty days after the time for holding the annual town meeting, the board of county commissioners of the county shall, on the affidavit of any freeholder of said town, filed in the office of the clerk of the board, setting forth the facts, proceed, at any regular or special meeting of the board, and appoint the necessary town officers of such town; and the persons so appointed shall hold their respective offices until others are elected and qualified in their places, and shall have the same powers, and be subject to the same duties and penalties, as if they had been duly elected.

§ 52. (SEC. 48.) **Supervisors may accept resignations.** The board of supervisors of any town may, for sufficient cause shown to them, accept the resignation of any town officer in their town; and whenever they accept any such resignation, they shall forthwith give notice thereof to the town clerk.

§ 53. (SEC. 49.) **Powers and duties of supervisors.** The supervisors shall have charge of such affairs of the town as are not by law committed to other town officers; and they shall have power to draw orders on the town treasurer for the disbursement of such sums as may be necessary for the purpose of defraying the incidental expenses of the town, and for all moneys raised by the town to be disbursed for any other purpose.

§ 54. (SEC. 50.) **Supervisors to improve streets, when.** Whenever any incorporated village or town which is laid out into streets is included in the limits of an organized township, the town supervisors are authorized to cause improvements to be made in any street that may be needed as a highway, if the corporate authorities of said town or village neglect to make such improvements.

§ 55. (SEC. 51.) **To be board of health.** The town supervisors shall constitute a board of health, and within their respective towns shall have and exercise all the powers necessary for the preservation of the public health.*

§ 56. (SEC. 52.) **Board of health, powers of.** The board of health may examine into all nuisances, sources of filth and causes of sickness, and make such regulations respecting the same as they may judge necessary for the public health and safety of the inhabitants; and every person who shall violate any order or

*See post, § 117, as to town board of health.

regulation made by any board of health, and duly published, shall be deemed guilty of a misdemeanor, and punished by a fine not exceeding one hundred dollars, or by imprisonment in the county jail not exceeding three months.

§ 57. (SEC. 53.) **Notice of regulations to be given.** Notice shall be given by the board of health of all orders and regulations made by them, by publishing the same in some newspaper, if there is one published in such town; if there is none, then by posting up such notice in five public places therein; and such publication of said orders and regulations shall be deemed a legal notice to all persons.

§ 58. (SEC. 54.) **Nuisances may be ordered to be removed.** Whenever any nuisance, source of filth, or cause of sickness, is found on private property, the board of health shall order the owner or occupant thereof, at his own expense, to remove the same within twenty-four hours; and if the owner or occupant neglects so to do, he shall forfeit a sum not exceeding fifty dollars, to be recovered in the name and for the use of the town.

§ 59. (SEC. 55.) **Board may remove nuisance, when.** Whenever such owner or occupant shall not comply with such order of the board of health, said board may cause the said nuisance, source of filth, or cause of sickness, to be removed; and all expenses incurred thereby shall be paid by the said owner or occupant, or by such other person as has caused or permitted the same.

§ 60. (SEC. 56.) **May examine buildings and vessels—complaints.** Whenever the board of health thinks it necessary, for the preservation of the health of the inhabitants, to enter any building or vessel in their town, for the purpose of examining into and destroying, removing or preventing any nuisance, source of filth, or cause of sickness, and shall be refused such entry, any member of the board may make complaint under oath to a justice of the peace of his town, stating the facts in the case so far as he has knowledge thereof.

§ 61. (SEC. 57.) **Justice shall issue warrant on complaint.** Such justice shall thereupon issue a warrant, directed to the sheriff or any constable of the county, commanding him to take sufficient aid, and, being accompanied by two or more of the board of health, between the hours of sunrise and sunset, to repair to the place where such nuisance, source of filth, or cause of sickness complained of may be, and the same destroy, remove or prevent, under the direction of the members of such board of health.

§ 62. (SEC. 58.) **Relating to contagious diseases.** When any person coming from abroad, or residing in any town or city within this state, is infected or lately has been infected with the smallpox or other contagious disease dangerous to the public health, the board of health of the town or city where such sick or infected person is, may immediately cause such person to be removed to a separate house, if it can be done without danger to his health, and shall provide for such person or persons, nurses, medical attendance, and other necessaries, which shall be a charge in favor of such town or city upon the person so provided for, his parents, guardian or master, if able, otherwise upon the county to which he belongs, or upon the state, if said person be a non-resident of the state. (*As amended 1872, c. 60, § 1.*)

§ 63. (SEC. 59.) **Provision for infected person in case of danger by removal.** If such infected person cannot be removed without danger to his health, the board of health shall make provision, as directed in the preceding section, for such person, in the house where he may be; and, in such case, they may cause the persons in the neighborhood to be removed, and may take such other measures as they may deem necessary for the safety of the inhabitants.

§ 64. (SEC. 60.) **Board shall provide hospital, when.** When a disease dangerous to the public health breaks out in any town, the board shall immediately provide such hospital or place of reception for the sick and infected as is judged best for their accommodation and the safety of the inhabitants, which shall be subject to the regulations of the board; and the board may cause any sick and infected

person to be removed thereto, unless his condition will not admit of such removal without danger to his health, in which case the house or place where he remains shall be considered as a hospital, and with all its inmates, subject to the regulations of the board.*

§ 65. (SEC. 61.) **Supervisors shall bring action on official bonds.** The supervisors shall, by their name of office, prosecute, for the benefit of the town, all actions upon bonds given to them or their predecessors in office; and shall also sue for and collect all penalties and forfeitures, in respect to which no other provision is made, incurred by any officer or inhabitant of the town; and they shall have power, in like manner, to prosecute for any trespass committed on any public inclosure or property belonging to the town, and shall pay all moneys collected under this section to the town treasurer.

§ 66. (SEC. 62.) **Two supervisors a quorum.** Any two of the supervisors constitute a quorum for the performance of any duties required by law of the town supervisors, except when otherwise provided.

§ 67. (SEC. 63.) **Town clerk to be custodian of books, etc.—may appoint deputy.** The town clerk shall have the custody of the record books and papers of the town, when no other provision is made by law, and he shall duly file and safely keep all certificates of oaths and other papers required by law to be filed in his office. He may at his discretion appoint a deputy town clerk, for whose acts he shall be responsible. Before any deputy town clerk shall enter upon the duties of his office, he shall take and subscribe the oath required by law, which oath shall be filed in the office of the clerk of the court. (*As amended 1871, c. 73, § 1.*)

§ 68. (SEC. 64.) **Proceedings of town meeting to be recorded.** He shall record, in the book of records of his town, minutes of the proceedings of every town meeting, and he shall enter therein every order or direction, and all rules and regulations of any such town meeting; and shall also file and preserve all accounts audited by the town board, or allowed at a town meeting, and enter a statement thereof in such book of records.

§ 69. (SEC. 65.) **Town clerk to take oath and give bond.** Every person elected or appointed to the office of town clerk in any of the towns of this state, shall, before he enters upon the duties of his office, and within the time prescribed by law for filing his oath of office, execute a bond with two or more sufficient sureties, to be approved by the town treasurer, in such penal sum as the supervisors direct, conditioned for the faithful discharge of his duties. Said bond so approved shall be filed in the office of the clerk of the district court, for the benefit of any person aggrieved by the acts or omissions of said town clerk; and any person so aggrieved, or the town, may maintain an action on said bond against said town clerk and sureties.

§ 70. (SEC. 66.) **Name of constable to be sent to clerk of court.** Every town clerk, immediately after the qualification of any constable elected or appointed in his town, shall transmit to the clerk of the district court of the county the name of such constable.

§ 71. (SEC. 67.) **Name of justice to be sent to clerk of court.** Each town clerk shall, immediately after the election of any justice of the peace in his town, transmit a written notice thereof to the clerk of the district court of said county, stating therein the name of the person elected, and the term for which he is elected; and if elected to fill a vacancy, he shall state in said notice who was the last incumbent of the office.

§ 72. (SEC. 68.) **Penalty for neglect to make return.** If any town clerk wilfully neglects to make such return, such omission is hereby declared a misdemeanor, and on conviction thereof, the person so offending shall be adjudged to pay a fine not exceeding ten dollars.

*See post, § 121, as to scarlatina.

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§ 73. (Sec. 69.) **By-laws to be posted.** The town clerk shall post in three of the most public places in his town, copies of all by-laws made by such town, and shall make an entry in the town records of the time when, and the place where, such by-laws were posted.

§ 74. (Sec. 70.) **Supervisors to audit accounts against town.** The supervisors constitute a town board for the purpose of auditing all accounts payable by said town;* and if from any cause there are not three supervisors present, to constitute said board, the chairman, and, in his absence, either of the other supervisors, may notify one or so many justices of the peace of the town as will, together with the supervisors present, make a board of three; and the board so constituted shall have authority to act as the town board.

§ 75. (Sec. 71.) **Town board to meet, when.** The town board shall meet annually on the Tuesday next preceding the annual town meeting to be held in said town, and at such other times as they deem necessary and expedient, for the purpose of auditing and settling all charges against said town; and they shall state on each account the amount allowed by them; but no allowance shall be made for any account which does not specifically state each item of the same, and the nature thereof.

§ 76. (Sec. 72.) **Shall audit accounts of town officers.** The said board shall, also, at their annual meeting in each year, examine and audit the accounts of the town treasurer for all moneys received and disbursed by him as such officer; and they shall audit the accounts of all other town officers who are authorized by law to receive or disburse any money of the town by virtue of their office.

§ 77. (Sec. 73.) **Shall draw up report.** Such board shall draw up a report, stating in detail the items of account audited and allowed, the nature of each account, and the name of the person to whom such account was allowed, including a statement of the fiscal concerns of the town, and an estimate of the sum necessary for the current expenses thereof, the support of the poor, and other incidental expenses for the ensuing year.

§ 78. (Sec. 74.) **Report shall be read.** Such report shall be produced and publicly read by the town clerk at the next ensuing town meeting; and the whole or any portion of such report may be referred, by the order of the meeting, to a committee, whose duty it shall be to examine the same and report thereon to such meeting.

§ 79. (Sec. 75.) **Treasurer shall pay audited accounts.** The amount of any account audited and allowed by the town board, and the amount of any account voted to be allowed at any town meeting, shall be paid by the town treasurer on the order of said board, signed by the chairman and countersigned by the clerk; and all orders issued to any person by the town board, for any sums due from such town, shall be receivable in payment of town taxes of said town.

§ 80. (Sec. 76.) **Clerk of town board.** The town clerk shall be the clerk of the town board, and shall keep a true record of all their proceedings in his office.

§ 81. (Sec. 77.) **Duties of treasurer.** The town treasurer shall receive and take charge of all moneys belonging to the town, or which are by law required to be paid into the town treasury, and shall pay over and account for the same upon the order of such town, or the officers thereof, duly authorized in that behalf, made pursuant to law, and shall perform all such duties as may be required of him by law.

§ 82. (Sec. 78.) **Shall keep true account and deliver books to successor.** Every town treasurer shall keep a true account of all moneys by him received by virtue of his office, and the manner in which the same are disbursed, in a book provided at the expense of the town for that purpose, and exhibit such account, together with his vouchers, to the town board at its annual meeting for adjustment; and he shall deliver all books and property belonging to his office,

*See ante, c. 8, § 115, providing that no account shall be audited, unless itemized.

the balance of all moneys in his hands as such treasurer, to his successor in office, on demand, after such successor has qualified according to law.

§ 83. (SEC. 79.) **Shall draw money from county treasurer—fees.** The town treasurer shall from time to time draw from the county treasurer such moneys as have been received by the county treasurer for the use of his town, and, on receipt of such moneys, shall deliver proper vouchers therefor. Each town treasurer shall be allowed and entitled to retain two per centum of all moneys paid into the town treasury, for receiving, safe keeping, and paying over the same according to law; except such moneys as are appropriated for bounties to soldiers, of which he shall only be allowed to retain one per cent.

