

CHAPTER 96. collected shall be paid over to the street commissioner on the order of the supervisors, and by the street commissioner expended under the direction of the supervisors."

SECTION. 2 This act shall take effect and be in force from and after its passage and publication.

Approved March 21, 1861.

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[Published March 23, 1861.]

AN ACT to revise, consolidate and amend the act to incorporate the city of Oshkosh, and the several acts amendatory thereof.

The People of the State of Wisconsin, represented in Senate and Assembly do enact as follows :

CHAPTER ONE.

CITY AND WARD BOUNDARIES.

City of Oshkosh
—charter amend-
ed.

SECTION 1. All the district of country in the county of Winnebago contained within the limits and boundaries hereinafter described, shall be a city by the name of "Oshkosh," and the people now inhabiting, and those who shall hereafter inhabit, within the district of country herein described, shall be a municipal corporation by the name of the "city of Oshkosh," 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, shall be capable of contracting and being contracted with, of suing and being sued, pleading and being impleaded, in all courts of law and equity, and shall have a common seal, and may change and alter the same at pleasure.

Boundaries of
city.

SECTION 2. The territory included within the following boundaries and limits, shall constitute the city of Oshkosh, to wit: Beginning on the shore of Lake Winnebago, where it is intersected by the section line dividing sections seven (7,) and eighteen (18,) of town-

ship eighteen, north of range seventeen east; running thence west along said line and the continuation thereof until it intersects the center of a public highway, known as the Oshkosh and Winneconne highway; thence north-westerly along the center of said highway, until it intersects the line dividing lots four and five, in section ten, of township eighteen, north of range sixteen east; thence west along said line and the continuation thereof to a point in Lake Butte des Morts, where it meets the continuation of the line dividing the east half from the west half of the north-west quarter of section fifteen, in township eighteen, north of range sixteen east; thence south along said line and the continuation thereof to the south-west corner of the east half of the south-west quarter of said section fifteen; thence east to the south-east corner of the south-west quarter of said section fifteen; thence south to the south-west corner of the south-east quarter of section twenty-seven, in township eighteen, north of range sixteen east; thence east along the section line dividing sections twenty-seven and thirty-four and the continuation thereof to the north-west corner of lot one, in section thirty-six, of township eighteen, north of range sixteen east; thence south along the west line of said lot one to the south-west corner of said lot one; thence due east to a point in Lake Winnebago, where a continuation of the line dividing lots one and two in said section thirty-six, meets the eastern boundary of the county of Winnebago; thence north along said east boundary line of the county of Winnebago, to a point where the said line intersects the eastern continuation of the section line dividing section seven (7) and eighteen (18) of township eighteen (18), north of range seventeen (17) east; thence due west to the place or point of beginning.

SECTION 3. The said city shall be divided into five ^{Wards.} wards, as follows: All that part of said district which lies north of the middle of Fox river, west of the middle of Ferry street and south of the section line dividing section fourteen and twenty-three in township eighteen, north of range sixteen east, and its continuations, shall be the first ward. ^{First.} All that part of said district which lies east of the middle of Ferry street, south of the middle of Washington street and its continuation, and north of the middle of Fox river, shall ^{Second.}

- CHAPTER 96.** be the second ward. All that part of said district which lies south of the middle of Fox river, and south of the quarter post line running east and west through sections twenty-two and twenty-three, in township eighteen, north of range sixteen east, shall be the third ward. All that part of said district which lies north of [the] middle of Washington street, and east of the middle of Ferry street, including all of section thirteen of township eighteen, range sixteen, shall be the fourth ward. All the residue of said city shall be the fifth ward.
- Third.**
- Fourth.**
- Fifth.**

CHAPTER TWO.

ELECTIONS.

Annual election. SECTION 1. The annual election for ward and city officers shall be held on the first Tuesday of April of each year, at such place in such ward as the common council shall designate, and the polls shall be kept open from nine o'clock in the forenoon till sundown; but the board may adjourn the polls at 12 o'clock noon for one hour; and ten days' previous notice shall be given by the common council of the time and place of holding such elections, and the city and ward officers to be elected.

Elective officers. SECTION 2. The elective officers of said city shall be a mayor, clerk, treasurer, one justice of the peace and one school superintendent for the city, and three aldermen, one assessor [and] one constable for each ward. All other officers necessary for the proper management of the affairs of said city shall be appointed by the common council. All elective officers, except justice of the peace, shall, unless otherwise provided, hold their respective offices for one year, and until their successors are elected and qualified: *provided, however,* the common council shall have power, for due cause, to expel any of their own number, and to remove from office any officer or agent under the city government, due notice being first given to the officers complained of. The justice of the peace shall hold his office for two years, and until his successor is elected and qualified.

Expulsion, removal, &c.

Vacancies—how filled.

SECTION 3. Whenever a vacancy shall occur in the office of mayor or alderman, such vacancy shall be

filled by a new election, which shall be ordered and held within ten days after such vacancy shall occur. Any vacancy happening in any other office shall be filled by the common council. The persons [person] elected or appointed to fill any 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.

SECTION 4. All elections by the people shall be by ballot, 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.

Elections by ballot.

SECTION 5. All persons entitled to vote for county or state officers, and who shall have resided in the city for six months previous to the election, and for ten days within the ward where they offer to vote, shall be entitled to vote for any officer entitled to be elected under this law, and to hold any office hereby created.

Qualifications of voters.

SECTION 6. The election in said city shall be held and conducted by the aldermen of each ward, who shall be the inspectors of elections, and shall take the usual oaths or affirmations, as prescribed by the general laws of this 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. 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.

Aldermen inspectors of elections.

SECTION 7. If either of the inspectors shall suspect that any person offering a vote does not possess the qualifications of an elector, or if such vote be challenged by an elector, the inspector, before receiving the vote of any such, shall require him to take the following oath: "You do solemnly swear (or affirm, as the case may be) that you are twenty-one years of age, and that you are a citizen of the United States, (or have declared your intention to become a citizen, conformably to the laws of the United States on the subject of naturalization,) that you have resided within the state

Challenge.

Oath.

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Punishment for
false swearing.

Inspectors to
keep list of
names challeng-
ed.

Returns of elec-
tions.

of Wisconsin one year, within the city six months, and within this ward ten days next preceding this election, and that you have not voted at this election, and that you have made no bet or wager, or become directly or indirectly interested in any bet or wager depending on the result of this election ;” and if the person offering to vote shall take such oath, his vote shall be received. And if such person shall take such oath falsely, he shall be deemed guilty of willful and corrupt perjury, and upon conviction thereof upon indictment, shall suffer the punishment provided by law for persons guilty of perjury. If any person who is not a qualified voter shall vote at any election, or if any person duly qualified shall vote in any other ward than the one in which he resides, or shall vote more than once at any one election, he shall be liable to indictment, and on conviction thereof, shall forfeit and pay a sum not exceeding one hundred dollars, nor less than twenty-five dollars. It shall be the duty of the inspectors to keep a list of the names of all persons whose votes may be challenged as aforesaid, and who shall swear in their votes ; and if any inspector shall knowingly and corruptly receive the vote of any person not authorized to vote, or shall make out false returns of an election, or if any clerk shall not write down the name of every voter as he votes, or shall willfully make untrue and incorrect count and tallies of votes, each and every such inspector and clerk shall be liable to indictment, and on conviction thereof, shall severally forfeit and pay a sum not exceeding five hundred dollars, nor less than one hundred dollars. All such indictments shall be tried in the circuit court of the county of Winnebago.

SECTION 8. When an election shall be closed, and the number of votes for each candidate or person voted for, shall be counted and ascertained, the said inspectors shall make a return 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 city clerk within one week after any election. The common council shall meet and canvass said returns and declare the result, as it appears from the same, and the city clerk shall forthwith give notice to each person elected of his respective election.

SECTION 9. 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 shall be made in the same form and manner as general or annual elections, and within such time as may be prescribed by ordinance.

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Special elections

SECTION 10. Any officer removing from the city, or any ward officer removing from the ward for which he is elected, or any officer who shall neglect or refuse 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 such vacancy, as hereinafter prescribed.

Council to fill certain vacancies

SECTION 11. There shall be elected at the first election under this act, one alderman for each ward, who shall hold his office for two years, and one alderman who shall hold his office for one year, and the alderman elected for two years at the last election under the former city charter, shall hold his office for the term for which he was elected.

First election—who to be elected.

SECTION 12. The votes for aldermen and all other elective offices shall be on one ballot, and shall be deposited in one ballot box.

One ballot.

SECTION 13. There shall be written or printed, or partly written or printed, at the head of the votes for alderman for two years, the words, "alderman for two years," and at the head of the votes for alderman for one year, "alderman for one year."

Distinction.

SECTION 14. The alderman in each ward elected for two years, shall be, in the order of their [his] election, members [a member] of the county board of supervisors, with all the rights, duties, and liabilities of the chairman of the board of supervisors of the several towns.

Aldermen for two years members of county board.

SECTION 15. By the consent of a majority of the aldermen of any ward, the alderman for two years may substitute either of the other aldermen in his place, in said board of supervisors, for such time as may be named by him in writing.

May substitute.

SECTION 16. All the city and ward officers now in office shall hold their respective offices until their successors shall be elected or appointed under this act; and the term of every officer elected under this law shall commence on the second Tuesday of April of the year for which he was elected, and shall, unless herein

Officers now in office.

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Present council to perform certain duties.

otherwise provided, continue for one year, and until his successor is elected and qualified.

In case of failure to elect.

SECTION 17. All duties herein required of the common council and aldermen in regard to elections, shall be performed, so far as may be necessary, by the present common council and aldermen, in regard to the first election and the organization of the city government under this law.

First election—justice.

SECTION 18. Should there be a failure by the people to elect any officer herein required to be elected, on the day designated, the common council may order a new election to be held, ten days' notice of the time and place of holding the election being first given.

SECTION 19. The first election of officers under the provisions of this act, shall be held on the first Tuesday of April, A. D. 1861. The election of the justice of the peace under this act, shall be held at the same time and place, and so every two years thereafter; and the justices of the peace now residing in that district of country constituted by this act as the city of Oshkosh, shall hold their offices until their terms of office expire, and their successor is elected and qualified.

No change of venue from prejudice.

SECTION 20. Neither the defendant nor his attorney, or other person on his behalf, shall have the right to remove any action, either civil or criminal, from the justice of the peace elected by virtue of this charter, on the grounds and for the reason that, from prejudice, such justice of the peace will not decide impartially in the matter.

When change may be taken.

