

CHAPTER 268.

[Published April 3, 1865.]

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

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

CHAPTER I.

CITY AND WARD BOUNDARIES.

SECTION 1. The district of country in the county of Outagamie, contained within the limits and boundaries hereinafter described, shall be a city, by the name of Appleton, and the people now inhabiting and those who shall hereafter inhabit said district of country herein described, shall be a municipal corporation, by the name of the city of Appleton, 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, suing and being sued, pleading and being impleaded, in all courts of law and equity, and shall have a common seal, and may alter or change the same at pleasure.

SECTION 2. The territory included within the following limits and boundaries, shall constitute the city of Appleton, to wit: All of sections twenty-five (25), twenty-six (26), the south half of section twenty-seven (27,) and sections thirty-four (34,) thirty-five (35) and thirty-six (36,) in township twenty-one (21,) north of range seventeen (17) east.

SECTION 3. The said city shall be divided into four wards, as follows: The first ward shall comprise all that portion of territory lying east and north of the following line: Commencing at a point on the north line of the city limits, due north of and opposite to the center of the northern extremity of Drew street; thence south to the northern extremity of Drew street; thence south along the center of Drew street to the south line of College avenue; thence east to the east line of block one (1,) in Appleton plat; thence south

**Second.**

to the center of Fox river; thence east along the center of said river to the city limits. The second ward shall contain all that portion of territory lying east and north of the following line, and not included in the first ward: Commencing at a point on the north line of the city limits, due north of the northern extremity of Elm street; thence south to the center of Elm street; thence south along the center of Elm street to the center of Fox river; thence east down the center of Fox river to the

**Third.**

southwest corner of the first ward. The third ward shall contain and include all the remaining portion of territory of said city, north of the center of Fox river, not included in the first and second wards. The fourth ward shall contain and include all that portion of territory lying south of the center of Fox river, in said city limits.

**Fourth.**

## CHAPTER II.

### ELECTIONS.

**Annual election.**

**SECTION 1.** The annual election for city and ward officers, shall be held on the first Tuesday of April, in each year, at such place in each ward as the common council shall designate, and the polls shall be kept open from nine o'clock in the forenoon until sundown, but the board of inspectors may adjourn the polls at twelve o'clock, noon, for one hour; and ten days' previous notice shall be given by the city clerk, by publication, 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, a treasurer, and a marshal, to be chosen from the city at large, and two aldermen and one justice of the peace for each ward. A city clerk, an assessor, a city attorney, a street commissioner, and a city surveyor, and all other officers necessary for the proper management of the affairs of said city, shall be appointed by the common council. A city superintendent of schools shall be appointed by the board of education. All elective officers, except justices of the peace and aldermen, shall, unless otherwise provided by law, hold their respective offices for one year, and until their successors are elected and qualified; and justices of the peace, aldermen, and the city superintendent of schools, shall each hold

office for two years, and until their successors are chosen and qualified: *provided, however,* the common council shall have power, for due cause, and after opportunity for a fair hearing, to expel any of their own number, and to remove from office any officer or agent under the city government, except justices of the peace, written notice being first given to the officer complained of, to appear before the common council and answer to the complaint made.

Expulsion, removals, &c.

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 official notice of such vacancy shall be received by the city clerk or mayor; and any vacancy happening in any other office, except justice of the peace, shall be filled by the common council. Vacancies in the office of justice of the peace can only be filled at the charter election next ensuing thereafter. The 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.

Vacancies—how filled.

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. All votes for elective officers shall be upon one ballot, and be deposited in one ballot box.

Elections to be by ballot.

SECTION 5. All persons entitled to vote for county officers, who shall reside in the ward where they offer to vote, shall be entitled to vote for any officer to be elected under this law, and to hold any office herein created:

Qualifications of voters.

SECTION 6. All general and special elections under this act, shall be held and conducted by the aldermen of each ward, if present, who, with one qualified elector, to be chosen *viva voce* by the electors present, shall be inspectors of election, and shall take and subscribe the usual oaths or affirmations, as prescribed by the general laws of this state to be taken by the inspectors of elections, and shall have the power to ap-

Inspectors of elections.

point clerks of such elections, and to administer the necessary oaths. All elections under this act 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 relating to elections.

**Challenge.** SECTION 7. If any person offering to vote at any election held pursuant to this act, shall be challenged as unqualified by any elector, or by one of the inspectors, one of the inspectors, before receiving such vote, shall require the party challenged to take the following oath:

**Oath.** "You do solemnly swear, (or affirm, as the case may be,) that you are twenty-one years of age; that you are a citizen of the United States, (or have declared your intention to become such, conformably to the laws of the United States on the subject of naturalization;) that you have resided in the state of Wisconsin one year next preceding this election; that you are now an actual resident of this ward; that you are not here for a temporary purpose, but that this ward is your home; 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 upon the result of this election."