§ 84. (SEC. 80.) **Shall make annual statement.** Each town treasurer, within five days preceding the annual town meeting, shall make out a statement in writing of the moneys by him received into the town treasury from the county treasurer, and from all other officers and persons, and also of all moneys paid out by him as such treasurer, in which statement he shall set forth particularly from whom and on what account such moneys were received by him, with the amount received from each officer or person, and the date of receiving the same, also to whom and for what purpose any moneys have been paid out by him, with the amount and date of each payment. He shall also state therein the amount of moneys remaining in his hands as treasurer. Such statement shall be filed by him in the office of the town clerk, and shall be by such clerk carefully preserved and recorded in the town book of records.

§ 85. (SEC. 81.) **Violation of four preceding sections—penalty.** Every town treasurer who refuses or neglects to comply with the provisions of the four preceding sections, shall forfeit not more than two thousand dollars, to be recovered in any court of competent jurisdiction, the amount to be fixed by the jury trying the cause, or by the court if there is no jury impanelled, and may be recovered by a civil action, in the name of any person who prosecutes the same, with costs of suit; one-half shall go to the person so prosecuting, and the remainder to the town of which such delinquent is or has been treasurer.

§ 86. (SEC. 82.) **Fees of town officers.** The following town officers are entitled to compensation, at the following rates, for each day necessarily devoted by them to the service of the town, in the duties of their respective offices: The town assessors shall receive for their services two dollars per day, while engaged in their respective duties as such assessors. The town clerks and supervisors shall receive for their services one dollar per day, when attending to business in their town, and one dollar and fifty cents, when attending to business out of town; no town supervisor shall receive more than twenty dollars, for compensation, in any one year: *provided*, that the town clerk shall be paid fees for the following, and not a per diem: For serving notices of election upon town officers, as required by law, twenty-five cents each; for filing any paper required by law to be filed in his office, ten cents each; for posting up notices required by law, twenty-five cents each; for recording any order or any instrument of writing authorized by law, six cents for each one hundred words; for copying any record or instrument on file in his office, and certifying the same, six cents for each one hundred words, to be paid for by the person applying for the same: *provided further*, that at any town meeting, before the electors commence balloting for officers, they may by resolution reduce or increase the compensation of officers, but no such increase shall exceed one hundred per cent.

§ 87. (SEC. 83.) **Fees and duties of pound masters.** The pound master is allowed the following fees, to wit: For taking into pound, and discharging therefrom, any horse, ass or mule, and all neat cattle, ten cents each. For every sheep or lamb, three cents each; and for every hog, large or small, five cents; and twenty cents for keeping each head twenty-four hours in pound. And the pound master has a lien on all such animals for the full amount of his legal charges and expenses, and shall be entitled to the possession of such animals

until the same are paid; and if the same are not paid, and said animals removed, within four days after they are so impounded, the said pound master shall give notice, by posting the same in three of the most public places in said town, that said animals (describing them) are impounded, and that, unless the same are taken away and fees paid within fifteen days after the date of such notice, he will sell the same at public vendue, at the place where the town meetings of said town are usually held; and on the day designated in such notice the said pound master shall expose the said animals for sale, and sell the same to the highest bidder in cash, for which services he shall receive two per cent. of the purchase money for each animal. Out of the moneys realized from said sale, the said pound master shall deduct all his legal fees and charges, and pay the balance, if any, to the chairman of the town supervisors, at the same time giving to said supervisors an accurate description of the animal sold, and the amount received by him for each animal, and shall take a receipt and duplicate therefor, and file one of them with the town clerk: *provided*, that the said supervisors shall at any time within six months, upon sufficient proof from the owner of any animal so sold, pay to said owner the balance due as received from the said pound master; but if said money is not claimed within that time, then the sum so received shall be retained for the use of said town.

§ 88. (SEC. 84.) **Actions between towns, how regulated.** Whenever any controversy or cause of action exists between towns, or between a town and an individual or corporation, such proceedings shall be had either at law or equity, for the purpose of trying and settling such controversy, and the same shall be conducted in the same manner, and the judgment or decree therein shall have the like effect, as in other actions or proceedings of a similar kind between individuals and corporations.

20 M. 74.

§ 89. (SEC. 85.) **Actions, in what name brought.** In all such actions and proceedings the town shall sue and be sued by its name, except where town officers are authorized by law to sue in their name of office for the benefit of the town.

13 M. 383.

§ 90. (SEC. 86.) **Town shall plead, when.** But no town or town officer shall be required to appear, answer, or plead to any such action at the first term of the court after the commencement thereof, when the same is commenced in the district court, unless the process aforesaid is served, as herein directed, at least thirty days before the commencement of the term.

§ 91. (SEC. 87.) **Papers in action, how served.** In legal proceedings against a town by name, all papers shall be served on the chairman of the board of supervisors, and, in case of his absence, on the town clerk; and whenever any action or proceeding is commenced, said chairman shall attend to the defence thereof, and lay before the electors of the town, at the first town meeting, a full statement of such proceedings, for their direction in regard to the defence thereof.

§ 92. (SEC. 88.) **Action before justice of peace.** No action in favor of any town shall be brought before any justice of the peace residing in such town.

§ 93. (SEC. 89.) **Action to recover penalty for trespass.** Whenever any action is brought to recover a penalty imposed for any trespass committed on the lands belonging to the town, if it appears on the trial thereof that the actual amount of injury to such town lands in consequence of such trespass exceeds the sum of twelve dollars and fifty cents, then the amount of actual damage with cost of suit shall be recovered in said action, instead of any penalty for said trespass imposed by the town meeting; and such recovery shall be used as a bar to every other action for the same trespass.

§ 94. (SEC. 90.) **Other actions, how regulated.** Whenever, by decree or decision in any action or proceeding brought to settle any controversy in relation to town commons or other lands, the common property of a town, or for the partition thereof, the rights of any town are settled and confirmed, the court in which

such proceedings are had may partition such lands according to the right of parties.

§ 95. (SEC. 91.) **Judgment against town, how collected.** When a judgment is recovered against any town, or against any town officers, in an action prosecuted by or against them in their name of office, no execution shall be awarded or issued upon such judgment, but the same, unless reversed or stayed on appeal, shall be paid by the town treasurer, upon demand and the delivery to him of the certified copy of the docket of the judgment, if there is sufficient money of such town in his hands not otherwise appropriated. If he fails to do so, he shall be personally liable for the amount, unless the collection thereof is afterwards stayed upon appeal. If payment is not made within thirty days after the time fixed by law for the county treasurer to pay over to the town treasurer the money in his hands belonging to such town, levied for the purpose of paying such judgment, next after the rendition of such judgment, execution may be issued on such judgment, but only town property shall be liable thereon.

§ 96. (SEC. 92.) **Tax to be levied to pay judgment, when.** If judgment for the recovery of money is rendered against any town, and the judgment is not satisfied, or proceedings thereon stayed by appeal or otherwise, before the next annual meeting of said town, a certified copy of the docket of the judgment may be presented to said town at said annual meeting. The supervisors of the town shall thereupon cause the amount due on the judgment, with interest from the date of its recovery, to be added to the tax of said town, and the same certified to the county auditor, and collected as other town taxes are collected.

§ 97. (SEC. 93.) **Town to maintain guide posts.** Every township shall, in the manner provided herein, erect and maintain guide posts on the highways and other ways within the township, at such places as are necessary or convenient for the direction of travellers.

§ 98. (SEC. 94.) **Supervisors to make report of guide posts.** The supervisors shall submit to the electors, at every annual meeting, a report of all the places at which guide posts are erected and maintained within the town, and of all places at which, in their opinion, they ought to be erected and maintained. For each neglect or refusal to make such report, they shall severally forfeit the sum of ten dollars.

§ 99. (SEC. 95.) **Town to determine places where guide posts shall be erected.** Upon the report of the supervisors, the town shall determine the several places at which guide posts shall be erected and maintained, which shall be recorded in the town records. A town which neglects or refuses to determine such places, and to cause a record thereof to be made, shall forfeit the sum of five dollars for every month during which it neglects or refuses so to do; and in such case upon any trial for not erecting or maintaining guide posts reported to be necessary or convenient by the supervisors, the town shall be estopped from alleging that such guide posts were not necessary or convenient.

§ 100. (SEC. 96.) **Guide posts, how erected and marked.** At each of the places determined by the town, there shall be a substantial post of not less than eight feet in height, near the upper end of which shall be placed a board, and upon such board shall be plainly and legibly painted, or otherwise marked, the name of the next town or place, and such other town or place of note as the supervisors think proper, to which each of such roads lead, together with the distance or number of miles to the same; and also the figure of a hand with the forefinger thereof pointed towards the towns or places to which said roads lead: *provided*, that the inhabitants of any town, may, at their annual meeting, agree upon some suitable substitute for such guide posts.

§ 101. (SEC. 97.) **Penalty for neglect to maintain guide posts.** Every town which neglect or refuses to erect and maintain such guide posts, or some suitable substitute therefor, shall forfeit annually the sum of five dollars for every guide-pos

which it so neglects or refuses to maintain, which sum may be sued for and collected by any person, before any justice of the peace of the proper county, and the moneys so collected shall be paid into the town treasury for the benefit of the roads and bridges of the said town.

§ 102. (SEC. 98.) **Pounds to be under care of poundmasters.** Whenever the electors of any town determine at their annual meeting to erect one or more pounds therein, the same shall be under the care and direction of such poundmasters as are chosen or appointed for that purpose.

§ 103. (SEC. 99.) **Pounds discontinued.** The electors of any town may, at any annual town meeting, discontinue any pounds therein.

§ 104. (SEC. 100.) **What are town charges.** The following shall be deemed town charges:

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

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

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

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

§ 105. (SEC. 101.) **Money, how levied.** The moneys necessary to defray the town charges of each town shall be levied on the taxable property in such town, in the manner prescribed in the chapter for raising revenue and other money for state and county purposes and expenses.

§ 106. (SEC. 102.) **Successor to town officer to demand books, &c.** Whenever the term of any supervisor, town clerk or assessor expires, and another person is appointed or elected to such office, such successor, immediately after he enters upon the duties of his office, shall demand of his predecessor all books and papers under his control belonging to such office.

§ 107. (SEC. 103.) **Same, in case of vacancy.** Whenever either of the officers above named resigns, or the office becomes vacant in any way, and another person is elected or appointed in his stead, the person so elected shall make such demand of his predecessors or of any person having charge of such books and papers.

§ 108. (SEC. 104.) **Records, &c., to be delivered to successor.** Every person so going out of office, whenever thereto required pursuant to the foregoing provisions, shall deliver, upon oath, all records, books, and papers in his possession, or in his control, belonging to the office held by him, which oath may be administered by the officer to whom such delivery is made.

§ 109. (SEC. 105.) **Same, in case of death of incumbent.** Upon the death of any of the officers enumerated, the successor of such officer shall make such demand as above provided, of the executors or administrators of such deceased officer, and such executors or administrators shall deliver, upon like oath, all records, books, papers, or moneys in their possession or under their control, belonging to the office held by their testator or intestate.

§ 110. (SEC. 106.) **Each town an election district.** Each town organized under this chapter, or any law heretofore in force, constitutes an election district.

§ 111. (SEC. 107.) **Limit of debts and outlays.** No town has power to contract debts or make expenditures for any one year in a larger sum than the amount of taxes assessed for such year, without having been authorized by a majority of the voters of such township; and no town shall assess for township purposes more than ten mills on the dollar of taxable property for any one year. (*As amended 1869, c. 22, § 1.*)

23 M. 363.

§ 112. (SEC. 108.) **Chapter not to apply to cities.** Nothing in this chapter contained shall in any way apply to any portion of the state which is embraced within the limits of any incorporated city; but each incorporated city shall have and

exercise within its limits, in addition to its other powers, the same powers conferred by this chapter upon towns, in the manner prescribed by law.

*§ 113. **Public places to be designated—posts.** At the annual town meeting in each year, the legal voters present at each meeting shall determine and designate three places in the town as public, or the most public places of such town, and that all legal notices required to be posted in three public, or the most public places of a town, shall be posted up at such places at least, and they shall make provision for the erection and maintenance of suitable posts, on which to post up notices [as] aforesaid, in all places so designated in which there is no sufficient natural convenience for that purpose. (1873, c. 100, § 1.)