SECTION 21. In case it shall be sufficiently proved to the satisfaction of said justice of the peace, that he is interested or has been counsel in any civil action pending before him, or that he is near of kin to either party, it shall be the duty of such justice of the peace to transmit immediately all the papers in the case to the county court of Winnebago county, which county court shall try the action between the parties in the same manner as if the same had come into said county court by appeal. And the plaintiff shall pay to such justice of the peace, on such removal, the sum of seventy-five cents for transmitting such papers, and the sum of one dollar for state tax; and the clerk of the county court shall receive and file the papers in such case.

SECTION 22. If, after joining issue in any action pending before such justice, and before any witness is sworn therein, either party, his agent or attorney, shall make affidavit that such justice is a material witness for such party in such action, without whose testimony he cannot safely go to trial, and shall file the same with such justice, the party so making and filing such affidavit, must at the time of filing thereof, deposit with such justice the sum of one dollar and fifty cents for jury fees. The said justice shall then cause a jury to be called and impaneled, as in other justice courts, and said action shall be tried by such jury, and the said justice shall render judgment therein on the verdict of such jury, and if said party require that said justice shall be sworn as a witness in such case, any person who, by the laws of this state, is authorized to administer oaths, shall administer the proper oath to such justice, who shall testify in the case, the same as other witnesses.

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When cause shall be tried by jury.

SECTION 23. In all actions brought before such justice, wherein an issue shall be joined and a trial had thereon, there shall be allowed to the prevailing party two dollars for such trial in addition to the costs now allowed in trials before justices of the peace, and the same shall be taxed in the bill of costs against the losing party.

Additional costs.

CHAPTER THREE.

OFFICERS—THEIR POWERS AND DUTIES.

SECTION 1. Every person elected or appointed to any office under the provisions of this act, except the justice of the peace, 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 clerk of the city; and the treasurer, clerk, marshal, constables and such other officers as the common council may direct, shall severally, before they enter upon the duties of their respective offices, execute to the city of Oshkosh a bond, with at least two sureties, who shall swear that they are worth in the aggregate the penalty specified in said bond, over and above all debts, exemptions and liabilities; and said bonds shall contain such penal sum and such conditions as

Oath and bond of officers.

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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.

Mayor to preside.

SECTION 2. The mayor shall, when present, preside over the meetings of the common council, and 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 chief executive officer and head of the police of the city, and in case of a riot or other disturbance, he may appoint as many special or temporary constables as he may deem necessary. The mayor shall have a vote only in case of tie. The mayor shall have power to veto any ordinance or resolution passed by the common council, by notifying the common council of his objections thereto, at any time within seven days after the passage of such ordinance or resolution. In case of no session of the council in any day after the passage of the same and before the expiration of said seven days, such notification shall be made by filing with the city clerk a copy of his objections. And in case the council shall not, within one week after receipt of such objections, or such filing with the clerk, re-enact such ordinance, or pass such resolution, by the votes of two-thirds of the aldermen elect, the same shall be null and void. No ordinance or resolution shall take effect until one week after the passage of the same.

To be chief of police.

To have power to veto.

Election of president—his duties

SECTION 3. At the first meeting of the common council each year, they shall proceed to elect, by ballot, one of their number president, and in the absence of the mayor, the said president shall preside over the meeting of the common council, and during the absence of the mayor from the city, or his inability, for any reason, to discharge the duties of his office, the said president shall exercise all the powers and discharge all the duties of the mayor, except the signing of city orders. In case the mayor and the president shall be absent at any meeting of the common council, they shall proceed to elect a temporary presiding officer, who, for the time being, shall discharge all the duties of the

President *pro tem.*

mayor. The president, or temporary presiding officer, while presiding over the board, or performing the duties of mayor, shall be styled acting mayor, and acts performed by them, or either of them, shall have the same force and validity as if performed by the mayor, except the signing of city orders. And the said common council shall also elect, at their first or second meeting after the charter elections, a marshal for the city, for the term of one year, and until another is elected and qualified, who shall receive a salary of four hundred dollars per year.

Marshal.

SECTION 4. The clerk 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 meetings it shall be his duty to attend; and copies of all papers filed in his office, and transcripts from the records of the common council, certified by him under the corporate seal, shall be evidence in all courts, in like manner as if the original were produced. He shall draw and countersign all orders on the treasury 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. He shall file in his office all chattel mortgages presented to him for that purpose, and safely keep the same, receiving therefor the same compensation as clerks of towns; and all chattel mortgages so filed shall be as valid and legal as if the same had been filed in the town clerk's office in any town. The clerk shall have power and authority to administer oaths or affirmations.

Clerk—his duties

SECTION 5. The justice of the peace elected under this act, shall have the same jurisdiction and perform all the duties of justices of the peace, and shall qualify in the same manner as provided by the general laws of this state, except that his official bond shall be approved by a majority of the common council; and in addition thereto, he shall have jurisdiction in all cases arising under the ordinances and laws passed by said city, unless therein otherwise provided. All constables elected by virtue of this act, shall have and exercise the same powers and duties, and be subject to the same liabilities as constables of towns.

Jurisdiction of justice.

Constables.

SECTION 6. The treasurer of said city shall perform such duties and exercise such powers as may be lawfully required of him by the ordinances of said city;

Treasurer—his duties.

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or the laws of this state. All moneys raised, received, recovered or collected, by means of any tax, license, penalty, fine, forfeiture or otherwise, under the authority of this act, or which belongs to the said city, shall be paid into the city treasury, and shall not be drawn therefrom, except by an order signed by the mayor, by order of the common council, and countersigned or attested by the clerk. He shall keep an accurate account of all moneys or other things coming into his hands as treasurer, in a book to be provided for that purpose, which shall remain the property of the city, wherein he shall note the time when and the person from whom the amount of the several sums was received, which books shall at all reasonable times be open to the inspection of any person. He shall, as often as the common council require, render to said council a minute account of the receipts and expenditures of his office, and at the expiration of his office, he shall hand over to his successor all moneys, books, papers and property in his possession belonging to said city. The said treasurer shall also be a collector of taxes, and for this service, except as herein otherwise provided, he shall have the same powers and be subject to the same liabilities, [and] be governed by the same laws as treasurers of towns.

Duties of marshal.

SECTION 7. The marshal shall attend at all meetings of the common council, and shall perform such duties as shall be prescribed by the council for the preservation of the public peace, and collection of license moneys and fines. He shall possess all the powers of constables of towns, and be subject to the same liabilities. It shall be his duty to execute and return all writs and processes to him directed; and when necessary in criminal cases, or for the violation of any ordinance of said city, or law of the state, may pursue and serve the same in any part of the state of Wisconsin. It shall be his duty to suppress all riots, disturbances and breaches of the peace, and to remove all obstructions in the streets and alleys in said city, and to abate all nuisances in said city, to apprehend any person in the act of committing any offense against any ordinance of said city or laws of this state, and within reasonable time bring such person before competent authority for examination; and for such services he shall receive such fees as are allowed to constables for like

services. He shall have the power to appoint one or more deputies, to be approved by the city council, but for whose official acts he shall be responsible, and of whom he may require a bond for the faithful discharge of their duties.

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Deputies.

SECTION 8. The common council shall have power, from time to time, to require other and further duties to be performed by any officer whose duties are herein prescribed; and to appoint such other officers as may be necessary to carry into effect the provisions of this act, and to prescribe their duties, and to fix the compensation of all officers elected or appointed by them, except the salary of the marshal. Such compensation shall be fixed by resolution, at the time the office is created, or at the commencement of the year, and shall not be increased or diminished during the term such officer shall remain in office.

Further duties may be required of officers.

SECTION 9. The common council, at their first meeting in each year, or as soon thereafter as may be, shall designate one or more newspapers, printed in said city, in which shall be published all ordinances 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, which printing or publishing shall be let by contract to the lowest bidder or bidders.

Printing to the lowest bidder.

SECTION 10. The city printer or printers, immediately after the publication of any notice, or ordinance, or resolution, which by this act is required to be published, shall file with the clerk of the city a copy of such publication, with his or their affidavit, or the affidavit of his or their foreman, of the length of time the same has been published, and such affidavit shall be conclusive evidence of the publication of such notice, ordinance or resolution.

Affidavits of printer.

SECTION 11. If any person, having been an officer in 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 hundred dollars, besides all damages caused by his neglect or refusal so to deliver, and such successor may recover the possession of such books, papers and effects, in the manner prescribed by the laws of this state.

Officers to deliver papers, &c., to successors—penalty.

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Aldermen to
have no interest
in contracts.

SECTION 12. No alderman shall be a party to or interested in any job or contract with the city, or any of the wards, and any contract in which any alderman may be so interested, shall be null and void; and in case any money shall have been paid on any such contract, the common council may sue for and recover the amount so paid, from the parties to such contract, and the alderman interested in the same; and no compensation shall be allowed to the mayor or aldermen for their services, except for services as inspectors of elections.

Peace officers.

SECTION 13. The mayor or acting mayor, sheriff of Winnebago county, and each and every alderman, justice of the peace, marshal, constable, policeman and watchman, shall be officers of the peace, and may command the peace, and suppress, in a summary manner, all rioting and disorderly behavior within the limits of the city; and for such purpose, may command the assistance of all bystanders, and if need be, of all citizens and military companies; and if any person, bystander, military officer or private shall refuse to aid in maintaining the peace when so required, every such person shall forfeit and pay a fine of fifty dollars, and in case where the civil power may be required to suppress riots or disorderly behavior, the superior or senior officer present, in the order mentioned in this section, shall direct proceedings.

Surveyor.

SECTION 14. There may be elected by the common council a city surveyor, who shall be a practical surveyor and engineer. He shall keep his office at some convenient place within said city, and the common council shall prescribe his duties and fix the fees and compensation for any service performed by him. All surveys, profiles, plans or estimates made by him for the city or either of the wards, shall be the property of said city, and shall be carefully preserved in the office of the surveyor, open to the inspection of parties interested; and the same, together with all 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.

CHAPTER FOUR.

THE COMMON COUNCIL—ITS GENERAL POWERS AND DUTIES.

SECTION 1. The mayor and aldermen shall constitute the common council, and the style of all ordinances shall be, "the mayor and common council of the city of Oshkosh do ordain," &c. The common council shall meet at such time and place as they by resolution shall direct. A majority of the aldermen shall constitute a quorum.

Style of ordinances, &c.

SECTION 2. The common council shall hold stated meetings, and the mayor may call special meetings, by notice to each of the members, to be served personally or left at their usual place of abode. The common council shall determine the rules of its own proceedings and be the judge of the election and qualifications of its own members, and have the power to compel the attendance of absent members.

Stated and special meetings.

SECTION 3. The common council shall have the management and control of the finances, except for schools, and of 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, rules and by-laws, for the government and good order of the city, for the suppression of vice, for the prevention of crime, and for the benefit of trade, commerce and health thereof, as they shall deem expedient, declaring and imposing penalties, and to enforce the same against any person or persons who may violate any of the provisions of such ordinance, rules or by-laws; and such ordinances, rules and by-laws are hereby declared to be and have the 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 ordinances, resolutions or by-laws:

Powers of council.

Provido.

1st. To license and regulate the exhibition of common showmen, or shows of any kind, or the exhibition of caravans, circusses or theatrical performances, billiard tables, bowling saloons, and to provide for the abatement and removal of all nuisances under the ordinances or at common law; and to grant licenses and

Licenses.

- CHAPTER 96.** regulate groceries, taverns, victualing houses, and all persons vending or dealing in spirituous, vinous or fermented liquors: *provided*, that the license for so dealing in or vending spirituous or fermented liquors shall not be less than twenty-five dollars or more than fifty dollars a year, and that no license shall be granted for a less term than one year.
- Rates of liquor licenses.**
- Gambling.** 2d. 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 gaming in said city, and to restrain any person from vending, giving or dealing in spirituous, fermented or vinous liquors, unless duly licensed by the common council.
- Blots, &c.** 3d. To prevent any riots, noise, disturbances or disorderly assemblages, suppress and restrain disorderly houses or groceries, and houses of ill fame, and to authorize the destruction of all instruments used for the purpose of gaming.
- Abate filthy places.** 4th. To compel the owner or occupant of any grocery, cellar, tallow-chandler shop, soap factory, tannery, stable, barn, privy, sewer or other unwholesome, nauseous house or place, to cleanse, remove or abate the same, from time to time, as often it may be deemed necessary for the health, comfort and convenience of the inhabitants of said city.
- Slaughter houses and gunpowder.** 5th. To direct the location and management of slaughter houses and markets, and to establish rates for and license venders of gunpowder, and regulate the storage, keeping and conveying of gunpowder, or other combustible materials.
- Encumbering streets, &c.** 6th. To prevent the encumbering of the streets, sidewalks, lanes or alleys with railroad cars, locomotive engine or engines, carriages, carts, wagons, sleighs, boxes, lumber, firewood or any other materials or substances whatever.
- Racing and bathing.** 7th. To prevent horse racing, immoderate riding or driving in the streets, and to regulate the places of bathing and swimming in the waters within the limits of said city.
- Animals.** 8th. To restrain the running at large of cattle, horses, swine, sheep, poultry and geese, and to authorize the distraining and sale of the same.
- Dogs.** 9th. To prevent the running at large of dogs, and to authorize the destruction of the same in a summary manner, when at large, contrary to the ordinance.

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10th. To prevent any person from bringing, depositing or having within said city any putrid carcass, or other unwholesome substance, and to require the removal of the same by any person who shall have upon his premises any such substance, putrid or unsound beef, pork, fish, hides or skins of any kind; and on default, to authorize the removal thereof by some competent officer, at the expense of such person or persons.

Putrid animal matters.

11th. To make and establish public ponds, [pounds,] pumps, wells, cisterns and reservoirs, and to provide for the erection of water works for the supply of water to the inhabitants, to erect lamps, and regulate and license hacks, cabs, drays, carts, and charges of hackmen, cabmen, draymen and cartmen in the city, and to provide for lighting the streets, public grounds and public buildings with gas or otherwise.

Ponds, water-works, hacks, lamps, &c.

12th. To establish and regulate boards of health, provide hospital and cemetery grounds, regulate the burial of the dead, and the return of the bills of mortality, and exempt burial grounds set apart for public use from taxation.

Public health and burial of dead.

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

Bread.

14th. To prevent all persons riding or driving any ox, mule, cattle or other animal on the sidewalks in said city, or in any way doing any damages to such sidewalks.

Driving on sidewalk, &c.

15th. To prevent the shooting of firearms or crackers, and to prevent the exhibition of any fireworks in any situation which may be considered by the council dangerous to the city or any property therein, or annoying any citizen thereof.

Firearms, fireworks, &c.

16th. To restrain drunkenness or obscenity in the streets or public places, and to provide for arresting, removing and punishing any person or persons who may be guilty of the same.

Drunkenness, obscenity, &c.

17th. To restrain and regulate runners and solicitors for boats, vessels, stages, public houses or other establishments, and to establish and regulate the police of the city.

Runners.

18th. To establish public markets 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 inter-

Markets, &c.

- CHAPTER 96.** rupting or interfering with the due observance of such rules and regulations.
- Butchers' stalls, &c.** 19th. To license and regulate butchers stalls, shops and stands for the sale of game, poultry, butchers' meat, butter, fish and other provisions.
- Hay, fuel, &c.** 20th. To regulate the place and manner of weighing and selling of hay, and measuring and selling fuel and lime, and to appoint suitable persons to superintend and conduct the same.
- Cleaning sidewalks, &c., of unhealthy matter.** 21st. To compel the owners and occupants of buildings or grounds to remove snow, dirt or rubbish from the sidewalks, streets or alleys 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 of the city, at the expense of such owner or occupant.
- Piers, &c.** 22d. To regulate the construction of piers or wharves extending into Lake Winnebago and Fox river, within the limits of said city, and to prescribe and control the prices to be charged for pierage and wharfage thereon.
- Contagious diseases.** 23d. To regulate, control and prevent the landing of persons from boats or vessels, wherein are contagious or infectious diseases or disorders, and to make such disposition of such persons as to preserve the health of said city.
- Auctions.** 24th. To regulate the time, place and manner of holding public auctions or vendues.
- Watchmen.** 25th. To appoint watchmen and prescribe their duties.
- Weights, &c.** 26th. To provide by ordinance for a standard of weights and measures, and for punishment of the use of false weights and measures.
- Shade trees.** 27th. To protect trees and monuments in said city.
- Drainage.** 28th. To prescribe and regulate the manner of draining fountains made by individuals, and the construction of sewers within said city.
- Streets, &c.** 29th. To lay out, make, open, keep in repair, alter or discontinue any highways, streets, lanes, alleys, and to keep them free from encumbrances and protect them from injury.
- Lots to be platted.** 30th. To cause all out or in lots within said city, of less size than ten acres each, that have not been plat-

ted and recorded by the owners thereof, as required by law, to be platted and recorded by authority of the board, and to tax the charges of said services against the lot or lots so platted and recorded; to be collected the same as other corporate or general taxes. CHAPTER 96.

31st. To alter or change the name of any street in the city. Change name of streets.

23d. To alter or vacate the recorded plat of said city or any part thereof surveyed, platted or recorded in the office of the register of deeds of Winnebago county, upon petition, and upon such notice as is required in vacating towns in the circuit court. Alter or vacate.

SECTION 4. All laws, ordinances, regulations and by-laws shall be passed by an affirmative vote of a majority of the common council, and shall be signed by the mayor, and shall be published in the official paper or papers of said city, before the same shall be in force, and within fifteen days thereafter they shall be recorded by the city clerk in books to be provided for that purpose; but before any of the said laws, ordinances, regulations or by-laws shall be recorded, the publication thereof, respectively, within the said time, shall be proved by the affidavit of the foreman or publisher of such newspaper, and said affidavit shall be recorded therewith, and at all times shall be deemed and taken as sufficient evidence of the time and manner of such publication. No appropriation shall be made without a vote of a majority of the members of the common council in its favor, which vote shall be taken by ayes and noes, and entered among the proceedings of the council. Ordinances, &c., to be published.

SECTION 5. The powers conferred upon the said 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 wherein more than ten pounds of gunpowder 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 the license required therefor, within the limits of said city, are hereby declared, and shall be deemed public or common nuisances. In relation to nuisances.

SECTION 6. The council shall examine, audit [and] adjust the accounts of the clerk, treasurer, school commis- Council to audit account of officers.

CHAPTER 96.

sioners, street commissioners of each ward, marshal, 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 time for which the officers of the said city are elected or appointed shall have expired. And the common council shall require each and every such officer and agent to exhibit his books, funds and moneys, 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, funds, moneys and vouchers to said council, it shall be the duty of the common council to declare the office of such person vacant. And the common council shall order suits and proceedings at law against any officer 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 settlements and adjustments.

Refusal to have
accounts audited

Establish dock
lines, &c.

SECTION 7. The common council shall have power, by ordinance, to establish wharf and dock lines upon the banks of Fox river and Lake Winnebago, restrain and prevent encroachment upon said river and lake, and obstructions thereto; and to construct, alter and maintain, or cause to be constructed, altered and maintained, at the expense of the city or any of the wards, wharves along the banks of the said river and lake.

Council may in-
vestigate acts of
mayor, &c.

SECTION 8. The common council shall have authority to examine into and investigate all and every official act and transaction of the mayor, any member of the common council or any other officer of the said city, and also in and to all and every official act and transaction of every person who has heretofore been a member of the common council or held any office under the city government; and for that purpose the mayor of said city, the president of the council or any member of any committee appointed by the council, shall have power to administer all necessary oaths to persons who may be called before said council or any such committee to give testimony. And the mayor of said city (or the president of the council) is authorized and empowered to issue a subpoena to be by him signed, commanding any person to appear before the council or any

committee appointed, to testify concerning any matter under examination or investigation as above provided, and also to produce before the council or such committee any books, papers or documents relating to the matter under investigation and examination; and every person served with such process is hereby required to obey the same without the prepayment of any fees.

SECTION 9. If any person shall neglect or refuse to appear and testify and produce such papers, documents and books as required by the last above named section, the common council may declare him in contempt, and upon proof of service it shall be the duty of the county judge of Winnebago county, or the judge of every court of record, or any court commissioner of said Winnebago county, upon the application of the mayor of said city or the president of the council or of any committee appointed by such council, to issue a summary process, either in term time or vacation, for such a person, and to bring him before him; and then, unless such person shall purge himself of contempt and go before the council or such committee, and testify and produce such documents or papers or books, to commit him to the common jail of said Winnebago county, there to remain in close confinement until he shall so testify or produce such books, documents or papers, as required, or he is discharged by the order of the common council, or any such committee; and the jailer of such county is hereby required to secure any such person, pursuant to any such commitment.

Contempt—punishment.

SECTION 10. Such examination and investigation may be had, done and taken by the common council when in session, or by a committee to be appointed by the council, who are authorized to perform such duties when the council is not in session.

How examination may be had.

SECTION 11. Any admission which any person shall make when testifying before any such committee, or the council, shall not be used against him as evidence in any civil or criminal suit.

Evidence.

FINANCES AND TAXATION.

Council to manage funds.†

SECTION 1. All funds in the treasury, except school, state and county funds, shall be under the control of [the] common council, and shall be drawn out upon the order of the mayor and clerk, duly authorized by a vote of the common council; and all orders drawn upon the treasury shall specify the purpose for which they were drawn, and shall be payable generally out of any funds in the treasury belonging to the city. City orders shall be receivable for all city taxes except school, poor and special taxes for bridge and school purposes, which shall be collected in money or in orders drawn upon such funds respectively; and all orders shall be payable to the persons in whose favor they may be drawn, or bearer.