*§ 114. **Authorized to issue bonds.** That the board of supervisors of the organized townships of this state, or those that may hereafter be organized, be and the same are hereby authorized and fully empowered to issue the bonds or orders of their respective towns, with coupons attached, in such amounts and at such periods as they may be directed by two-thirds of all the legal voters present and voting at any legally called town meeting held for that purpose; such bonds or orders to be payable in such amounts and at such times, not exceeding six years from date, as two-thirds of the legal voters present and voting at such meeting shall determine, with interest thereon not to exceed twelve per cent. per annum, payable annually; which bonds or orders and coupons shall be signed by the chairman of the board of supervisors, and countersigned by the clerk of said town: *provided*, that nothing herein contained shall be construed to authorize the issuing of said bonds or orders unless the same shall have been first voted for by ballot by two-thirds of all the legal voters present and voting at any annual town meeting, or special town meeting called for that purpose, notices of which, particularly specifying the object for which such meeting was called, have been posted in at least three public places in said town, for not less than ten days previous to the time of calling the same. (1867, c. 31, § 1, as amended 1868, c. 50, § 1.)

*§ 115. **Conditions as to bonds and their proceeds.** No bonds or orders issued under authority of this act shall be so issued or negotiated for less than par value, nor shall said bonds or orders, or the proceeds thereof, be used or appropriated for any purpose whatever other than that specified in this act. (1867 c. 31, § 2.)

*§ 116. **Taxes for interest and sinking-fund.** Said board of supervisors, and their successors, are hereby authorized, and it is hereby made their duty, on or before the first day of September next after the date of said bonds or orders, and in each and every year thereafter, on or before the first day of September, until the payment of said bonds or orders and interest is fully provided for, to levy, and in due form to certify to the auditor of the county in which such town is situated, a tax upon the taxable property of said town, equal to the amount of principal and interest maturing next after such levy, and, in the discretion of said board of supervisors, such further sum as it shall deem expedient, not exceeding twenty per cent. of such maturing bonds or orders and interest, which taxes shall be payable in money, and shall constitute a fund for the payment of said bonds or orders and the interest thereon. (*Id.* § 3.)

*§ 117. **Incorporated towns, etc., to have boards of health.** All incorporate towns, villages, boroughs and cities shall have a board of health, who shall have and exercise all the powers necessary for the preservation of the public health, and who shall hold regular monthly meetings.* (1873, c. 8, § 1.)

*§ 118. **Composition of such boards.** Said board shall consist of not less than three members, one of whom, when practicable, shall be a physician, and such physician shall be health officer and *ex officio* president of the board, and shall receive such compensation for his services as the council, or other body answering thereto, of the town, village, borough or city shall determine. (*Id.* § 2.)

*See *ante*, § 55, *et seq.*

*§ 119. **Duties of such board.** It shall be the duty of the health officer to make, once in every three months and oftener if necessary, a thorough sanitary inspection of said town, village, borough or city, and present a written report of such inspection at the next meeting of the board of health, and he shall forward a copy of his monthly report as soon as rendered to the state board of health; and all local boards of health and health officers shall make such investigations and reports, and obey such directions as to infectious diseases, as shall be directed by the state board of health. (1873, c. 8, § 3.)

*§ 120. **Election of the board.** The board of health referred to in section one, shall be elected annually by the council, or other body answering thereto, of each incorporate town, village, borough and city, unless a different term or mode is now provided by law; and such election shall be had at the next election that shall be held in such places. (*Id.* § 4.)

*§ 121. **Duties of boards of health relating to scarlet fever.** It shall be the duty of any and every member of all boards of health within this state, whenever they are informed that there is a case of scarlet fever within the territory over which the board of health of which he is a member has jurisdiction, to notify a majority of said board of such supposed facts within six hours after said information is received by said member of said board: and they shall immediately examine into the facts of the case, and, if the disease appears to be scarlet fever, they shall adopt such quarantine and sanitary measures as may, in their judgment, tend to prevent the spread of said disease in its locality. (1877, c. 137, § 1.)

*§ 122. **Precautions and preventions—penalties.** And said board of health shall have power to forbid, by notices posted upon the entrances to premises where there may be a patient sick with scarlatina, any person except the medical attendant and his advisers, from going to or leaving said premises without their permission, or carrying, or causing to be carried, any material whereby said disease may be conveyed, until after said disease has abated, and the premises, dwelling and clothing have been rendered free from disease by such disinfecting means as the board may direct; and if said board shall be informed that the above, or any reasonable and sanitary measures which they have adopted and made public, is or has been violated, then [the] said board may cause said offender against this act to be apprehended and brought before an officer having jurisdiction; and said offender shall, upon conviction, be liable to a fine in the sum of not less [than] five dollars nor more than twenty-five dollars for any violation under this act. Any member of any board of health who shall neglect his duties under the provisions of this act, shall be liable, upon conviction in a court having competent jurisdiction, to be fined in a sum not less than twenty-five dollars nor more than one hundred dollars for the first offence; and, for conviction for violation of this act the second time, shall, in addition to the fines already provided, become disqualified from holding the office of, or to which is attached the duties of, a member of a board of health. (*Id.* § 2.)

*§ 123. **Disposition of fines.** All fines collected under this act shall be placed to the credit of the general fund of the city, village or town in which the offence is committed. (*Id.* § 3.)

CITIES.*

*§ 124. **Cities, how organized—first election—powers.** That cities may be organized within the limits of this state as herein provided. Whenever two-thirds of the legal voters residing within the limits of a territory comprising not less than two thousand inhabitants, and not more than fifteen thousand, and which territory they desire to have incorporated as a city, shall sign and have presented to the judge of probate of the county in which such territory is situated, a petition setting forth the metes and bounds of said city, and of the several

*An Act to authorize the incorporation of cities, approved March 5, 1870. (Laws 1870, c. 31.)

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

And in case the territory included in any city which shall be hereafter formed and established under the provisions of this act, shall include the territory embraced in any village or borough corporation, such village or borough corporation shall, upon the establishment of such city corporation, cease; and such city corporation shall thereupon succeed to and become vested with and owners of all the property, real, personal and mixed, which belonged to or was owned by such village or borough corporation at the time when the same ceased to exist; and such city corporation shall also thereupon become and be liable and responsible for all the debts, obligations and liabilities then existing against such village or borough corporation, for any cause or consideration whatever, in the same manner and to the same extent as if such debts, obligations or liabilities had been originally contracted or incurred by such city corporation. (1870, c. 31, sub-ch. 1, § 2, *qs amended* 1871, c. 38, § 1.)

*§ 125. **First city elections.** That the said judge of probate, in his order designating the time and place of holding the first election of officers of any city incorporated under this act, shall name three electors of each ward, who shall conduct the said first election for their respective wards, and who shall be the inspectors thereof, and shall take the usual oath or affirmation as prescribed in the general laws of the state to be taken by the judges and inspectors of elections, and shall have the power to appoint clerks of such elections, and to administer the necessary oaths; and the persons so named as inspectors of the election shall hold and conduct the same in the manner and under the same penalties as provided by the laws of this state regarding elections, and shall have power to fill vacancies in the board of inspectors as provided by law. (1872, c. 91, § 1.)

2. ELECTIONS.*

*§ 126. **Annual election when held—manner of holding it.** There shall be an annual election for elective officers hereinafter provided, held on the first Tuesday of

*See *ante*, c. 1, § 77, *et seq.*, as to elections in cities of over 12,000 inhabitants.

April of each and every year, at such place in each ward as the common council shall designate; and the polls shall be kept open from nine o'clock in the forenoon until five in the afternoon; and ten days previous notice shall be given by the common council of the time and place of holding such election, and of the officers to be elected, by posting notices thereof in three public places in each ward, and by publishing the same in at least one of the papers published in the city, if one shall be published in said city. (1870, c. 31, sub-ch. 2, § 1.)

*§ 127. **To be divided into wards—limitation.** Each city governed by this act shall be divided into not less than two nor more than five wards, as may be provided by ordinance of the city council thereof, and each ward shall contain, as nearly as practicable, an equal number of legal voters, and also an area equal to each other. (*Id.* § 2.)

*§ 128. **Corporate name—service of process.** The corporate name of each city governed by this act shall be "The City of _____," and all and every process and notice whatever affecting any such city shall be served upon the mayor, and in his absence, upon the president of the council, and in the absence of both, upon the clerk, and in the absence of these officers from the city, then by leaving a certified copy at the office of said clerk. (*Id.* § 3.)

*§ 129. **Elective officers—term of office.** The elective officers of each city shall be a mayor, treasurer, recorder, one justice of the peace for each ward, who shall be styled city justice, all of whom shall be qualified voters of the city, and two aldermen in each ward, who shall be qualified voters therein; all other officers for said city shall be appointed by the common council, unless otherwise provided. At the first general election for city officers, there shall be elected in each ward two aldermen, one for one year, and one for two years; at every annual election thereafter one alderman shall be elected from each ward, who shall hold his office for two years, and until his successor is elected and qualified. The city justices shall hold their offices for two years, and until their successors are elected and qualified; all other elective officers shall hold their offices for one year and until their successors are elected and qualified. (*Id.* § 4.)

*§ 130. **Removal of officers—declaring office vacant.** Every person appointed to any office by the common council, or elected to any office by the people, may be removed from said office by a vote of two-thirds of all the aldermen authorized to be elected. But no officer elected by the people shall be removed except for cause, nor unless furnished with a written statement of the charges against him, nor until he shall have had a reasonable opportunity to be heard in his defence. The common council shall fix a time and place for the trial of such officer, of which not less than ten days' notice shall be given, and have power to compel the attendance of witnesses and the production of books and papers, and to hear and determine the case; and if said officer shall neglect to appear and answer the charges against him, the common council may declare the office vacant. (*Id.* § 5.)

*§ 131. **Vacancies how filled.** Whenever a vacancy shall occur in the office of mayor or alderman, by death, removal, resignation, or otherwise, the common council shall have power, and it shall be their duty, to declare the office vacant, by resolution entered upon their minutes. Such vacancy shall be filled by a new election, which shall be ordered by the common council within ten days after said vacancy is declared, and held within twenty days after such declaration, and reasonable notice of such election shall be given. Any vacancy happening in any other office shall be filled by the common council, unless otherwise provided for. The person elected or appointed to fill a vacancy shall hold his office, and discharge the duties thereof, for the unexpired term, and with the same rights, and subject to the same liabilities, as the person whose office he may be elected or appointed to fill. (*Id.* § 6.)

*§ 132. **Elections shall be by ballot.** All elections by the people shall be by ballot, and each ballot shall contain the names of the persons voted for, with a proper des-

ignation of the office written or printed thereon, and a plurality of votes shall constitute an election. When two or more candidates for an elective office shall receive an equal number of votes for the same office, the election shall be determined by the casting of lots in the presence of the common council, at such time and in such manner as they shall direct. (1870, c. 31, sub-ch. 2, § 7.)

*§ 133. **Who entitled to vote—election districts—returns.** All persons entitled to vote for state or county officers, and who shall have resided in the city for four months next preceding the election, and ten days in the ward where they offer to vote, shall be entitled to vote for any officer to be elected under this law, and to hold any office hereby created, provided their name shall have been duly inserted in the list of qualified electors of the ward in which they reside, as in the case of the election of state and county officers; and the different wards established by law shall constitute election districts for state and county as well as city elections, and the mode of conducting all state and county elections in said city shall be in the manner herein provided in reference to city elections, except that the returns thereof shall be made by the judges of election to the county auditor of the county within the time and manner prescribed by law. (*Id.* § 8.)

*§ 134. **How elections to be conducted.** The elections in said city shall be held and conducted by the aldermen of each ward, and one other elector of each ward, to be appointed by the common council, who shall be inspectors of election, and shall take the usual oath or affirmation as prescribed by the general laws of the state to be taken by the judges and inspectors of elections, and shall have power to appoint clerks of such elections, and to administer the necessary oaths. Said elections shall be held and conducted in the same manner and under the same penalties, and vacancies in the board of inspectors thereof filled, as required by the laws of this state regarding elections: *provided*, that no candidate for office shall act as inspector or clerk at such election. (*Id.* § 9.)

*§ 135. **Inspectors—canvass of votes—notice of election.** When a city election 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 clerk of the common council, within three days after any election, and the common council shall meet and canvass said returns, and declare the result, as it appears from the same, within three days thereafter. The recorder of the common council shall forthwith notify the officer or officers elected of their election, by written notice served upon such officers in person, or left at their usual place of abode, with some person of suitable age and discretion. (*Id.* § 10.)

*§ 136. **Special elections.** Special elections to fill vacancies, or for any other purpose, shall be held and conducted by the aldermen of each ward, in the same manner, and the returns thereof made in the same form and manner, as in general and annual elections, and within such time as may be prescribed by resolution. (*Id.* § 11.)

*§ 137. **When office deemed vacant.** Any officer removing from the city or ward for which he is elected, or any officer who shall refuse or neglect, for ten days after notice of his election or appointment, to enter upon the discharge of the duties of his office, shall be deemed to have vacated his office, and the common council shall proceed to fill the vacancy as herein prescribed. (*Id.* § 12.)

*§ 138. **When term of office to begin.** The term of every officer elected under this law shall commence on the second Tuesday of April for the year for which he was elected, and shall, unless otherwise provided, continue for one year and until his successor is elected and qualified. (*Id.* § 13.)

*§ 139. **When new election may be ordered.** Should there be a failure by the people to elect any officer herein required to be elected on the day designated, the com-

mon council may order a new election to be held, ten days' notice of the time and place being given. (1870, c. 31, sub-ch. 2, § 14.)

3. DUTIES OF OFFICERS.

*§ 140. **Officers to give bonds—penalty for refusal to give additional bonds.** Every person elected or appointed to any office under this act, shall, before he enters upon the duties of his office, take and subscribe an oath of office, and file the same, duly certified by the officer taking the same, with the recorder of the city; and the treasurer and marshal, and such other officers as the common council may direct, shall severally, before entering upon the duties of their respective offices, execute to the city a bond, with at least two sureties, (to be approved by the common council,) who shall make affidavit that they are each worth the penalty specified in said bond, over and above all debts, exemptions or liabilities, and said bonds shall contain such penal sum and such conditions as the common council may deem proper; and they may from time to time require new or additional bonds, and remove from office any officer refusing or neglecting to give the same. (1870, c. 31, sub-ch. 3, § 1.)

*§ 141. **Duties of mayor—to be the chief executive officer and head of the police.** The mayor shall take care that the laws of the state and the ordinances of the city are duly observed and enforced, and that all other executive officers of the city discharge their respective duties. He shall from time to time give the common council such information and recommend such measures as he may deem advantageous to the city. The mayor shall be the chief executive officer and head of the police of the city, and shall appoint such police officers and watchmen, except when otherwise provided for; and in case of a riot or other disturbances, he may appoint as many special or temporary constables as he may deem necessary; and any police officer or watchman, appointed by the mayor as aforesaid, may be discharged from office by him whenever in his opinion the welfare of the city may demand it, or a reduction of their number renders it necessary. (*Id.* § 2.)

*§ 142. **Mayor to sign all laws, &c.—vetoes.** All ordinances and resolutions shall, before they take effect, be presented to the mayor, and if he approve thereof, he shall sign the same; and such as he shall not sign he shall return to the common council with his objection thereto, by depositing with the recorder, to be presented to the common council at their next meeting thereafter; and upon the return of any resolution or ordinance by the mayor, the same vote by which the same was passed shall be reconsidered; and if, after such reconsideration, the common council shall pass the same by a vote of two-thirds of the members elected, it shall have the same effect as if approved by the mayor, and in such case the vote shall be by ayes and noes, which shall be entered in the record by the recorder. If an ordinance or resolution shall not be returned by the mayor within five days (Sundays excepted) after it shall have been presented to him, the same shall have the same effect as if approved by him. (*Id.* § 3.)

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

mayor and president and vice-president of the common council shall have the right to administer oaths and affirmations. (1870, c. 31, sub-ch. 3, § 4.)

*§ 144. **Duties of recorder.** There shall be a recorder of said city, styled the city recorder, who shall keep his office at the place of meeting of the common council, or such other place convenient thereto as the council may determine. He shall keep the corporate seal, and all the papers and records of the city; and keep a record of the proceedings of the common council, at whose meeting it shall be his duty to attend. Copies of all papers filed in office, and transcripts from all records of the common council, certified by him under the corporate seal, shall be evidence in all courts as if the original were produced. He shall draw and countersign all orders on the treasurer in pursuance of any order or resolution of the common council, and keep a full and accurate account thereof in books provided for that purpose. The city recorder shall have power to administer oaths and affirmations, and take acknowledgment of deeds and other writings. (*Id.* § 5.)

*§ 145. **Reports of recorder.** It shall be the duty of the city recorder to report to the common council the financial condition of the city, whenever the common council shall require. He shall make and keep a list of outstanding city bonds, to whom issued, for what purpose, when and where payable, and the rate of interest they respectively bear, and recommend such action to the common council as will secure the punctual payment of the principal and interest of such bonds. He shall report annually, on or about the first day of April, to the common council, an estimate of the expenses of the city, and likewise the revenue necessary to be raised for the current year; and the fiscal year shall commence on the first day of April. (*Id.* § 6.)

*§ 146. **Further duties of recorder.** He shall make or cause to be made estimates of the expenses of any work to be done by the city, and countersign all contracts made in behalf of the city, and certificates of work authorized by any committee of the common council or by any city officer. And every contract made in behalf of the city, or to which [the city] is a party, shall be void unless signed by the recorder. The city recorder shall keep regular books of account in which he shall enter all indebtedness of the city, and which shall at all times show the precise financial condition of the city, the amount of bonds, orders, certificates, or other evidences of indebtedness issued by the common council, the amount of all bonds, orders, certificates, or other evidences of indebtedness which have been redeemed, and the amount of each outstanding; to countersign all bonds, orders or other evidences of indebtedness of the city, and to keep accurate accounts thereof, stating to whom and for what purpose issued, and the amount thereof; to keep accounts with all receiving and disbursing officers of the city, showing the amount they have received from the different sources of revenue, and the amount which they have disbursed under the direction of the common council. He shall keep a list of all certificates issued for work or any other purpose, and, before the levy by the common council of any special tax upon the property in the city, or any part thereof, shall report to the common council a schedule of all lots or parcels of land which may be subject to the proposed special tax or assessment, and also the amount of such special tax or assessment which it may be necessary to levy on such lots or parcels of land, which said schedule shall be certified by the affidavit of the recorder, and shall be *prima facie* evidence of the facts therein stated in all cases wherein the validity of such special tax or assessment shall come in question. The common council shall, if from such report they deem such special tax legal and just, cause the same to be levied in pursuance of the provisions of this act. If before the first day of January of any year, the amount expended, or to be expended, chargeable to any city fund, (adding thereto the current expenses estimated for the remainder of the fiscal year and

chargeable to such fund,) shall be equal to three-fourths of the tax authorized to be raised or revenue estimated for such fund, he shall report at once the same to the common council, and he shall not countersign any contract chargeable to such fund until the amount of taxes actually collected be ascertained; and during the remainder of the fiscal year he shall not countersign any contract the expenses of which shall exceed the revenue actually collected for the fund to which such expenses are properly chargeable. The recorder shall examine all reports, books, papers, vouchers and accounts of the city treasurer, and from time to time shall perform such other duties as the common council may direct. All claims and demands against the city, before they are allowed by the common council, shall be audited and adjusted by the recorder. And he shall keep a record of all his acts and doings, and keep a book in which he shall enter all contracts, with an index thereto; such record shall be open to the inspection of all parties interested. He shall not be interested directly or indirectly in any contract or job to which the city is a party, or in which the city is interested; and any contract in which he may be interested shall be null and void. (1870, c. 31, sub-ch. 3, § 7.)

*§ 147. **City attorney.** The common council shall have power to elect an attorney for the city, who shall perform all professional services incident to his office, and, when required, shall furnish opinions upon any subject submitted to him by the common council or its committees. (*Id.* § 8.)

*§ 148. **Duties of treasurer.** The treasurer shall receive all moneys belonging to the city, including all taxes, license money and fines, and keep accurate and detailed account thereof, in such a manner as the common council shall from time to time direct. The treasurer shall exhibit to the common council, at least fifteen days before the annual election, or sooner if required by them, a full and detailed account of the receipts and expenditures after the date of the last annual report, and also of the state of the treasury, which account shall be filed with the clerk, and a copy of the same published in one or more of the city newspapers, or in the paper published nearest to said city. He shall also report to the common council at such times and in such manner as they may require. (*Id.* § 9.)

*§ 149. **Chief of police—powers of police and watchmen.** There shall be a chief of police of said city, who shall be appointed by the mayor, by and with the consent of the common council, and who shall perform such duties as shall be prescribed by the common council for the preservation of the public peace. All police officers and watchmen of said city shall possess the powers of constables at common law, or by the laws of this state; and it shall be their duty to execute and serve all warrants, process, commitments, and all writs whatsoever, issued by the city justice, for any violation of the laws of the state of Minnesota, or of the ordinances or by-laws of said city; and also all writs and process whatever, issued by the city justice in civil actions; and they shall have authority to pursue and arrest any person fleeing from justice, in any part of the state, and, when performing the duties of constables aforesaid, shall be entitled to like fees. Watchmen shall have authority to arrest and detain any person guilty of any breach of the peace, or any violation of the laws of this state, or of the ordinances or by-laws of the city; and for these purposes shall possess the powers of constables at common law, while on duty. (*Id.* § 10.)

*§ 150. **Process in criminal cases.** All warrants issued by city justices for the violation of any general laws of this state shall run to the sheriff or any constable of the county, or to the chief of police or any policeman of the city; but no chief of police or policeman or marshal, where he goes outside of the county to make an arrest, shall receive any fees therefor, unless the commissioners of the county are satisfied that a delay in obtaining the sheriff or his deputy, or a constable, to make the arrest, might endanger an escape. This act shall

take effect and be in force from and after its passage; anything in the charter of the city of St. Paul or other city to the contrary notwithstanding. (1872, c. 69, §§ 1 & 2.)

*§ 151. **Street commissioner—term of office—duties—bond.** The common council shall, at their first meeting after the annual election, or an adjournment thereof, elect by ballot a street commissioner, who shall hold his office for one year, and until his successor is elected and qualified. It shall be the duty of the street commissioner to superintend all work and improvements on the streets, bridges and public grounds of the city, and carry into effect all orders and ordinances of the common council in relation to work or improvements upon the streets, roads, bridges and public grounds of the city; and he shall be required to execute a bond, with sureties satisfactory to the common council, conditioned for the faithful performance of his duties, and that he will account for all moneys collected or received by him in his official capacity, or belonging to the city. (1870, c. 31, *sub-ch.* 3, § 11.)

*§ 152. **Assessor—duties—term of office.** The common council shall, in the month of April in each year, elect an assessor, who shall be styled the city assessor, who shall perform all duties in relation to the assessing of property for the purpose of levying of all city, county and state taxes. And upon the completion of the assessment roll, he shall return the same to the common council, who may alter, revise and equalize the same, as they may deem it just and proper. Said city assessor shall hold his office for one year, and until his successor is elected and qualified. (*Id.* § 12.)