Annual tax—limit.

SECTION 2. The common council of said city shall annually levy upon the taxable property of such city to defray the current expenses of said city, as follows: For the support of the poor, a tax not exceeding one thousand dollars; for ward purposes, a tax not exceeding one-fourth of one per cent. upon all the taxable property of each ward, and for all other purposes a tax not exceeding six thousand dollars, except for schools.

Special tax—limit.

SECTION 3. Whenever it shall be necessary to build new bridges, a special tax may be levied for such purposes, not exceeding five thousand dollars in any one year, and when so levied the same shall be carried out by the city clerk in a separate column in the assessment roll, particularly specifying the purpose for which such tax is levied, and the said taxes, when so levied, shall be collected at the same time as other city taxes are collected.

Aldermen to certify ward indebtedness.

SECTION 4. The alderman of any ward shall certify to the council any debts contracted by such ward for the current year, and thereupon the said council shall (if such debt be a proper claim against such ward) allow such debt, and direct the mayor and clerk to issue to the proper person orders of the city to the amount of the debt allowed: *provided*, the said council shall in no case allow any such debt, if such allowance will cause the whole amount of orders so issued to meet the

Proviso.

indebtedness of such ward, to exceed the amount of tax which may be levied and collected under the provisions of this chapter to meet the expenses of the current year, assuming as a basis the tax list of such year, if then made out, and if not, then the tax list of the preceding year.

SECTION 5. No alderman of any ward shall contract debts against such ward, in any one year, to an amount greater than the amount of tax which, under the provisions of this chapter, may be levied in such ward to meet the current expenses of the year. And if any alderman shall so contract debts to a greater amount than such tax, neither such ward nor the city shall be liable for the same, but the alderman so contracting shall be liable therefor, as if the debt had originally been contracted by such alderman personally: *provided*, that no alderman shall be held liable as aforesaid, without proof of his assent, as alderman, to the contracting of the liability or debt by the ward.

Ward debt not to exceed tax, &c.

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SECTION 6. No account shall be allowed by the common council unless the same is verified by the owner thereof, or some person in his behalf, which verification shall be substantially as follows: I, _____ being duly sworn, deposes [depose] and says, [say,] the above account is just and true, and the same has not been paid, or any part thereof, and that the same account [accrued] by the order of _____

Verification accounts.

Subscribed and sworn to before me this _____ day of _____ A. D.

SECTION 7. All accounts accruing against the city of Oshkosh shall be presented for allowance to the common council within one year from the time the same accrued, and if the same is not so presented within one year, the same shall not be allowed by the common council or collected in any court.

Accounts to be presented within one year.

CHAPTER SIX.

OPENING OF STREETS AND ALLEYS, &C.

SECTION 1. The common council shall have power to lay out public squares, grounds, streets and alleys, and to widen the same, as follows: Whenever ten or more freeholders, residing in any ward, shall, by petition, represent to the common council that it is neces-

Laying out public grounds, streets, &c.

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sary to take certain lands within the ward where such petitioners may reside, for public use, for the purpose of laying out public squares, grounds, streets or alleys, or the enlarging or widening the same, the courses and distances, metes and bounds of the lands proposed to be taken, together with the names and residences of the owners of such premises, if the same shall be known to the petitioners, to be set forth in each petition, the common council shall thereupon cause notice of such application to be given to the occupant or occupants of such lands, if any there be, or if any portion of said lands shall not be in actual occupation of any person, then the common council shall cause such notice, describing, as near as may be, the premises proposed to be taken, to be published in the official paper or papers four weeks, at least once in each week.

What notice shall state.

SECTION 2. Such notice shall state that upon a day therein to be named, not less than ten days from the service of such notice or the expiration of such publication, as the case may be, application will be made to the county judge or a court commissioner for the county of Winnebago, for the appointment of twelve jurors to view said premises, and to determine whether it will be necessary to take the same for the purposes specified in said petition.

(Section 2. Such notice shall state that upon a day therein to be named, not less than ten days from the service of such notice or the expiration of such publication, as the case may be, application will be made to the county judge or a court commissioner for the county of Winnebago, for the appointment of twelve jurors to view said premises, and to determine whether it will be necessary to take the same for the purposes specified in said petition.)

Precept to jury

SECTION 3. Upon the presentation of such application, and upon proof of the publication or service of the notice hereinbefore required, the said judge or court commissioner shall thereupon appoint twelve reputable freeholders, residents of said city, but not residents of the ward in which said premises may lie, nor interested in the result of such application. The said judge or court commissioner shall thereupon issue his precept, directed to said jurors, requiring them within ten days to view the premises, to be specified in said precept, and to make returns under their hands to the common council, whether in their judgment it is necessary to

take said premises for the purpose specified in such application; and the said jurors, before entering upon the discharge of their duties, shall take and subscribe an oath faithfully and impartially to discharge their duties as such jurors in the premises, which oath may be administered by any person authorized to administer oaths, which shall be filed in the office of the city clerk.

SECTION 4. The city marshal [shall] serve this precept immediately on the jurors therein named, by reading the same to every one of them that can be found, and immediately after such service he shall return the said precept to the judge or court commissioner who issued the same, together with his doings thereon.

Service of precept.

SECTION 5. If any of the jurors so appointed can not be found or shall be disqualified from acting, or shall refuse to act, the judge or court commissioner shall appoint others in their places, and a memorandum of such substitution shall be endorsed on the precept.

To substitute.

SECTION 6. The said judge or court commissioner shall thereupon administer an oath to said jurors, that they are freeholders of said city, and not interested in the premises proposed to be taken, and that they will faithfully and impartially discharge the trusts reposed in them.

Oath to jurors.

SECTION 7. The said jurors shall at such time as they shall agree upon, proceed in a body to view the premises in question, and shall hear such testimony as may be offered by any party interested, which testimony shall be reduced to writing by one of the jurors, and either of the jurors shall be authorized to administer the necessary oaths to the witnesses. After viewing the premises in question, and hearing such testimony as may be offered, the jurors shall make a report of their proceedings, which shall be signed by them respectively, and which shall state whether, in their judgment, it is necessary to take the premises in question for the public use, which said report, testimony and precept shall be returned to the common council within the time limited in said precept. Should the jurors report that it is necessary to take said premises, the common council shall enter an order among their proceedings confirming said report, and directing the same jurors, within twenty days thereafter, or such further

Jurors to view premises.

To make report.

- CHAPTER 96.** time as shall be necessary, to again view said premises, for the purpose of ascertaining and determining the amount of the damages to be paid to the owner or owners of said property proposed to be taken, and also what lands or premises will be benefited by such taking, and to assess and return within the time limited such damages and benefits to the common council. And after the jurors shall have made their reports as to the taking of any lands or premises under this act, and the same shall have been confirmed, the common council shall have power to appoint new jurors in the place of any who shall neglect or refuse to serve; and the jurors before entering upon the discharge of their duties in the premises, shall severally take an oath, before some competent officer, that they are freeholders of said city and are not interested in the premises to be taken, and [that] they will faithfully and impartially discharge the trust reposed in them.
- Damages.**
- New jurors.**
- Estimate of value of building.** SECTION 8. If there should be any building standing in whole or in part upon the land to be taken, the jurors, before proceeding to make their assessment, shall first estimate and determine the whole value of such building to the owners, aside from the value of the land and the injury to him in having such building taken from him; and secondly, the value of such building to him to remove.
- Notice of award** SECTION 9. At least ten days' personal notice of such determination shall be given to the owner or his agent, if known and a resident of the city, or left at his usual place of abode. If not known or a non-resident, notice to all persons interested shall be given by publication in the official paper or papers of said city, three successive weeks. Such notice shall specify the building and the award of the jurors. It shall also require the parties interested to appear by a day to be therein named, or give notice of their election to the common council, either to accept the award of the jurors, and allow such building to be taken with the land appropriated, or of their intentions to remove such building. He shall have such time for this purpose as the common council may allow.
- Parties interested must appear.**
- When building to be sold.** SECTION 10. If the owner refuse to take the building at the value to remove, or fail to give notice of his election as aforesaid, within the time prescribed, the common council shall have power to direct the sale of

such building at public auction, for cash, giving ten days' notice of such sale. The proceeds shall be paid to the owner or deposited to his use.

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SECTION 11. The said jurors, within the time limited, shall view and examine the premises proposed to be taken, and all such other premises as will in their judgment be injured or benefited thereby. After hearing such testimony as may be offered by any party interested, and which shall be reduced to writing by one of said jurors, they shall proceed to make their assessment and to determine and appraise to the owner or owners the value of the real estate so proposed to be taken, and the injury arising to them respectively in consequence of the taking thereof, which shall be awarded to such owners respectively, as damages, after making due allowance therefrom for any benefit which such owners may derive from such improvement. In the estimate of damages to the land, the jurors shall include the value of the building or buildings, (if the property of the owner of such land,) as estimated by them as aforesaid, less the proceeds of the sale thereof; or if taken by the owner at the value to remove, in such case they shall only include the difference between such value and the whole estimate [estimated] value of such building or buildings.

Jurors to bear testimony and assess damages, &c.

SECTION 12. If the damage to any person be greater than the benefits received, or the benefit be greater than the damages, in either case the jurors shall strike a balance and carry the difference forward to another column, so that the assessment will show what amount is to be received or paid by such owner or owners respectively, and the difference only shall, in any case, be collectable of them or payable to them.

Strike a balance.

SECTION 13. If the lands or buildings belong to different persons, or if the land be subject to lease, judgment or mortgage, or if there be any estate in it less than an estate in fee, the injury done to such persons or interests respectively, may be awarded to them by the jurors, less the benefits resulting to them respectively from the proposed improvements.

Jurors' award in certain cases.

SECTION 14. Having ascertained the damages and expenses of the proposed improvement as aforesaid, the jurors shall thereupon apportion and assess the same, together with the costs of the proceedings, upon the real estate by them deemed benefited, in propor-

Award to be assessed, &c.

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tion to the benefits resulting thereto from the proposed improvement, as nearly as may be, and shall describe the real estate upon which these assessments may be made. The award of the said jurors shall be signed by them and returned, together with the testimony taken and the precept, to the common council within the time limited in such precept.

Appeal.

SECTION 15. Any person whose property is taken or against whom assessment is made, may, within ten days from the return of the jurors to the common council, appeal from said assessment of damages or benefits to the circuit court of Winnebago county, where such appeal shall be tried by the court and jury, as in ordinary cases. The common council shall have the same right of appeal.

Lands not to be taken until damages are tendered &c.

SECTION 16. The land required to be taken for the purposes mentioned in this act, 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, in case the said owner or agent cannot be found or is unknown, deposited to his or their credit in some safe place of deposit; and then, and not before, such lands may be taken and appropriated for the purposes required; and the same shall thereafter be subject to all the laws and ordinances of the city, in the same manner as streets, alleys and public grounds heretofore opened or laid out.