*§ 153. **Jurisdiction of justices of the peace.** The justices of the peace of the city, styled city justices, shall possess all the authority, power and rights of a justice of the peace of the county under the laws of this state, and shall have, in addition thereto, exclusive jurisdiction to hear and try all complaints for violation of any provision or provisions of the city charter, or any ordinance, by-law, rule or regulation made or adopted under or by virtue thereof, and of all cases cognizable before a justice of the peace in which the city is a party, and of all writs, prosecutions and proceedings in the recovery of any fine, forfeiture or penalty under any by-law, ordinance or regulation of the said city or its charter, and in all cases of offences committed against the same. And the said city justices shall have jurisdiction in cases of larceny, and may hear and try the same where the amount claimed to have been stolen does not exceed the sum of twenty-five dollars. In all prosecutions for assaults, batteries and affrays, and for all other offences not indictable, and in all civil suits or proceedings before said city justices, the same forms and proceedings shall be had and used, where not otherwise directed, as are established and required to be had in civil and criminal actions by the laws of this state before a justice of the peace; and appeals from the judgment and decisions of said city justices shall be allowed as now provided by law for appeals from judgments rendered by justices of the peace. In all cases of convictions for assaults, batteries and affrays within said city, and in all cases of convictions under any ordinances of the city for breach of the peace, disorderly conduct, keeping houses of ill-fame, or frequenting the same, and of keeping or maintaining disorderly or ill-governed houses, the said justices shall have power, in addition to the fines or penalties imposed, to compel said offenders to give security for their good behavior, and to keep the peace, for a period not exceeding six months, and in a sum not exceeding five hundred dollars. The said justices shall have the same power and authority in cases of contempt as a justice of the peace under laws now in force. All fines and penalties imposed by the city justices for offences committed within the city limits, for the violation of any ordinance, by-law or regulation of said city, shall belong to and be a part of the finances of said city; for offences against the laws of the state, of the county treasury. (*Id.* § 13.)

*§ 154. **Justices' report to council—fees.** The city justices shall, as often as the common council may require, report to the common council all the proceedings instituted before them in which the city is interested, and shall at the same time account for and pay over to the city treasurer all fines and penalties collected or received by them belonging to said city; and said justices shall be entitled to receive from the county such fees in criminal cases as are allowed by statute to justices of the peace for similar services. (1870, c. 31, sub-ch. 3, § 14.)

*§ 155. **Attendance of justices at their offices.** Said justices shall be in attendance at their offices for the transaction of business at such reasonable hours as the common council may prescribe, and complaints may be made to, and writs and process issued by them at all times, in court or otherwise. (*Id.* § 15.)

*§ 156. **Taxation of costs by justices.** In all suits brought on behalf of said city for the recovery of any forfeiture, fine or penalty, in all cases arising on complaints for the violation of any ordinance, by-law or regulation of said city, and on complaints for assault, battery or affray, or other misdemeanor, or criminal offence not indictable, committed within said city, the said justices shall be authorized to tax, with the other legal costs, one dollar for each trial, for the benefit of said city; and their residence in said city shall not deprive them of jurisdiction of actions brought in favor of or against said city, when said actions are otherwise within the jurisdiction of a justice of the peace. (*Id.* § 16.)

*§ 157. **City surveyor—duties—plans, &c., to belong to the city.** The common council, at their first meeting in each year, or as soon thereafter as may be, shall elect a city surveyor, who shall be a practical surveyor and engineer. He shall keep his office in some convenient place in said city, and the common council shall prescribe his duties, and fix the fees and compensation for any services performed by him. All surveys, profiles, plans or estimates made by him for the city shall be the property of the said city, and shall be carefully preserved in the office of the surveyor, open to the inspection of persons interested; and the same, together with all the books and papers appertaining to said office, shall be delivered over by the surveyor, at the expiration of his term of office, to his successor, or the common council. (*Id.* § 17.)

*§ 158. **City printing—publication of ordinances, etc.—proof.** The common council, at their first meeting after each annual election, or as soon thereafter as may be, shall advertise for proposals to do the city printing, giving public notice of not less than one week, in such manner as the council may direct, that sealed bids shall be received by the recorder of the common council for doing said printing. The bid or bids received by said clerk to do said printing shall be publicly opened and read by the recorder, at such time and place as the common council shall appoint, and the person or persons offering to do said printing for the lowest sum or price in any newspaper published in said city, and shall give satisfactory security for the performance of the work, shall be declared city printer for the ensuing year, and in the newspaper designated in said accepted bid or proposal, shall be published all ordinances, by-laws, and other proceedings and matters required by this act or by the by-laws or ordinances of the common council to be published in a public newspaper. The city printer or printers, immediately after the publication of any notice, ordinance or resolution which is required to be published; shall file with the city recorder a copy of such publication, with his affidavit, or the affidavit of his or their foreman, of the length of time the same has been published; and such affidavit shall be *prima facie* evidence of the publication of such notice, ordinance or resolution. *provided,* that if no person will publish or offer to publish, in any newspaper published in said city, such ordinances or other matters as the common council may require to be published, at a rate not exceeding that now prescribed by statute for legal advertisements or notices, the common council may make such other provisions for publishing its ordinances, by-laws and matters requir-

ing publication as it may think fit, anything herein contained to the contrary notwithstanding. (1870, c. 31, sub-ch. 3, § 18.)

*§ 159. **Delivery of books, etc., to successor in office.** If any person, having been an officer of said city, shall not, within ten days after notification and request, deliver to his successor in office all property, books, papers and effects of every description in his possession belonging to said city, or pertaining to the office he may have held, he shall forfeit and pay to the use of the city one thousand dollars, besides all damages caused by his neglect or his refusal so to deliver; and said successor may receive possession of such books, papers and effects, in the manner prescribed by the laws of this state. (*Id.* § 19.)

*§ 160. **Other duties of officers—compensation—contracts.** The common council shall have power at any time to require other and further duties to be performed by any officer whose duties are herein prescribed, not inconsistent with this act, and to appoint such other officers as may be necessary to carry into effect the provisions of this act, and to prescribe their duties, unless otherwise provided for; but no officer elected or appointed by the common council, or appointed by the mayor, as hereinbefore provided, shall be appointed for a longer term than one year, and until his successor is elected or appointed and duly qualified. The common council shall have the power, unless herein otherwise provided, to fix the compensation of all officers elected or appointed under this act, and such compensation shall be fixed by resolution; and in regard to all offices created by this charter, the compensation shall be fixed within three months from the first organization and meeting of the common council; after the first year, the compensation of officers shall be fixed for the fiscal year in the month of April of each year, except for such offices as may hereafter be created, in regard to which the compensation shall be fixed at the time of the creation of such office; nor shall the compensation of any officer, after having been fixed, be increased or diminished during the term for which such officer was elected or appointed. No officer elected or appointed to office under the provisions of this charter shall be a party to or interested in any contract in which the city is interested, made while such officer is holding office: *provided*, that the mayor and aldermen shall receive no compensation for their services as such officers. (*Id.* § 20.)

*§ 161. **Preserving the peace.** The mayor or acting mayor, recorder, and each alderman, the city justices, police officers and watchmen, shall be officers of the peace, with powers of constables at common law, and may command the peace, suppress in a summary manner all rioting and disorderly behavior within the limits of the city, and for such purposes may command the assistance of the by-standers, and, if need be, of all the citizens and military companies; and if any person, by-stander, military officer or private, shall refuse to aid in maintaining the peace when so required, each person shall forfeit and pay a fine of fifty dollars; and in case where the civil powers may be required to suppress riots or disorderly behavior, the superior or senior officer present, in the order mentioned in this section, shall direct the proceedings. (*Id.* § 21.)

4. COMMON COUNCIL—GENERAL POWERS AND DUTIES.

*§ 162. **Style of ordinances—meetings of council—quorum.** The aldermen shall constitute the common council, and the style of all ordinances shall be, "The common council of the city of _____ do ordain," &c. The common council shall meet at such time and place as they by resolution may direct. A majority of the aldermen shall constitute a quorum. (1870, c. 31, sub-ch. 4, § 1.)

*§ 163. **Meetings of council—powers over members.** The common council shall hold stated meetings, and the mayor may call special meetings, by notice to each of the members, to be delivered personally or left at their usual place of abode. The common council shall be the judges of the election and qualification of

its own members, and in such cases shall have power to send for persons and papers, and shall also determine the rules of its own proceedings, and have power to compel the attendance of absent members. (1870, c. 31, sub ch. 4, § 2.)

22 M. 218.

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

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

Second. To prohibit gaming, etc. 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 city; and to restrain any person from selling, giving or dealing in spirituous, vinous or fermented liquors, unless duly licensed by the common council.

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

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

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

Sixth. To keep streets, &c. clear. To prevent the encumbering of streets, sidewalks, alleys, lanes and public grounds with carriages, carts, wagons, sleighs, or other

vehicles, or with boxes, lumber, firewood, posts, awnings, or any other material or substance whatever.

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

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

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

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

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

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

Thirteenth. Assize of bread. To regulate the size and weight of bread, and to provide for the seizure and forfeiture of bread baked contrary thereto.

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

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

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

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

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

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

12 M. 41.

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

Twenty-first. Snow, or rubbish on sidewalks, &c. To compel the owner or occupant of buildings or grounds to remove snow, dirt or rubbish from the sidewalk, street or alley opposite thereto, and to compel such owner or occupant to remove from the lot owned or occupied by him, all such substances as the board of health shall direct, and, in his default, to authorize the removal or destruction thereof by some officer, at the expense of such owner or occupant.

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

Twenty-third. Auctions. To regulate the time, manner and place of holding public auctions and vendues, and sales at public outcry.

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

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

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

Twenty-seventh. Shade trees. To direct and regulate the planting and preservation of ornamental trees in the streets, alleys, highways and public grounds of the city.

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

Twenty-ninth. Other nuisances. To remove and abate any nuisance, obstruction or encroachment upon the streets, alleys, public grounds, and highways of the city.

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

Thirty-first. Vagrants and beggars. To restrain and punish vagrants, mendicants, street beggars, and provide for the punishment of the same.

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

six months, and in a sum not exceeding five hundred dollars. (1870, c. 31, sub-ch. 4, § 3.)

*§ 165. **Ordinances, how passed—evidence—appropriations.** All ordinances, regulations, resolutions and by laws shall be passed by an affirmative vote of a majority of the members of the common council present, by ayes and noes, and published in the official paper, and posted in three conspicuous places in each ward for two weeks, before the same shall be in force; and shall be admitted as evidence in any court in the state, without further proof; they shall be recorded by the city recorder in books provided for that purpose. No appropriation shall be made without a vote of a majority of the members of the council present in its favor, which vote shall be taken by ayes and noes, and entered among the proceedings of the council. (*Id.* § 4.)

*§ 166. **Prosecution of nuisances.** The power conferred upon the common council to provide for the abatement or removal of nuisances, shall not bar or hinder suits, prosecutions or proceedings in the courts according to law. Depots, houses or buildings of any kind within the limits of said city, wherein more than twenty-five pounds of gunpowder, or more than five barrels of thirty-six gallons each, (or such greater or less quantity as said common council may direct by ordinance,) of petroleum, kerosene, naphtha, or other inflammable or explosive oils or substances are deposited, stored or kept at any one time, gambling houses, houses of ill fame, disorderly taverns, and houses or places where spirituous, vinous or fermented liquors are sold without license required therefor, within the limits of said city, are hereby declared and shall be deemed public or common nuisances. (*Id.* § 5.)

*§ 167. **Accounts to be audited—books to be exhibited—penalty for refusal.** The common council shall examine, audit and adjust the accounts of the recorder, treasurer, street commissioners, city justice, and all other officers and agents of the city, at such times as they may deem proper, and also at the end of each year, and before the terms for which the officers of said city were elected or appointed shall have expired. And the common council shall require each and every such officer and agent to exhibit his books, accounts and vouchers for such examination and settlement; and if any such officer or agent shall refuse to comply with the orders of said council, in the discharge of their said duties, in pursuance of this section, or shall neglect or refuse to render his accounts, or present his books and vouchers to the council, or a committee thereof, it shall be the duty of the common council to declare the office of such person vacant. And the common council shall institute suits and proceedings at law against any officer and agent of said city who may be found delinquent or defaulting in his accounts, or in the discharge of his official duties, and shall make a full record of all such settlement and adjustment. (*Id.* § 6.)