Damages—when paid, &c.

SECTION 17. The damages assessed shall be paid or tendered, or deposited as herein required, within one year from the confirmation of such assessment and report, and if not so paid, tendered or deposited, all the proceedings in any such case shall be void. The benefits so assessed, from the confirmation of said report, shall become and remain a lien upon the premises so determined by the jurors to be benefited by the opening or widening of such street, alley or public ground.

Lien.

To file vouchers with clerk that damages have been paid, &c.

SECTION 18. It shall be lawful for any person to pay or tender, or deposit, as herein required, at any time within one year from the confirmation of such assessment and report, the damages assessed in any such case; and whenever proper vouchers and evidence are filed with the city clerk that said damages have been so paid, tendered or deposited by any person, it shall be the duty of the common council to enter an order among their proceedings to take and appropriate such

lands for the purpose required, and also to order the collection of the benefits as aforesaid upon the premises so determined by the jurors to be benefited by the opening or widening of such street, alley or public ground, for the sole use and benefit of the persons who have so paid said damages, the same to be collected in the same manner as other taxes on real estate are collected by virtue of this act.

SECTION 19. When the whole of any lot or tract of land, or other premises, under lease or other contract, shall be taken by virtue of this act, all the covenants, contracts or engagements between landlord and tenant, or any other contracting parties, touching the same, or any part thereof, shall, upon the confirmation of such report, respectively, cease and be absolutely discharged.

SECTION 20. When only part of a lot or tract of land, or other premises, so under lease or other contract, shall be taken for any of the purposes aforesaid, all the covenants, contracts or agreements respecting the same, upon the confirmation of such report, shall be absolutely discharged, as to the part thereof taken, but shall remain valid as to the residue thereof, and the rents, considerations and payments reserved, payable and to be paid for or in respect to the same, shall be so proportioned so that the part thereof justly and equitably payable for such residue thereof, and no more, shall be paid or recoverable for, in respect to the same.

SECTION 21. When any known owner of lands or tenements effected [affected] by any proceedings under this act, shall be an infant, or labor under legal disability, the judge of the circuit court of Winnebago county, or in his absence, the judge of any court of record in said county, may, upon the application of the common council, or such party or his next friend, appoint a guardian for such party, and all notices required by this act shall be served upon such guardian.

SECTION 22. 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 clerk.

SUPPLEMENT TO
CHAPTER SEVEN.

CITY IMPROVEMENTS.

Aldermen to be
street commis-
sioners—their
duties.

SECTION 1. The aldermen of the several wards shall be street commissioners in and for their respective wards, two of whom shall be a quorum, whose meetings shall be held at the office of the city clerk. The city clerk shall be clerk of the board of commissioners, who shall keep a record of all their acts and doings, and shall keep and preserve all contracts, receipts and papers of the board. The several boards of street commissioners shall make report in detail to the common council of their acts and doings whenever required, and at the expiration of each year, and before their term of office shall expire, shall submit all their acts and doings, books, records, papers, accounts, receipts and vouchers to the common council for final settlement and adjustment.

Appeal.

SECTION 2. Any person deeming himself aggrieved by an act of this board of street commissioners may, at any time, appeal to the common council, who shall inquire into, examine and correct the act or order complained of, as shall seem just and proper; and the further action of the board, in this respect, shall be regulated accordingly.

May contract,
&c.

SECTION 3. The said street commissioners shall have power to order and contract for the making, grading, repairing and cleaning of streets, alleys, public grounds, reservoirs, gutters and sewers within their respective wards, and to direct and control the persons employed therein. Wherever the street commissioner shall deem it necessary to construct or repair any sidewalks within their ward, they shall direct the owner or occupant of any lot adjoining such sidewalk to make or repair the same, at his own proper cost and charge. If such work is not done in the manner and in the time prescribed, the commissioners shall cause the same to be done at the expense of the lots adjoining such sidewalk. The street commissioners shall not have power to make and grade in the several wards of the city any street, alley, public grounds, reservoirs, gutters or sewers, or to construct any sidewalks in their respective wards, unless the same has been first duly authorized by ordinance of the common council of said city:

Sidewalks.

Grade, &c., must
be authorized by
ordinance.

provided, nothing herein shall be so construed as to prohibit such street commissioners from making or causing to be made all necessary repairs to any sidewalk, street, alley, public grounds, reservoirs, gutter or sewer. Hereinafter [hereafter] no special improvements shall be ordered by the common council exceeding in estimated cost the sum of two hundred dollars, unless the owners of more than one-half of the land to be taxed for such improvement shall petition in writing for the same, or unless the same shall be ordered by a vote of three-fourths of all the aldermen elect. If, however, the common council order any special improvement to be made, or pass any ordinance or resolution requiring any special improvement to be done, the vote therefor of the aldermen shall be taken by yeas and nays, and entered upon the journal of the proceedings of the said council; and no special improvement shall be valid or binding, unless said vote be so taken and entered upon the journal.

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When special improvements must be petitioned for.

SECTION 4. The cost and expense of surveying streets, alleys, sidewalks, sewers, and of estimating work thereon, and of constructing and repairing reservoirs and sewers, shall be chargeable to and payable out of the fund of the proper ward; opening, grading, graveling, planking or paving streets and alleys to the centre thereof, shall be chargeable and payable by the lots fronting on such street or alley. Sewers may be ordered by the street commissioners, and built at the expense of the lots or parcels of land benefited thereby, which shall be apportioned among said lots or parcels of land by the street commissioners, with the assistance of the city surveyor: *provided, however*, that where sewers are constructed through alleys, no lots shall be assessed therefor, except those situated in the block or blocks through which said sewers may be constructed; and where sewers are constructed through streets, no lot shall be assessed therefor, except those situated in the blocks fronting on such streets; *and provided, further*, that in all cases where improvements or work of any kind are charged by virtue of this section upon lots benefited, all such improvements across streets, alleys and public grounds shall be made and paid for out of the fund of the proper ward, in proportion to the width of the street, alley or public ground.

Expenses of surveying—how paid.

Proviso

CHAPTER 96.

Estimate of ex-
penses to be filed

SECTION 5. Whenever the commissioners shall determine to make any public improvement, as authorized by sections three and four of this chapter, they shall cause to be made an estimate of the whole expenses thereof, and of the proportion to be assessed and charged to each lot, and in case of grading streets, alleys or sidewalks, of the number of cubic yards to be filled in or to be excavated in front of each lot; and such estimate shall be filed with the city clerk, for the inspection of the parties interested. The street commissioners shall give notice by advertisement for ten days in the official paper or papers published in the city of Oshkosh, to the owners or occupants of the lots or parcels of land fronting on any streets, alley or sidewalk ordered to be graded, graveled, planked or paved, requiring them to do the work mentioned in such notice within a reasonable time, therein to be specified; and if the said work shall not be done within such time, the said commissioners shall enter into contract for the doing thereof.

Publication of
notice to lot
owners.

Excavation, &c.

SECTION 6. Whenever the general interest of the city or ward requires deep cutting or extraordinary filling [of] any street, and the owners of the lots or lands fronting on such deep cutting or filling shall deem themselves aggrieved thereby, and shall represent to the commissioners in writing, that the expense of such excavation or filling will exceed the benefit the same will be to the property assessed therefor, the street commissioners shall require the marshal to summon five freeholders, not residents of the ward nor owners of, nor interested in said lots or lands, who, after being sworn faithfully and impartially to discharge the trust reposed in them, shall examine the premises, and if in their opinion, the cost of such work shall exceed the benefit derived therefrom, it shall be their duty to make report thereof to said commissioners, in writing, and shall state therein what portion of such work shall be chargeable to such lots or parcels of land, and how much or what portion shall be chargeable to the ward fund; and such proportion as shall be reported as properly chargeable to the lots or parcels aforesaid, shall be assessed upon the same, and levied and collected as other taxes and assessments, and the remainder shall be paid out of the ward fund: *provided, however,* that the petition of no owner, feeling himself aggrieved

Remonstrance.

Freeholders to
examine and re-
port.

When remon-
strance must be
presented.

CHAPTER 96.

by an act of the street commissioners, shall be received unless the same shall be presented within fifteen days after the first publication of the notice requiring the same to be done; *and provided, further*, that when it shall appear to the street commissioners that lands belonging to *(the)* non-residents, infants or persons laboring under any legal disability, who shall not be represented by any agent or guardian, or not benefited by the making of streets in front of such lots or lands, to the amount of the cost and expense thereof, it shall then be the duty of said commissioners to cause to be summoned a jury, as is herein provided.

Non-residents,
&c.—jury.

SECTION 7. The street commissioner shall give notice to all owners or occupants of lots which may be deemed injurious to health, by reason of stagnant water remaining thereon, in the official paper or papers published in the city of Oshkosh, for ten days, to abate such nuisance, by draining or filling such lots within a reasonable time therein to be specified, and if such nuisance shall not be abated or removed within the time so specified, the street commissioner shall cause the same to be abated or removed at the expense of the property upon which the same may exist.

Notice to owners
to abate nuisan-
ces.

SECTION 8. After the completion and performance of any contracts entered into by the street commissioners for work chargeable to lots or lands by virtue of this act, they shall give to the contractor or contractors a certificate, under their hand, stating therein the amount of work done by such contractor, the nature thereof, and the description of the lot or parcel of land upon which the same is chargeable, which said certificate may be transferred by endorsement thereon, and if the amount thereof shall not be paid before the time of making out the annual assessment roll, the same shall be assessed upon the said lots or parcels of land respectively, and collected for the use and benefit of the holder of such certificate as other taxes on real estate are collected by virtue of this act; and if the notice to do the work required shall have been given as herein provided, no informality or errors in the proceedings shall vitiate such assessment: *provided*, that in no event where work is ordered to be done at the expense of any lot or parcel of land, shall either the city or any ward be held responsible for the payment thereof.

Commissioners'
certificate of
work done.

Proviso.

CHAPTER 96.

Appeal.

SECTION 9. In all cases when work is ordered to be done by the owner of any lot, under the provisions of this chapter, such owner may make an appeal as hereinafore provided, at any time within twenty days after the publication of the notice required to be given, and until the expiration of such twenty days, no such orders shall be executed.

Cleaning and repairing streets, &c.

SECTION 10. The street commissioners of the several wards are hereby authorized to require, by such general regulations as they may choose to adopt, the owners or occupants of the several lots within their respective wards to cleanse and repair the sidewalks, streets and alleys, and to employ any person or persons whose duty it shall be, to make repairs and cleanse such streets, alleys and sidewalks. Whenever such regulations shall not have been complied with, at some period prior to the time of the delivery of the tax list to the treasurer, under the charter, it shall be the duty of the street commissioners to make or [a] report to the city clerk of the amount of tax properly chargeable against each lot for work done under this section, for any period not exceeding one year prior to such report, specifying the amount in gross, and such amount shall be a lien upon such lots, and be levied thereon as a special tax, with all the legal consequences, both as to collection of taxes and sale of the lots prescribed in this act, for special taxes.

CHAPTER EIGHT.

ASSESSING, LEVYING AND COLLECTING TAXES.

Taxable property.

SECTION 1. All property, real or personal, within the city, except such as may be exempt by the laws of this state, shall be subject to taxation for the support of the city government and the payment of its debts and liabilities; and the same shall be assessed in the manner hereinafter provided; and the assessors elected under this act shall have and possess the same powers that are or may be conferred upon township assessors, except so far as they may be altered by this act: *provided, however*, that the common council may prescribe the form of assessment rolls, and more fully define the duties of assessors, and make such rules and regulations in relation to revising, altering or adding to such rolls as they may from time to time deem advisable.

Proviso.

SECTION 2. Within ten days after receiving notice of their election, the assessors shall assemble at the common council chamber, and after taking their official oaths shall proceed to organize their body, by electing one of their number chairman, who shall be authorized to administer such oaths as shall be required by this chapter; and within such time as the common council shall designate, the said assessors shall make out a complete and accurate assessment roll, which shall contain a description, as near as may be, of all the lands, lots or parcels of land within said city, sufficient to identify the same, and also of all persons or bodies politic liable to pay taxes on personal property; and opposite to each lot or parcel of land shall be affixed the value thereof, and opposite to the name of each person or body politic shall be affixed the value of the personal property for which such person or body politic shall be assessed. When there are buildings upon any lot or parcel of land, the value of the same shall be set forth in a separate column. The assessors may, if they deem it advisable, assess any lot or tract of land in such parcels or such sub-divisions as they may deem proper, but it shall not be necessary to enter the name of the owner to any tract or parcel of land. Any act done by the majority of the assessors shall have the same force and effect as if done by all the assessors elected under this act.

CHAPTER 96.

Assessors' meetings.

T. x list—how to be made.

SECTION 3. When the same shall be completed, the assessors shall give one week's notice thereof in the official paper or papers, and shall fix a time and convenient place where they will meet for the purpose of hearing any objections of parties deeming themselves aggrieved by such assessment, and after hearing the same, the assessors shall make such alterations or revisions as justice or equity may require: *provided*, the time of hearing such objections shall not be extended more than two weeks from the expiration of such notice.

Assessors to give notice.

SECTION 4. Within one week after the time limited for the hearing of such objection, the board of assessors shall return the said assessment roll to the board of equalization of the city, and they may confirm or refer the same back to the assessors. The board of equalization may supply omissions in said roll, and for the purpose of equalizing the same, may alter, and [add] to,

Return of assessment roll.

CHAPTER 96.
 Proviso. take from, and otherwise revise and correct the same :
provided, however, the board of equalization shall not have the power to increase the amount of said roll except by the value of such real property, as may have been omitted by the assessors.

Roll to be filed. SECTION 5. When the assessment roll shall have been revised and corrected, the same shall be filed with the clerk. Thereupon the common council shall, by resolution, levy such sum or sums of money as may be sufficient for the several purposes for which taxes are herein authorized to be levied, but not exceeding the authorized per centage, particularly specifying the purposes for which the same are levied.

City board of equalization—when to meet. SECTION 6. The mayor and city clerk, with the aldermen of each ward serving as members of the county board of supervisors for the year, and the assessor of each ward, shall constitute the city board of equalization, and shall meet at the office of the common council on the first Monday of July, each and every year, at nine o'clock in the forenoon, and shall proceed in all respects as town boards are required to proceed, so far as the same are applicable, reviewing, correcting and equalizing the assessment rolls of the several wards in the city, in the order of their numbers. The mayor shall be president of the board of equalization, and the city clerk the clerk thereof.

Roll to be recorded. SECTION 7. All changes of assessment rolls by the board of equalization shall be duly recorded by the city clerk.

Taxes a lien on land. SECTION 8. All taxes and assessments, general or special, levied under this act, shall be and remain a lien upon the lands and tenements upon which they may be assessed, from the time of the confirmation of such assessment roll, and on all personal property of any person or body politic, assessed for personal taxes, from the delivery of the warrant for the collection thereof until such tax shall be paid; and no sale or transfer of such real or personal estate shall effect [affect] said lien. Any personal property belonging to the person taxed may be taken and sold for the payment of taxes upon personal property.

Tax list to be copied. SECTION 9. As soon as said tax shall be levied, the city clerk shall cause the same to be copied in a book provided for that purpose, setting opposite to each tract of land, and to each person named, under proper

columns, such sum or sums as may be levied upon such lot or against such person. The said copy shall be designated as the "tax list," and to it shall be appended a warrant, signed by the mayor and clerk and sealed with the corporate seal of said city, directed to the treasurer, requiring and commanding him to collect the taxes and assessments in said list specified, in the manner prescribed by this act.

CHAPTER 96.

Treasurer's warrant.

SECTION 10. Such tax list, before being delivered to the treasurer, shall be compared by the clerk with the assessment roll as confirmed. To it he shall append his certificate that the same has been so compared by him, and that the said assessment roll, and the whole thereof, has been copied into such tax list; and the said tax list, when so certified, shall be *prima facie* evidence in any court that the lands and persons therein named were subject to taxation, and that the assessment was just and equal.

To be compared.

SECTION 11. All the general laws of this state which are now or may hereafter be in force relative to the assessment and collection of taxes, shall be in force in said city, except as otherwise herein specially provided, and the city treasurer shall proceed to collect the taxes and all assessments of said city at the same time and in the same manner as is required by law of the town treasurers to collect taxes; and all unpaid taxes and assessments shall in like manner be returned to and collected by the county treasurer; and the city treasurer, before returning such unpaid taxes and assessments, shall add five per cent. for collection fees, which sum shall be collected with such other unpaid taxes, assessments and charges by the county treasurer, and by him when collected shall be paid over to the city treasurer, and the said city treasurer shall place the same when so paid in the general fund of the city, for the benefit of the city. The city treasurer shall be entitled to receive, charge and collect as fees for the collection of taxes and assessments, three per cent. upon all taxes and assessments collected by or paid to him prior to the first day of January in each year, and five per cent. upon all taxes and assessments paid to or collected by him after the said first day of January. The city treasurer shall, upon the receipt of the tax list, publish a notice in the official paper of the city, (if any there be, if not, then in some paper of the city, if there is

Collection of taxes.

Fees.

Notice to be published—what to specify.

CHAPTER 96.

any published in the city,) specifying that all taxes and assessments, whether upon real or personal property in said tax list, shall be paid on or before the last day of December of said year, and that all taxes and assessments not paid by that day will be collected by the seizure and sale of the goods and chattles of the person, company or corporation charged with such taxes and assessments; and the publication of such notice shall be deemed and taken to be a demand, and failure to pay the taxes and assessments within the time limited in such notice, shall be deemed a refusal to pay the same.

Record of receipts.

SECTION 12. The city treasurer shall keep in a book to be provided for that purpose, a true account and statement of all fees by him received as city treasurer from any service [source] whatsoever; and when the amount thereof shall reach the sum of eight hundred dollars, all sums by him received over and above that amount shall be paid by him into the general fund of said city, for the benefit of the city; and such books shall at all times be open for inspection by the mayor or common council, or to any committee appointed by the common council; and the said city treasurer, when required by the common council, shall make a report under oath of all the fees by him received as such city treasurer.

Sales to the city for taxes.

SECTION 13. If, at any sale of personal estate for taxes or assessments, no bids shall be made for any goods and chattels, the same shall be struck off to the city, and thereupon the city shall receive, in the corporate name, a certificate for the sale thereof, and shall be vested with the same rights as other purchasers. If the city shall become the purchaser of personal property by virtue of this chapter, the treasurer shall have the power to sell the same at public sale.

Tax on lands omitted.

SECTION 14. If it shall appear to the assessors that any lot or parcel of land was omitted in the assessment roll of either or both of the two preceding years, and that the same was then liable to taxation, they shall, in addition to the assessment for that year, assess upon the lot or tract so omitted, for such year or years that it shall have been so omitted, the just value thereof, noting the year when such omission occurred; and such assessment shall have the same force and effect as it would have had if made the year when the same

was omitted; and the common council shall direct, in addition to the tax for the current year, such tax to be levied upon such lot or tract as the same would have been chargeable with, had not the same been so omitted; and such tax shall be collected as other taxes or assessments for the current year. All lands shall be subject to taxes that may have been omitted, in whose-soever hands they may have come. Should the tax or assessment upon any parcel of land be set aside or declared void by reason of any defect or informality in the assessing, levying, selling or conveying the same, but not effecting [affecting] the equity and justice of the tax itself, the common council shall cause the tax or assessment so set aside or declared void, to be relieved [releved] in such manner as they shall by ordinance direct: *provided*, that if the defect was in the assessment, the same shall be again assessed at such time as the common council shall direct; and the said tax or assessment so reassessed or releved, shall be and continue a lien upon said lot or tract, and shall be collected as other taxes and assessments are collected under this act.

Proviso.

SECTION 15. The common council of said city shall not have power to issue any bonds or other evidences of debt payable at a day subsequent to the date of the issue thereof, except in cases specially authorized by law, nor shall the common council issue in any one year orders upon the city treasury to an amount greater than the amount of taxes which may be levied under the provisions of this act; and in case a greater amount of orders shall be issued than is herein provided, the members of said common council shall be personally liable therefor, and the amount of such excess may be collected of them, or any one of them, by any person holding such orders, in any court of competent jurisdiction: *provided*, that no member of said council shall be held liable as aforesaid without proof of his assent to the issue of such excess of orders.

Bonds—amount of taxes—liability.

SECTION 16. Whenever the taxes either upon personal or real property shall not be paid by the fifteenth day of January of any year, the treasurer may issue his warrant, directed to the city marshal, commanding him to collect such unpaid taxes, and for such purpose the city marshal shall have all the powers and be subject to the same liabilities and be entitled to the same

When warrant may issue to marshal.

CHAPTER 96.

compensation as is now provided by the charter of said city, and the said warrant, when so issued, shall be returnable before the expiration of the time allowed by law to the said treasurer for the collection of said taxes.

Errors shall not vitiate, &c.

SECTION 17. All the direction hereby given for the assessing of lands and the levying and collection of taxes and assessments, shall be deemed only directory, and no error or informality in the proceedings of any of the officers entrusted with the same, not affecting the substantial justice of the tax itself, shall vitiate or in any wise affect the validity of the tax or assessment.

Redemption.