*§ 168. **Issue of bonds—rate of interest—amount—principal and interest how paid.** That the common council of the city shall have full power from time to time to borrow money to pay the indebtedness of the city, and in order to pay such indebtedness the city may issue city bonds therefor, bearing interest not to exceed ten per cent. per annum, redeemable at any time within ten years, at the discretion of the common council: *provided*, that at no time shall it be lawful for said indebtedness, bonded or otherwise, to exceed the sum of fifteen thousand dollars, unless the same be authorized by two-thirds vote of the legal votes cast at the election held for such purposes: *and provided further*, that the city council shall each and every year levy a tax of one mill on the dollar of the taxable property of the city for each thousand dollars that may be funded by the said city into bonds, to pay the interest on said bonds, and create a sinking fund to pay the same when due. All laws, ordinances, regulations and by-laws shall be passed by an affirmative vote of a majority of the common council, and be signed by the mayor, and shall be published in the official paper of the

city, before the same shall be in force; and within twenty days thereafter they shall be recorded by the recorder in books provided for that purpose; but before any of the said laws, ordinances, regulations or by-laws shall be recorded, the publication thereof, as aforesaid, shall be proved by the affidavit of the foreman or publisher of such newspaper, and the said affidavit shall be recorded therewith, and at all times shall be deemed and taken as sufficient evidence of such publication. (1870, c. 31, sub-ch. 4, § 7.)

5. TAXES.

*§ 169. **Tax for current expenses.** The common council shall have power to levy, upon all the taxable property of said city, taxes to provide for the current expenses of the city government and police, for the opening, maintaining and improvement of public grounds, and the construction of buildings and improvements of a general character: *provided*, that such taxes shall in no year exceed one per cent. of the assessed valuation. (1870, c. 31, sub-ch. 5, § 1.)

*§ 170. **Ward tax—disposition of proceeds—debts—orders.** The common council shall have power to levy a special tax upon all the taxable property in the city, or of the different wards of the same, for the purpose of constructing and maintaining bridges and culverts, and opening, constructing, maintaining and repairing roads, highways, streets and alleys; for the construction of reservoirs, cisterns, sewers, drains and street gutters, and grading of streets, and for other purposes conducive to good order and cleanliness, and to protection against crime, disease and fire: *provided*, that such taxes shall, in no year, exceed one per cent. of the assessed valuation: *and provided further*, that for the improvements in this section mentioned, the common council shall have power to assess the tax to pay the same upon the ward or wards benefited by such improvements, in such manner and to such extent as the common council may think just and equitable. The tax shall be apportioned upon a cash valuation of the property which it shall be determined is liable to assessment for such improvements. No debt shall be incurred or created by the city, the common council, or any officer of the city, except pursuant to the authority herein expressly given for that purpose; and no order or orders shall be issued upon the city treasury exceeding the amount of tax collected, or assessed and in process of collection. (*Id.* § 2.)

*§ 171. **Taxes to pay debts, etc.** The common council shall have power, and it shall be the duty of the common council, to levy annually, upon the taxable property of said city, taxes sufficient to pay all bonds or other indebtedness due and payable in any year, and the interest on bonds or other indebtedness due or payable in any year, unless that previously to the first day of September in each year some other adequate provision has been made for the payment of the same. The common council shall have the power to issue bonds and levy taxes exceeding the amount authorized by other sections of this act: *provided*, the same be authorized by a majority of the voters present and voting at an election to be held for that purpose. The time, place and manner of holding such election to be prescribed by the common council, the same notice to be given as at other elections. And no bonds for any purpose shall be issued by the common council unless so authorized. (*Id.* § 3.)

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

purchase thereof before due; if it be for improvements, it shall be kept and used for future improvements of the same character. (1870, c. 31, sub-ch. 5, § 4.)
20 M. 468.

*§ 173. **Manner of collecting taxes.** The common council shall cause to be transmitted to the county auditor of the county, on or before the first day of September of each year, a statement of all taxes by them levied; and such taxes shall be collected, and the payment thereof enforced, with and in like manner as state and county taxes are paid and the payment thereof enforced, and the county treasurer of said county shall pay such taxes over as fast as collected, to the treasurer of said city. (*Id.* § 5.)

*§ 174. **Appropriations—orders on treasury.** No money shall be paid out of the city treasury unless such payment be authorized by a vote of the common council, and these shall be drawn out only upon orders by the mayor and countersigned by the recorder, which orders shall specify the purpose for which they were drawn, and the fund out of which they are payable, and the name of the person in whose favor the same are drawn, and may be made payable to the order of such person, or to the bearer, as the common council may determine. (*Id.* § 6.)

*§ 175. **Orders to be cancelled.** When any such order shall have been paid or received by the treasurer, it shall not again be issued, but he shall immediately cancel the same, and file the same away in his office, keeping the orders drawn upon each fund separate. (*Id.* § 7.)

*§ 176. **Levy of poll-tax.** It shall be lawful for the common council of said city, at any time, to levy a corporation poll-tax upon every qualified voter in said city: *provided*, that said tax shall not in any one year exceed the sum of two dollars on each person. (*Id.* § 8.)

6. OPENING AND VACATING STREETS, ALLEYS, &C.

*§ 177 **Council to control highways.** The common council shall have the care, supervision and control of all public highways, bridges, streets, alleys, public squares and grounds within the limits of said city, and shall cause all streets which may have been opened and graded, to be kept open and in repair, and free from nuisances. (1870, c. 31, sub-ch. 6, § 1.)

17 M. 308; 18 M. 279; 19 M. 245, 300; 20 M. 117; 21 M. 65; 22 M. 443.

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

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

sioners in place of any absentee or absentees aforesaid, selected from the ward in each case not represented, and possessing the qualifications aforesaid. In all other cases of vacancy the common council shall fill such vacancy.

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

23 M. 167.

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

Fourth. Proceedings at meeting—view—assessment of damages. At the time and place according to said notice, the said commissioners shall view the premises, and may hear any evidence or proof offered by the parties interested, and adjourn from day to day, if necessary for the purpose aforesaid. When their view and hearing aforesaid shall be concluded, they shall determine and assess the amount of damages to be paid to the owner or owners of each parcel of property proposed to be taken, or which may be damaged by said improvement, and in so doing shall take into consideration the value of the property proposed to be taken, with such other damage as may be incident thereto, and also the advantages which will accrue to such owner or owners in making such improvement.

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

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

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

Eighth. Notice of confirmation—election to remove buildings. Upon such report being filed in the office of the city clerk, said city clerk shall give at least ten days' notice by publication in the official newspaper of said city, to the effect that such assessment has been returned, and that the same will be confirmed by the common council, at a meeting thereof, to be named in said notice, unless objections are made in writing by persons interested in any land required to be taken. Any persons interested in buildings standing in whole or in part upon any

land required to be taken by such improvement, shall, on or before the time specified in said notice, notify the common council in writing of their election to remove such buildings, according to the award of the commissioners. The common council, upon the day fixed for the consideration of such report, or at such subsequent meeting to which the same may stand over or be referred, shall have power, in their discretion, to confirm, revise or annul the assessment, giving due consideration to any objections interposed by parties interested.

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

Tenth. Removal of buildings by owners. In case any owner or owners of buildings as aforesaid shall have elected in manner aforesaid to remove his or their buildings, he or they shall so remove them within thirty days from the confirmation of said report, or within such further time as the common council may allow for the purpose, and shall thereupon be entitled to payment from said city of the amount of damages awarded in such case, in case of removal. When such person or persons shall not have elected to remove such buildings, or shall have neglected (after having elected to remove) to remove the same, within the time prescribed, such buildings, or so much thereof as may be necessary, upon payment or depositing the damages awarded for such taking, in manner aforesaid, may be then taken and appropriated, sold or disposed of, as the common council shall direct, and the same or the proceeds thereof shall belong to said city.

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

Twelfth. Appeals. Any person feeling himself aggrieved by such assessment, may by notice in writing served on the mayor of said city, a copy whereof, with proof of service, shall be filed in the office of the clerk of the district court of the county, within twenty days from the time of confirmation of said report or assessment, appeal from such assessment to the district court aforesaid, when such appeal shall be tried by the court and jury, as in ordinary cases; but no pleadings shall be required; and the party appealing shall specify, in the notice of appeal, the grounds of objection to such assessment, and shall not be entitled to have any other objections than those specified, considered; and a transcript of such report, certified by the city clerk, or the original thereof, shall be *prima facie* evidence of the facts therein stated, and that such assessment was regular and just, and made in conformity to law. The judgment of such court therein shall be final. Such appeal shall be entered and brought on for trial, and be governed by the same rules in all other respects, as appeals from justices of the peace in civil suits. (1870, c. 31, sub-ch. 6, § 2.)

*§ 179. **Survey and profile to be filed.** Whenever any public ground, street or alley shall be laid out, widened or enlarged, under the provisions of this chapter, the common council shall cause an accurate survey and profile thereof to be made and filed in the office of the city surveyor, and also filed in the office of the register of deeds of the county. (1870, c. 31, sub-ch. 6, § 3.)

*§ 180. **Vacation of streets, public grounds, etc.** No public grounds, streets, alleys or highways within said city shall be vacated or discontinued by the common council, except upon the petition of a majority of the owners of property on the line of such public grounds, streets, alleys or highways, resident within the said city; such petition shall set forth the facts and reasons for such vacation, accompanied by a plat of such public grounds, streets, alleys or highways proposed to be vacated, and shall be verified by the oath of at least two of the petitioners. The common council shall thereupon, if they deem it expedient that the matter should be proceeded with, order the petition to be filed of record with the city clerk, who shall give notice by publication in the official paper of said city, for four weeks, at least once a week, to the effect that such petition has been filed as aforesaid, and stating in brief its object, and that said petition will be heard and considered by the common council, or a committee appointed by them, on a certain day and place therein specified, not less than ten days from the expiration of such publication. The common council, or such committee as may be appointed by them for the purpose, at the time and place appointed, shall investigate and consider the said matter, and shall hear the testimony and evidence on the part of parties interested. The common council thereupon, after hearing the same, or upon the report of such committee in favor of granting such petition, may, by resolution passed by a two-thirds vote of all the members elect, declare such public grounds, streets, alleys or highways, vacated; which said resolution, after the same shall go into effect, shall be published as in the case of ordinances, and thereupon a transcript of such resolution, duly certified by the city clerk, shall be filed for record and duly recorded in the office of the register of deeds of the county. (*Id.* § 4.)

*§ 181. **Same—appeal.** Any person aggrieved thereby may, within twenty days after the publication thereof, appeal to the district court of the county, under the same regulations as in the case of opening streets and alleys, and the judgment of the court thereon shall be final. (*Id.* § 5.)

*§ 182. **Record of proceedings—duty of clerk.** It shall be the duty of the clerk to keep in his office a record of all proceedings taken under this chapter; and, after the confirmation of any report mentioned in sections two and four of this chapter, said clerk shall carefully record and transcribe in such record all the proceedings taken in relation to the matter in said report, including all petitions, orders and appointments of commissioners, returns and reports of commissioners, notices and proofs of publication thereof, and orders or resolutions of the council; and the said record, or a certified transcript thereof, or the original papers, petitions, proofs of publication, orders or resolutions on file in his office, shall be *prima facie* evidence of the facts therein contained, in any court in this state. (*Id.* § 6.)

7. FIRE DEPARTMENT.

*§ 183. **Fire limits—protection against fire.** The common council, for the purpose of guarding against the calamities of fire, shall have power to prescribe the limits within which wooden buildings, or other buildings the material or construction of which shall be regarded as dangerous to surrounding property, shall not hereafter be erected, placed or repaired, and to direct that all and any buildings within the limits prescribed shall hereafter be built and constructed in such manner, and of such materials, as, in the judgment of the common

council, shall [not] be dangerous to surrounding property; and to prohibit the repairing or rebuilding of wooden buildings within the fire limits, when the same shall have been damaged by fire or otherwise to the extent of fifty per cent. of the value thereof, and to prescribe the manner of ascertaining such damages. The common council shall have power, by resolution, to order any building, structure, or materials therefor, hereafter erected, or in process of erection, of which the construction or materials may be dangerous to surrounding property, to be taken down or removed beyond the fire limits of the city; and shall have power to prescribe the notice to be given to the owner or agent to remove such building, and, in case the same is not removed in pursuance of the notice given, to order the same taken down, removed by the police, or in such manner as the common council may see fit. And the common council may prescribe penalties for the violation of any of the provisions of this section, or of any ordinance made or enacted to carry out the provisions thereof, not exceeding one hundred dollars, which may be imposed by a city justice, upon the complaint of any citizen. (1870, c. 31, sub-ch. 7, § 1.)

*§ 184. **Precautions against fire.** The common council shall have power to prevent the dangerous construction and condition of chimneys, fire-places, hearths, stoves, stove-pipes, ovens, boilers, and apparatus used in and about any building, and to cause the same to be removed, or placed in a safe or secure condition, when considered dangerous; to prevent the deposit of ashes in unsafe places, and the throwing of ashes in the streets and alleys; to require the inhabitants to provide as many fire buckets, and in such manner and time as they shall prescribe, and to regulate the use of them in time of fire; to regulate and prevent the carrying on of manufactures dangerous in causing or promoting fires; to regulate and prevent the use of fire-arms and fireworks; to compel owners or occupants of buildings to have scuttles in the roofs, and stairs or ladders to the same; to authorize the mayor, aldermen, fire-wardens and other officers of the city to keep away from the vicinity of any fire all idle and suspected persons, and to compel all bystanders to aid in the extinguishment of fires and the preservation of property exposed to danger thereat; and generally to establish such regulations for the prevention and extinguishment of fires as the common council may deem expedient. (*Id.* § 2.)

*§ 185. **Fire engines—fire department—exemptions.** The common council shall have power to purchase fire-engines and all other apparatus which may be required for the extinguishment of fires, and to authorize the formation of fire-engine and hook-and-ladder and hose companies, and to provide for the proper support and regulation of the same, and to order such companies to be disbanded, their public meetings prohibited, and their apparatus to be given up. Every member of each company which may be authorized to be formed, shall be exempt from highway work and poll-tax, from serving on juries, and from military duty, during the continuance of such membership. (*Id.* § 3.)

*§ 186. **Officers of fire department.** The common council shall have power to appoint the chief engineer and two assistant engineers of the fire department, and also one firewarden in each ward, and to prescribe the duties of such officers. (*Id.* § 4.)

*§ 187. **Summary arrests at fires.** Whenever any person shall refuse to obey any lawful order of any engineer, firewarden, mayor or alderman, at any fire, it shall be lawful for the officer giving such order, to arrest, or direct orally any constable, police officer, watchman or any citizen, to arrest such person, and confine him temporarily in any safe place, until such fire shall be extinguished; and in the same manner such officers, or any of them, may arrest, or direct the arrest and confinement of any person at such fire who shall be intoxicated or disorderly; and any person who shall refuse to obey any such lawful order, or who shall refuse to arrest or aid in arresting any person so refusing to obey, shall be liable to such penalty as the common council may prescribe, not exceeding a fine of fifty dollars. (*Id.* § 5.)

8. STREET GRADES AND SIDEWALKS.

*§ 188. **Grade of streets—profiles.** The common council may cause to be established from time to time, and as rapidly as the convenience of the inhabitants may require, under the direction of the city surveyor, the grade of all streets, sidewalks and alleys in said city, and it shall cause accurate profiles thereof to be made and kept in the office of the city surveyor. (1870, c. 31, sub-ch. 8, § 1.)

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

*§ 190. **Same—assessments for cost.** If such work is not done, and the said sidewalks not built or repaired, in the manner and within the time prescribed, the common council may order the same to be done by the street commissioner, at the expense of the lots and parcels of land adjoining said sidewalks, and said expenses shall be assessed upon such lots and parcels of land so chargeable, by the street commissioner, and returned by him to the common council. And said assessment so made and returned, if approved by the common council, shall become a lien upon said lots and parcels of land, as in case of city, county and state taxes. (*Id.* § 3.)

*§ 191. **Collection of assessments.** If said assessment be not paid to the street commissioner or the city treasurer, on or before the twentieth day of August, in any year, the common council shall cause a statement of the same to be transmitted, with the city taxes levied for that year, to the auditor of the county, on or before the first day of September in each year, and the said auditor shall insert the same with the other taxes in the duplicate statement of taxes annually transmitted by him to the county treasurer for collection, and payment thereof enforced with and in like manner as city, county and state taxes are collected, and payment thereof enforced. (*Id.* § 4.)

*§ 192. **Width and material of sidewalks.** The common council shall prescribe the width of sidewalks, and may establish different widths in different localities, and determine the kind of material of which they shall be constructed, having regard to the business and the amount of travel in the vicinity of each. (*Id.* § 5.)

9. LIGHTING OF STREETS—SUPPLY OF WATER.

*§ 193. **Contract for lighting streets.** The common council shall have authority to contract with any person, persons or corporation for the lighting of such streets or parts of streets and public places as they shall deem proper for the convenience and safety of the inhabitants. (1870, c. 31, sub-ch. 9, § 1.)

*§ 194. **Laying of gas-pipes.** The common council may permit the laying of gas-pipes in any and all the streets, alleys, highways and public grounds of the city; but in all cases the common council shall regulate the laying of the same, so that said gas-pipes may not at any time interfere with the construction of common sewers or the lateral branches thereof, or with the proper and convenient location of water-mains and pipes, and may at any time require the location of any gas-pipe to be changed, if the same shall be found to interfere with the proper and convenient location of common sewers or water-mains and pipes. (*Id.* § 2.)

*§ 195. **Laying of water pipes.** The common council may permit any party or corporation to lay water-mains and pipes in any and all streets, alleys, highways and

public grounds of the city, and shall regulate the position of the same, so that [they] shall not obstruct or interfere with common sewers, or with the proper drainage of the city. (1870, c. 31, sub-ch. 9, § 3.)

10. MISCELLANEOUS PROVISIONS.

*§ 196. **Rescinding of votes by council.** No vote of the common council shall be reconsidered or rescinded at a subsequent meeting, unless at such subsequent meeting there be present as large a number of aldermen as were present when the vote was taken. (1870, c. 31, sub-ch. 10, § 1.)

*§ 197. **Remission of penalties.** No penalty or judgment recovered in favor of the city shall be remitted or discharged, except by the vote of two-thirds of the aldermen elect. (*Id.* § 2.)

*§ 198. **Procedure for violation of ordinances, &c.** In all prosecutions for any violation of this act, the first process shall be by warrant on complaint being made: *provided*, that no warrant shall be necessary in any case of the arrest of any person or persons while in the act of violating any law of the state of Minnesota, or ordinance or by-law of the city; but the person or persons so arrested may be proceeded against, tried, convicted and punished or discharged in the same manner as if the arrest had been made by warrant. All warrants, process or writs by a city justice for the violation of an ordinance and by-laws of said city, shall be directed to the chief of police or any police officer of said city. (*Id.* § 3.)

*§ 199. **Enforcing payments of fines.** In all cases of the imposition of any fine or penalty, or of the rendering of any judgment by a city justice of said city, pursuant to any statute of the state of Minnesota, or pursuant to any ordinance or by-law of the said city, as punishment for any offence, or for the violation of any ordinance or by-law as aforesaid, the offender shall be forthwith committed to the city prison of said city, or if there be no city prison, to the common jail of the county, and be there imprisoned for a term not exceeding three months, in the discretion of the city justice, unless the said fine or penalty be sooner paid or satisfied; and from the time of the arrest of any person or persons for any offence whatever, until the time of trial, the person or persons so arrested may be imprisoned in the city prison, or in case there be no city prison, in the common jail of the county. (*Id.* § 4.)

*§ 200. **Citizens as jurors, etc., where city is party.** No person shall be an incompetent judge, justice, witness or juror, by reason of his being an inhabitant of said city, in any proceeding or action in which the city shall be a party in interest. (*Id.* § 5.)

*§ 201. **Real estate held by city.** Each city may purchase and hold real and personal estate for public purposes, sufficient for the convenience of the inhabitants thereof, and may sell and convey the same, and the same shall be free from taxation. (*Id.* § 6.)

*§ 202. **Repeal or amendment of this act.** No law of the state concerning the provisions of this act shall be considered as repealing, amendatory or modifying the same, unless said purpose be expressly set forth in such law. (*Id.* § 7.)

*§ 203. **Street commissioner.** The street commissioner shall collect the corporation or poll tax which may be levied by the common council, and said street commissioner shall have all the power as possessed by road supervisors as provided by the laws of the state, and shall report to the common council when required. (*Id.* § 8.)

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VILLAGES.*

*§ 204. **Villages, organization and powers.** That any district, section or sections, or parts of sections, in the state of Minnesota, which may hereafter be set apart by act

* *An act to provide for the organization of villages in the state of Minnesota.* Approved March 4, 1875. (Laws 1875, c. 139.)

of the legislature for incorporation as a village, and shall organize as such municipal corporation, by the action of the inhabitants thereof, in the manner and form hereinafter provided, shall thereupon be endowed with all the rights, powers and duties incident to municipal corporations at common law, with perpetual succession, and shall, by the corporate name and style authorized or adopted, be capable of contracting and being contracted with, of suing and being sued, and of pleading and being impleaded in all courts of law and equity, and have a common seal, which may be altered at the pleasure of the village council, and shall have power to take, hold, purchase, lease and convey such real estate and personal property or mixed estate as the purposes of the corporation may require, within or without the limits of such corporation. (*1875. c. 139, § 1.*)

*§ 205. **Elective officers—term of office—oath of office—duties of treasurer.** The inhabitants of said village having the qualification of electors of members of the legislature of the state of Minnesota, as hereinafter provided, may elect a president, three trustees, a treasurer and a recorder, who shall hold their respective offices for one year, or until their successors are elected and qualified; also a justice of the peace and a constable, who shall hold their respective offices for two years, or until their successors are elected and qualified; and before entering upon the duties of their respective offices, they shall each take an oath or affirmation to support the constitution and laws of the state of Minnesota, and faithfully discharge the duties of his office. The treasurer shall give such bonds as the village council may require. The treasurer shall keep a true account of all moneys by him received by virtue of his office, and the manner in which the same are disbursed, in a book provided for that purpose, and shall exhibit such account, together with his vouchers, to the village council at its annual meeting, or at any time when called for by resolution of said council, for adjustment, and shall deliver all books and papers belonging to the office, and the balances of all moneys, as such treasurer, to his successor in office: *provided further*, that the treasurer shall not pay out any moneys in his hands except upon the written order of the president of the council, attested by the recorder. The treasurer shall, from time to time, draw from the county treasury such moneys as may be due said corporation, for the use of said village, and, on receipt of said moneys, give proper vouchers therefor. (*Id. § 2.*)

*§ 206. **Annual statement by treasurer.** The treasurer shall, one week previous to the annual election of village officers, make a detailed statement in writing of the moneys received by him, and the sources from which the same were received, and their respective amounts, and also the amounts paid out by him, and the purposes for which they were paid. Such statement shall be filed by him in his office, for the inspection of any tax-payer residing within the corporate limits of said village. (*Id. § 3.*)

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

First. Sidewalks, etc. To provide for the construction and maintenance of suitable sidewalks and street crossings, as they shall deem expedient, 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. Preserving peace. To prevent riots, noise, disturbances of public or religious meetings, and to punish any person or persons who may be so engaged, and generally to promote and preserve good order and the public peace.

Third. Incumbering streets. To prevent the incumbering of streets, sidewalks or alleys, with any material or substance detrimental to the public good.

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

Fifth. Drunkenness and brawling. 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. Protection of public property. To prevent all persons from doing damage to sidewalks, shade trees, public wells, cisterns or pumps.

Seventh. Slaughter-houses and markets. 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. Public health—cutting ice. To compel the owners or agents of any yard, pen, 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. To regulate and prevent the cutting or removal of ice on or from any part of any lake, pond or river within the limits of such village, and to compel all persons who shall cut or remove ice from any such place to keep the place within or from which ice is so cut or removed safely and securely enclosed by a good and substantial fence, and also to compel all persons who shall dig, excavate or maintain, or allow the same to be done, upon any premises owned or controlled by them, any well, cellar, cistern, sink-hole, ditch, drain or pit, in or upon any exposed or unimproved place within the limits of such village, to keep the same inclosed in like manner.