SECTION 18. Any lot or tract of land heretofore sold by the treasurer of the city or any portion thereof, may be redeemed within three years from the day of sale, and at any time before the deed is executed, by the owner or any person interested therein paying to the treasurer the amount for which the same was sold, together with the interest at the rate of twenty-five per cent. per annum, and the legal charges thereon. If the estate of an infant or lunatic be sold, the same may be redeemed upon the like terms, at any time within one year after such disability shall be removed.

Tax deeds.

SECTION 19. Any tract or lot of land sold in pursuance of the former city charter, or any part thereof, which shall not be redeemed within three years from the day of sale, shall be conveyed by the treasurer to the purchaser or his assigns, as herein provided. The assignee of any tax certificate by endorsement thereon, of any premises sold for taxes by virtue of the former city charter, shall be entitled to receive a deed of such premises in his own name and with the same effect as though he had been the original purchaser.

To be *prima facie* evidence, &c.

SECTION 20. All deeds purporting on their face to be executed on account of sale for taxes or assessments under the former city charter, shall be in all cases *prima facie* evidence of the validity of such tax, and if the title conveyed by such deed shall come in question, shall be *prima facie* evidence of all facts recited in such deed, so far as they affect the validity of the title conveyed by such deed.

Priority of redemption.

SECTION 21. In all cases where there has been a sale heretofore by the county treasurer and by the city treasurer, of any piece or parcel of land for taxes, in

the same year, the purchaser of such piece or parcel who may be first in point of time, may redeem the same from the subsequent purchaser, and in case he shall not redeem, the right of the last purchaser shall be held paramount in case of the execution of any tax deed therefor. If the first purchaser in point of time shall so redeem, it shall be the duty of the proper officer to make an entry in the sale book of the character in which such person may redeem, and the person so redeeming shall be substituted to all rights of the holder of the certificate so redeemed as aforesaid.

SECTION 22. No person shall be permitted to institute any proceedings to set aside any assessment or special tax hereafter levied or assessed upon any lot or tract of land, or to set aside or to set up or interpose any objections to the title derived by virtue of any deed executed in consequence of the non-payment of such taxes, and of the sale of the premises therefor, unless such person shall first pay or tender to the proper party, or deposit for his use with the treasurer, the amount of all state, county and city taxes that may remain unpaid upon such lot or tract, together with the interest and charges thereon.

No proceedings allowed until all charges are paid.

SECTION 23. Before the annual meeting of the board of supervisors of the county of Winnebago, in the fall, it shall be the duty of the city clerk to cause a copy of the assessment roll of said city, for such year, to be transmitted to the clerk of the board of supervisors, who shall lay the same before the board of supervisors at their meeting.

Clerk to lay assessment roll before county board.

SECTION 24. The board of supervisors shall have the right of equalizing the assessment rolls of the towns in said county, and of said city, as provided by law; but in such equalization shall consider the assessment roll of said city as an entire roll, and shall not change the relative valuation of the different wards.

Board may equalize.

SECTION 25. The said board of supervisors may levy a tax as now provided by law, but shall therein proceed without regard to the division of the city into wards, and shall cause the amount of taxes to be levied and the purposes to be certified to the city clerk in the manner provided by the general laws of this state; and the said city clerk shall make out a tax list for that purpose, separate from the tax list for city purposes, and shall deliver the same to the city treasurer, as provided by law.

Tax.

CHAPTER 96.

Treasurer's duties.

SECTION 26. The treasurer of the city in collecting such tax, and making his return to the county treasurer, and in all other respects, shall conform to the general laws of the state, except that the return to the county treasurer shall be for the city and not for the wards.

Collection of taxes on personal property.

SECTION 27. In case the city treasurer is unable to collect any tax assessed upon any personal property, and payable by any person named in this tax list, he shall proceed in all things according to chapter 18 of the revised statutes of this state, and the acts amendatory thereto, in bringing such delinquent person before some justice of the peace, and such proceedings shall be had as is provided by said chapter 18, and as is prescribed by chapter 198 of the general laws of 1860, and any act that may be hereafter passed amendatory to said acts or in addition thereto.

CHAPTER NINE.

FIRE DEPARTMENT.

Fire limits.

SECTION 1. The common council, for the purpose of guarding against the calamities of fire, shall have power, and it shall be their duty, to prescribe the limits within which wooden buildings, or buildings of other materials that shall not be considered fire-proof, shall not be erected, placed or repaired, and to direct that all and any buildings within the limits prescribed shall be made and constructed of fire-proof materials, and to prohibit the repairing or rebuilding of wooden buildings within the fire limits, where the same shall have been damaged to the extent of fifty per cent. of the value thereof, and to prescribe the manner of ascertaining such damage.

Fire proof buildings.

Council may prevent the construction of dangerous buildings &c.

SECTION 2. The common council shall have power to prevent the dangerous construction and condition of chimneys, fire-places, hearths, stoves, stove pipes, ovens, boilers and apparatus used in and about any building, and to cause the same to be removed or placed in a safe and secure condition, when considered dangerous; to prevent the deposit of ashes in unsafe places; 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 manufactories dangerous in causing or promoting fires ; to regulate and prevent the use of fire-works and fire-arms ; to compel the owners and occupants of buildings to have scuttles in the roofs, and stairs or ladders leading 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 in 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.

SECTION 3. The common council shall have full power to purchase fire engines and other fire apparatus, and to authorize the formation of fire engine, and hook and ladder, and hose companies, and to provide for the due and proper support and regulation of the same, and to order such companies to be disbanded, and their meetings to be prohibited, and their apparatus to be delivered up. Each company shall not exceed seventy able bodied men, between the ages of eighteen and fifty years, and may elect their own officers, and form their own by-laws, not inconsistent with the laws of this state, or the ordinances or regulations of said city, and shall be formed only by voluntary enlistments. Every member of each company hereby authorized to be formed, shall be exempt from highway work and poll tax, and from military duty during the continuance of such membership ; and any person having served for the term of seven years in either of said companies, shall be forever hereafter [thereafter] exempt from poll tax and from military duty, except in case of insurrection or invasion.

SECTION 4. There shall be a meeting of the members of said companies on the third Monday of April in each year, at such place as may be designated by the chief engineers, when they may nominate and recommend to the common council for appointment, one chief engineer and three assistant engineers, and the common council shall thereupon confirm or reject said nominations ; and the person so appointed shall perform such duties as the common council shall prescribe.

May purchase
fire engines.

Fire companies.

Exemption.

First meeting of
companies.

CHAPTER 96.

Fire wardens.

SECTION 5. At the same time the members of said companies shall nominate, and the common council shall appoint or reject the same, ten fire wardens, who shall perform such duties as the common council shall prescribe; and they may at any time enter into or upon any house, store, barn or other building or enclosure, for the purpose of inspecting the same.

Fines.

SECTION 6. One-half of the net proceeds of all fines and penalties recovered for the breach of any ordinance, by-law or regulation made in pursuance of this chapter, shall be paid to the fire department.

Penalty for refusing to work at fires.

SECTION 7. Whenever any person shall refuse to obey any lawful order of any engineer, fire warden, mayor or alderman, at any fire, it shall be lawful for the officer giving such order to arrest, or to direct orally the marshal, constable, watchman or any citizen to arrest such person, and to 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, shall be liable to such penalty as the common council may prescribe, not exceeding fifteen dollars.

Sack company—their duties.

SECTION 8. The common council shall have power to organize a sack company, or continue in force any such company now organized, which shall [be known] as sack company No. 1, to consist of not more than twenty members. Such company shall constitute a part of the fire department, and at fires shall be subject to the control of the chief engineers. The members of said company, either collectively or individually, are hereby authorized and empowered to act as a special police in and for the city of Oshkosh, and are hereby vested with all the powers and authority which now is or may hereafter be vested in any police officer of said city, and shall be entitled to all the rights and immunities of members of the fire department. At fires, they shall take charge of all property which may be exposed or endangered, and shall, as far as it may be in their power, preserve the same from injury or destruction. Said company may, from time to time, adopt such by-laws and regulations as they may deem neces-

sary, not inconsistent with the laws of the state. The members of said company shall not be entitled to any pay or compensation for services rendered in their official capacity. They shall, in case of riot or disturbance of the peace, have free access to all licensed places of amusement in the city, and shall perform such services as may be necessary for the peace and good order of the same. The members of said company shall severally take an oath or affirmation, that they will faithfully discharge the duties of their said office; and when any member of said company shall cease to be a member thereof, by resignation, expulsion or otherwise, notice thereof shall be given to the city clerk, and they shall preserve a record of all the members of said company.

CHAPTER 96.

No compensation.

Oath.

CHAPTER TEN.

SUPPORT OF POOR.

SECTION 1. The laws of this state for the relief and support of the poor in towns, shall apply to said city, and the common council may annually levy a tax, not exceeding one thousand dollars, to comply with the provisions of such law; such tax to be levied and collected in the same manner as annual city taxes. And the common council shall appoint one or more of their number to act as overseer of the poor of the city, who shall perform all the duties of overseer of poor in towns.

Poor tax.

CHAPTER ELEVEN.

MISCELLANEOUS PROVISIONS.

SECTION 1. All work for the city, or either of the wards, including all printing and publishing, shall be let by contract to the lowest bidder, and due notice shall be given of the time and place of letting such contract.

All work to be let by contract.

SECTION 2. No moneys shall be appropriated for any purpose whatever, except such as are expressly authorized by this act.

Appropriations.

SECTION 3. No penalty or judgment recovered in favor of the city shall be remitted or discharged, except by a majority of the aldermen elect.

Judgments--how remitted.

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Actions—how brought.

SECTION 4. All actions brought to recover any penalty or forfeiture under this act, or the ordinances, by-laws, or police or health regulations, made in pursuance thereof, shall be brought in the corporate name of the city. It shall be lawful to declare generally in debt for such penalty or forfeiture, stating the clause of this act or by-law, or ordinance, under which the penalty or forfeiture is claimed, and to give the special matter in evidence under it.

Prosecutions.

SECTION 5. In all the prosecutions for any violation of any of the provisions of this act, or any by-law or ordinance, the first process shall be a summons, unless oath be made for a warrant, as in other cases.

SECTION 6. When the action is commenced by summons, the complaint therein may be substantially in the following form:

Summons.

The city of Oshkosh }
 against } In (the) justice court.

The plaintiff complains against the defendant in an action of debt, for that the defendant did, on the day of 18 violate section of an ordinance (or by-law, describing it by its title,) which said is now in force. By reason of such violation, an action hath accrued to the city of Oshkosh to recover of the defendant the sum of dollars debt. Wherefore the plaintiff demands judgment against the defendant for the sum aforesaid, besides the costs of this action.

SECTION 7. In all cases where the oath is made for a warrant, the complaint shall be made on the oath of the complainant, and no other affidavit shall be necessary, which complaint last above named may be substantially in the following form:

Complaint.

The city of Oshkosh }
 against } In justice court.
 State of Wisconsin, }
 Winnebago county, } [ss.]

being duly sworn, complains on oath to justice of the peace of the city of Oshkosh, that did, on the day of 18 violate section of an ordinance ([or] by-law) of said city, (describing it by its title,) which said is now in force and ef-

thirty days; and for want of such goods and chattles whereon to levy, take the body of the said and him convey and deliver to the keeper of the common jail in Winnebago county; and said keeper is hereby commanded to receive and keep in custody in said jail, the said _____ for the term of _____ unless said judgment, together with all costs and fees, are sooner paid, or he be discharged by due course of law.

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Given under my hand this _____ day of _____ 18 _____ justice of the peace.

SECTION 11. 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. Competency of judge, &c.

SECTION 12. All ordinances, regulations or resolutions now in force in the city of Oshkosh, and not inconsistent with this act, shall remain in force under this act until altered, modified or repealed by the common council, after this act shall take effect. Ordinances now in force.

SECTION 13. All actions, rights, fines, penalties and forfeitures, in suit or otherwise, which have accumulated under the several acts consolidated herein, shall be vested in and prosecuted by the corporation hereby created. Actions, &c., vested in corporation.

SECTION 14. If any election by the people or common council shall, for any cause, not be held at the time or in the manner herein prescribed, or if the council shall fail to organize as herein provided, it shall not be considered reason for arresting, suspending or dissolving said corporation, but such election or organization may be had at any subsequent day, by order of the common council; and if any of the duties enjoined by this act or the ordinance or by-laws of the city, to be done by any officer at any specified time, and the same are not then done or performed, the common council may appoint another time at which the said acts may be done and performed. Failure to hold election not a loss of franchise.

SECTION 15. All that part of Fox river within the limits of said city, shall be kept under the exclusive jurisdiction of the said city and its common council, and all bridges over the said river, within the limits aforesaid, shall be under its jurisdiction; and the mayor and common council of said city are hereby fully empowered to purchase bridges now existing within Jurisdiction of city over bridges &c.

- CHAPTER 96. said city limits, and also to build and construct, or cause to be built and constructed, new bridges over said river, at such point or points as they may deem necessary, and for the best interest of the city, and to maintain and support all such bridges which the city may own now, or may purchase or build hereafter, at the expense of the said city: *provided*, that all of said bridges shall contain draws sufficient for the passage of vessels.
- Proviso.
- New bridges. SECTION 16. Whenever the common council shall deem it necessary and for the best interests of said city to build one or more new bridge or bridge over Fox river, they may for the purpose of defraying the expenses of the first construction of such bridge or bridges, levy a special tax upon all the taxable property of said city, such taxes to be levied and collected in the same manner as is provided for the levying and collecting of the annual city taxes in this act: *provided*, that no such tax shall be levied, unless the question be submitted to the qualified electors of the city, nor unless a majority of all the qualified electors voting on such question, shall vote in favor of levying and collecting the same, as proposed by the common council. Notices of the time and place when and where such election will be held, shall be published in the official paper or papers for three successive weeks, at least once in each week. If the construction of one or more new bridge or bridges is so determined, it shall be the duty of the street commissioners of the several wards wherein such bridges are situated, to cause all necessary grading to be done in their respective wards, in order to render the road thereto passable.
- Special tax.
- Proviso.
- Notice of election
- Laws applicable to protection of bridges. SECTION 17. The general laws for the preservation of bridges, and the punishment by such laws provided for the willful and malicious injuries done thereto, are hereby extended to and shall include all of said bridges, and shall apply to any willful or malicious damage which may be done to either of them by any person or persons whatever; and the common council may, from time to time, make such by-laws or ordinances as they may deem necessary for the preservation of such bridges and enforce the same by adequate penalties. In case of any damage done to any of said bridges, by any vessel or water crafts, or by the master or any persons in command thereof, such vessel or water craft

may be proceeded against under the law to provide for the collection of demands against boats and vessels. CHAPTER 96.

SECTION 18. When any suit or action shall be commenced against said city, the services thereof may be made by leaving a copy of the process, by the proper officers, with the mayor, and it shall be the duty of the mayor forthwith to inform the common council thereof, or take such other proceedings as by ordinances or resolutions of said council, may be in such case provided. Actions against city.

SECTION 19. No real or personal property of any inhabitant of said city, or of any individual or corporation, shall be levied on and sold by virtue of any execution issued to satisfy or collect any debt, obligation or contract of said city. Property exempt

SECTION 20. The common council of said city may at any time appoint five commissioners, one from each ward, who, with the assistance of the city surveyor, or such other assistant surveyors as the council may appoint, shall cause a new and accurate survey to be made of the lines and boundaries of all the streets, alleys, sidewalks, public grounds, wharves and blocks, and shall cause to be established such permanent landmarks as they may deem necessary, and to cause an accurate plat or plats thereof to be made and certified to by the said surveyor and commissioners, which shall be filed in the office of the city clerk, and a copy thereof shall be recorded in the office of the register of deeds of Winnebago county. Commissioners to establish line of streets, &c.

SECTION 21. The survey and landmarks so made and established, shall be *prima facie* evidence of the lines and boundaries of all streets, alleys, sidewalks, public grounds, wharves and blocks, in all cases in which they shall be drawn into controversy, in all courts in this state. Survey to be evidence.

SECTION 22. The common council of the said city may, at such time as they may deem proper, establish the grade of all streets, alleys and sidewalks in said city, and shall cause accurate profiles thereof to be made, one of which shall be filed in the office of the register of deeds of Winnebago county; and should the grade so established be at any time hereafter altered, all damages, costs and charges arising therefrom shall be paid by the city to the owner of any lot or parcel of land or tenement which may be affected or injured Grade.

CHAPTER 96.**Proviso.**

in consequence of the alteration of such grade: *provided*, that nothing in this section contained shall be construed so as to prevent the street commissioners of the several wards of the said city from ordering or causing to be done the grading of any street within their ward, to a temporary grade to be established by such street commissioners.

City may hold real estate.

SECTION 23. The said city may lease, purchase and hold real or personal estate sufficient for the convenience of the inhabitants thereof, and may sell and convey the same, and the same shall be free from taxation.

SECTION 24. Real estate exempted from taxation by the laws of the state, shall be subject to special taxes, as other real estate under this act.

Not considered as repealing.

SECTION 25. No general law of this state, contravening the provisions of this act, shall be considered as repealing, annulling or modifying the same, unless such purpose be expressly set forth in such law, as an amendment to this charter.

Subdivision of lots, &c.

SECTION 26. Every individual or company of individuals, or body corporate, owning a lot or tract of land within the corporate limits of the city of Oshkosh, who may desire to subdivide or plat such lot or tract of land into city lots, shall, in platting the same, cause the streets and alleys in such plat to correspond in width and general direction with the streets and alleys through the lots and blocks in said city, adjacent to said lot or tract of land so platted; and before recording such plat, as required by law, it shall be the duty of such person or persons making such plats, to submit the same to the common council of said city for approval, and if said plat shall be approved by the common council, it shall be lawful for the party or parties making such plat to record the same in the manner prescribed by the revised statutes of this state concerning town plats; but except such plat shall be approved by resolution adopted by said common council, a copy of which, duly certified to be [by] the city clerk, shall be affixed to said plat, it shall not be lawful for the register of deeds of Winnebago county to receive such plat for record; and the person or persons neglecting or refusing to comply with the requirements of this act, shall forfeit and pay a sum not less than one hundred dollars and not more than one thousand dollars, and the register of deeds who shall record such plat without such reso-

Plat to be approved by council.**Penalties.**

CHAPTER 90.

lution of the common council thereto attached, approving the same, shall forfeit and pay a sum not less than fifty nor more than one hundred dollars.

SECTION 27. All forfeitures and liabilities which may be incurred and arise under and by virtue of this act, shall be prosecuted for and recovered in the name of the city of Oshkosh, and paid into the city treasury for the use and benefit of said city.

Forfeitures—
how prosecuted.

SECTION 28. The mayor of said city of Oshkosh shall be *ex officio* a member of the county board of supervisors of the county of Winnebago, and shall have the same power and privileges in said board as other members thereof are entitled to, and shall receive the same compensation for his services.

Mayor *ex officio*
member of
county board.

SECTION 29. Hereinafter [hereafter] no special improvements shall be ordered by the common council, exceeding in estimated cost the sum of two hundred dollars, unless the owners of more than one-half of the lands to be taxed for such improvement shall petition in writing for the same, or unless the same shall be ordered by a vote of three-fourths of all the aldermen elect.

Special im-
provements.

SECTION 30. When the city of Oshkosh deeds or leases any real estate, or any interest therein, owned by said city, the party of the first part shall be the city of Oshkosh, and the person or persons authorized to execute such deed or lease, need not be named in the body thereof.

Parties to deeds.

SECTION 31. The mayor of said city is hereby authorized, when the common council shall by ordinance or resolution for that purpose, describing the real estate and interest to be conveyed, order and direct him so to do, to execute a deed or lease of such real estate or interest therein belonging to the said city. The said deed or lease shall be signed by the mayor of said city and countersigned by the city clerk and sealed with the corporate seal of said city, and duly witnessed and acknowledged, as is provided by law for the execution of deeds and leases.

Deeds to lands
belonging to city

SECTION 32. When any such deed or lease is so executed, the city clerk shall attach to such deed or lease a true and attested copy of such ordinance or resolution, and the same shall be recorded by the register of deeds with the said deed or lease, and such copy so attached and recorded shall be, in all court [courts] of this state, *prima facie* evidence of the authority of such mayor to make and execute such deed or lease.

Ordinance to be
attested and re-
corded.

CHAPTER 97.

REPEALING CLAUSE.

Repeal.

SECTION 33. An act entitled "an act to consolidate and amend the act to incorporate the city of Oshkosh, and the several acts amendatory thereof," approved March 14th, 1856, and the several acts amendatory thereof, and all acts and parts of acts inconsistent and conflicting with the provisions of this act, are hereby repealed; but the repeal of said acts and parts of acts shall not in any manner affect, injure or invalidate any contracts, acts, suits, claims or demands that may have been entered into, performed, commenced, or that may exist under or by virtue or in pursuance of the said acts or any of them, but the same shall exist and be enforced and carried out as fully and effectually, to all intents and purposes, as if this act had not been passed.

Remain in force

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

Approved March 22, 1861.

CHAPTER 97.

[Published March 23, 1861.]

AN ACT to consolidate and amend the act to incorporate the city of Berlin, and the several amendatory thereof.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows :

CHAPTER ONE.

Boundaries.

SECTION 1. All that district of country included in sections three, four, nine and ten, and the east half of sections five and eight, in township seventeen, north of