Ninth. Protection against fire. To prevent the dangerous construction of chimneys, fire-places, hearths, stoves, stove-pipes, ovens, boilers, boiler-stacks, and apparatus in or about any building, and to cause the same to be placed in a safe condition, at the expense of the owner or owners; to prevent the deposit of ashes in unsafe places, or the throwing of them in the street; to regulate and prevent the use of fire-arms, 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 furnishing them with pumps or buckets and hose; and may also direct the owners, agents or lessees of any building or buildings, in any exposed parts 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 pails or buckets; and may also direct that tubs or barrels of water or brine may be kept filled at all times.

Tenth. Exemptions of firemen. The village council may, by a unanimous vote, exempt a limited number of legal voters, residents of said village, from highway tax or serving on juries, provided they are members of a fire-company organized and regulated under the direction of said village council.

Eleventh. Amusements. To license public showmen or exhibitions, billiard tables, and bowling-alleys.

Twelfth. Fast driving. To prevent and punish horse-racing and immoderate riding and driving in the streets; to compel persons to fasten their teams attached to vehicles while in the streets.

Thirteenth. Frauds—gaming—sale of liquor. To restrain and prohibit gift enterprises, all descriptions of gaming, and fraudulent devices and practices, and all playing of cards, dice and other games of chance, for the purposes of gaming; and to restrain any person from giving or dealing in spirituous, malt, fermented or vinous liquors, unless duly licensed by such village council.

Fourteenth. Vagrants, mendicants, etc. To restrain and punish vagrants, mendicants, street beggars and prostitutes, and to suppress houses of ill fame.

Fifteenth. Sanitary measures. To establish and regulate boards of health, provide hospitals and pest-houses, and prevent the spread of infectious disease.

Sixteenth. Peddlers, etc. To license, regulate and restrain hawkers, peddlers, auctions and auctioneers.

Seventeenth. Dogs. 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. (1875, c. 139, § 4. as amended 1877, c. 61, §§ 1 & 2.)

*§ 208. *Violation of ordinances.* 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. (1875, c. 139, § 5.)

*§ 209. *Ordinances, etc., how enacted and published.* All ordinances, rules and by-laws shall be enacted by a majority of all the members of the village council, and shall be signed by the chairman, attested by the recorder, and published once in a newspaper published in the county in which said village shall be situated; and if there be no newspaper published in said county, then by posting them conspicuously in three of the most public places in said village for ten days, and shall be recorded in a book kept for that purpose. (*Id.* § 6.)

*§ 210. *Prosecutions for violation of ordinances.* All prosecutions for violating any of the ordinances, rules or by-laws enacted under the provisions of this act, shall be brought in the corporate name of said village, and shall be commenced by warrant, upon complaint being made as required by law in criminal cases before justices of the peace; and the same proceedings shall be had therein as are required to be had by the laws of this state in criminal or civil actions before justices of the peace: *provided*, that no warrant shall be necessary in any case of the arrest of any person or persons while in the act of violating any law of the state of Minnesota or ordinance of said village; but in such cases a complaint shall be made, which the justice shall reduce to writing, and the party be required to plead thereto, as to a warrant in other cases; and the person or persons so arrested may be proceeded against in the same manner as if the arrest had been made by warrant. All process issued by the justice of the peace of said village shall be directed to any constable of said village or county. It shall be a sufficient pleading of the by-laws or ordinances of said village to refer to the chapter and section thereof, and giving them in evidence under the complaint. The justices of the peace of the village shall have and possess exclusive and original jurisdiction of all cases arising under the provisions of this act. (*Id.* § 7.)

*§ 211. *Fines, how disposed of.* All fines and penalties imposed under or by virtue of the provisions of this act, shall belong to the village, and shall constitute a fund to pay the expenses incurred under the provisions of this charter. (*Id.* § 8.)

*§ 212. *Meetings for organization of villages.* Whenever the persons designated for the purpose in any act of the legislature shall receive official notice by the secretary of state of the passage of an act so designating them, under the provisions of this general law, and the approval of the same by the governor of the state, the said persons shall post notices in three of the most public places in the village, giving at least five days' notice to the legal voters, residents of said incorporated village, to meet to organize under the provisions of this act, and elect officers for the ensuing year. The action of a majority of said persons shall be considered the action of the whole number. And the electors present at the time and place designated in the call may organize such meeting by choosing, *viva voce*, two judges of election and one clerk, who before entering upon the discharge of their duties, shall take and subscribe an oath or affirma-

tion to faithfully discharge the duties required of them; and said judges and clerk, being duly qualified, shall forthwith open the polls by proclamation, and conduct the election in the manner prescribed by the statutes of the state for the election of township officers; and the judges of election shall give to each person elected a certificate of his election, and such officers so elected, after having qualified according to the laws of the state, shall forthwith enter upon the discharge of their duties. (1875, c. 139, § 9.)

*§ 213. **Annual election when held—how conducted.** After the first election of officers, the village council, or any two of them being present, shall act as judges of election; and the annual meeting shall be on the first Tuesday of January for the election of officers, and at such place as may be directed by the village council, after giving ten days' notice thereof, either by posting written notices in three of the most public places in the village, or by publishing such notice in a newspaper printed in said village. The polls shall be opened at one o'clock P. M., and close at four o'clock in the afternoon of said day. At the close of the polls the votes shall be counted, and a true statement thereof proclaimed to the voters by some one of the judges of election, and the recorder shall make a true copy thereof in a book kept for such purposes, and within five days notify in writing the persons so elected of their election. (*Id.* § 10.)

*§ 214. **Special elections.** Special elections may be ordered by the council, but no special election shall be held unless ten days' notice thereof is given, nor shall any subject or question be considered or acted upon unless its objects are clearly set forth and stated in the notice for the call of such meeting. (*Id.* § 11.)

*§ 215. **Levy and collection of taxes.** The legal voters of said village may, at any annual or special meeting, authorize the village to levy a tax for any legitimate object, but in no case shall the tax so levied exceed the sum of five mills upon the dollar valuation in any one year; and all taxes levied, except for improvement of streets, sidewalks and crossings, shall be levied and collected as prescribed by the statutes of this state for the levying and collection of township taxes; *provided*, that the village council shall, on or before the first day of September in each year, make and certify to the county auditor of the county in which any of the lands or village lots within the corporate limits of such village are situate, a statement of all taxes levied and assessed by them, and shall also, at the same time, make and certify to the auditor of the proper county a list of the names of the owners of personal property subject to taxation within such village; and the county auditor shall, upon the receipt of said statement and list, enter and carry out the said tax or taxes against the property within such village, and collect the same as other taxes are collected, and, when collected, pay over the same to the village treasurer. (*Id.* § 12, as amended 1876, c. 36, § 1.)

*§ 216. **Licenses for the sale of liquors.** The village council shall have the exclusive right to license persons vending, dealing in, or disposing of spirituous, vinous, malt or fermented liquors within the limits of said village, and persons so licensed shall not be required to obtain a license from the board of county commissioners: *provided*, the person so obtaining such license comply with all the requirements, and be subjected to all the penalties, as provided in the general statutes of Minnesota: *and provided further*, that no license shall be granted for less than fifty dollars, nor for a greater sum than two hundred dollars, at the discretion of the village council, and that, previous to granting of any such license, a bond shall be executed with the same conditions and with the same penal sum as required by the general act; and the moneys received for such license shall be paid to the treasurer of said village, and be used to defray the expenses thereof; and the council shall have full power to restrain any person from vending liquors unless duly licensed by the village council of said village;

*§§ 213 to 216, incl. See 1853, Sup't. Rep. 17, 18. (See, also, note to VILLAGES, 18:3 Sup't. R. 16.)

provided further, all licenses granted by the village council shall expire within ten days after the next general election in said village. (1875, c. 139, § 13.)

*§ 217. **Justices and constables.** The justice of the peace and constables of said village shall have and may exercise, in addition to the powers and authority herein specially granted to such officers, all the powers, authority and jurisdiction in any case possessed by a justice of the peace or a constable elected in the county or counties in which such village is situated. The village justice and constable shall take the same oath of office, and execute, before entering upon the discharge of their duties as such officers, the same bond as township justices of the peace and constables, and file their bonds with the same officers as justices of the peace and constables elected elsewhere in the state are now or hereafter may be required to do, and shall receive the same fees for their services as justices of the peace and constables elected elsewhere in the state are allowed under the general statutes of the state, now or hereafter in force; and in all cases where a village is situated in more than one county, the justice of the peace and constable of such village shall have and possess all the powers and jurisdiction conferred by this act in each of the counties in which such village is situated, and shall file their bonds in each of said counties. (*Id.* § 14, as amended 1876, c. 36, § 2.)

*§ 218. **Vacancies, how filled.** Should a vacancy occur in any of the offices other than justices of the peace provided for in this act, the village council, or the remaining members thereof, may fill the same by appointment. (*Id.* § 15.)

*§ 219. **Roads.** The village so organized shall constitute one road district, and the street commissioner or roadmaster thereof be appointed by the village council, and all taxes raised within the limits of said village for road purposes shall be expended under the direction of the village council. (*Id.* § 16.)

*§ 220. **Board of auditors.** The village council shall constitute a board of auditors for the purpose of auditing all accounts payable by said village. Said board shall draw up a report, stating in detail the items of accounts audited and allowed, the nature of each account, and the name of the person to whom the account was allowed, and also including a detailed statement of the financial concerns. Such report shall be filed with the recorder, and a copy thereof shall be posted at the time and place of holding the annual election, or published in a newspaper of general circulation in said village, two weeks before such election. (*Id.* § 17.)

*§ 221. **Expenses of building sidewalks, etc., how paid.** The cost and expenses of building, grading, paving and repairing sidewalks, shall be chargeable to the lots fronting on said improvements, when a petition for such improvements shall be made a majority of the legal voters, residents of said lots to be so improved, said residents being the owners of at least one-third of such lots. Whenever the village council shall resolve or ordain it necessary to construct or repair any sidewalk in said village, they shall notify all owners and occupants of any lot or lots, or parcels of land, adjoining such sidewalks, to construct or repair the same at his or their own proper expense and charge, within a certain time designated, by delivering to the owners or occupants of said lot or lots, or parcels of land, or by publication in a newspaper printed in said village, for not less than two weeks, of a notice to said owners or occupants, setting forth what work is to be done, and the character of the same, by such owner or occupant, and the time within which they are required to do it. (*Id.* § 18.)

*§ 222. **Cost of sidewalks a lien on land, etc.** If such work is not done, and the sidewalks not built or repaired, in the manner and within the time prescribed, the village council may order the same to be done at the expense of the lots and parcels of land adjoining said sidewalks, and said expenses shall be assessed upon such lots and parcels of land so chargeable, by the village council, and returned by them in their annual return to the county auditor; and said assessment so

(See, also, note to VILLAGES, 1883 Sup't. p. 16.)

made and returned shall become a lien upon said lots and parcels, as in case of town, county and state taxes. (1875, c. 139, § 19.)

*§ 223. Appropriations limited. No greater sum of money than five hundred dollars shall be appropriated for any one purpose by the council, unless it is expressly authorized by a vote of the legal voters of said village at an annual or special meeting. (Id. § 20.)

*§ 224. Election district. The territory comprised within the prescribed limits of the village, shall constitute one election district only for the election of village officers. (Id. § 21, as amended 1878, c. 35, § 1.)

*§ 225. Power to carry out this act. Any village incorporated under this act is vested with all the powers necessary to carry into full force, virtue and effect all and every part of this charter, and shall have power to pass and ordain all and every ordinance necessary to carry out fully the meaning and intent thereof. (Id. § 22.)

(See 1881 Sup't. pp. 21, 22, 23. And *§ 223 to 261, incl. See 1883 Sup't. pp. 2) to 32, incl.

CHAPTER XI.

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*§ 226, 227, 228, 229, 230, and 231. *An act to provide for the assessment and collection of taxes. Approved March 11, 1878. (Laws 1878, c. 1.)