**Perjury.** And if the person offering to vote shall take such oath, his vote shall be received; and if any person shall take such oath falsely, he shall be deemed guilty of willful and corrupt perjury, and upon conviction thereof, upon indictment in the circuit court for the county of Outagamie, shall suffer the penalties prescribed by law for the punishment of perjury.

**Illegal voting.** If any person who is not a qualified voter, shall vote at any election herein provided for, or if any person 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 less than twenty-five dollars nor more than one hundred dollars.

**List of challenged voters.** 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 herein authorized to vote, or shall make out false returns of an election, or shall alter or change any vote, or if any clerk shall not write down the name of every voter as he votes, or

shall add to or diminish from the poll list kept by him or by his associate, 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 less than one hundred dollars nor more than five hundred dollars.

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 and clerks shall make a return thereof, duly signed, stating therein the number of votes for each person and the office designated, and the whole number of votes cast, and shall deliver, or cause to be delivered, such return, together with the poll lists kept by the clerks, to the city clerk, within three days after any election. In case of any neglect or failure of any inspector or clerk to comply with the provisions of this section, such inspector or clerk shall be liable to said city in the penal sum of twenty-five dollars and costs of suit, to be recovered before any justice of the peace of said city, in an action of debt. Within one week after each and every election under and by virtue of this act, the common council, or in the absence of a quorum, the city clerk and two justices of the peace of Outagamie county, shall meet, 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 election.

SECTION 9. All fines imposed and collected by virtue of this chapter, and all fines and penalties imposed by a justice of the peace for assault and battery, breach of the peace, or other offenses against the statutes, cognizable before a justice of the peace, committed within the limits of said city, shall be paid into the city treasury, and be set apart, accounted for and appropriated as a part of the poor fund of said city.

SECTION 10. Any officer removing from the city, or any ward officer removing from the ward for which he was 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; or if any officer shall be convicted of an infamous crime under the laws of this state, he shall be deemed to have

Return of votes.

Penalty.

Canvass of votes.

Application of fines.

Vacancies.

vacated his office, and the same may be filled as provided for in this act.

Officers to be elected at first election.

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 the alderman elected under the former city charter, shall hold his office for the term for which he was elected.

Terms of office of present officers.

SECTION 12. 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 office of every officer elected under this act, shall commence on the second Tuesday of April, of the year in which he was elected.

Duties of present council.

SECTION 13. All duties herein required of the common council, alderman and city clerk, 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 act; and the first election of officers, under the provisions of this act, shall be held on the first Tuesday of April, A. D. 1865. 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, as in the case of special elections to fill vacancies.

In case of failure to elect.

Terms of office of justices of the peace.

SECTION 14. The justices of the peace of the several wards of said city, now in office, shall be and remain in office until the second Tuesday of April, A. D. 1866, and the first election for a justice of the peace in each of said wards in said city, shall be held on the first Tuesday of April, A. D. 1866. The justices of the peace authorized by this act, shall have and exercise all the powers and be subject to the same liabilities as justices of the peace in towns, and their jurisdiction shall be coextensive with the limits of Outagamie county, and they shall have jurisdiction over and cognizance of all actions and proceedings, the same as other justices of the peace in said county of Outagamie, and all proceedings at law before them shall be governed and regulated by the general provisions of law now in force in regard to actions and proceedings before and courts held by justices of the peace, and they shall also have jurisdiction of all offenses against the ordinances and regulations established by the mayor and common council, and they may hold their offices in any portion of

Powers and jurisdiction of justices.

the city: *provided*, that no two of them shall hold their offices in the same room; *and provided, further*, that their official bonds shall be approved by the mayor and city clerk. The common council of said city may require a bond from each and all of said justices, to pay over all moneys belonging to said city which may come into their hands; and they shall, on the first Mondays of April, July, October and January, of each year, report to the common council the amount of all moneys belonging to said city.

Provisions.

Bonds.

## CHAPTER III.

## OFFICERS—THEIR POWERS AND DUTIES.

SECTION 1. Every person elected or appointed to any office under the provisions of this act, except a justice of the peace, shall, before he enters upon his duties, take and subscribe an oath of office, and file the same with the clerk of the city; and the treasurer, clerk, marshal, street commissioner, and such other officers as the common council may direct, shall severally, before they enter upon their respective duties, execute to the city of Appleton 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 bond shall contain such penal sum and such lawful conditions as the common council may deem proper; and the common council may, from time to time, require new or additional bonds; or remove from office any officer neglecting or refusing to present the same.

Oaths and bonds of officers.

SECTION 2. The mayor, when present, shall 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 shall deem advantageous for the city. The mayor shall be chief executive officer, and head of the police of the city, and in case of a riot, epidemic or disturbance of the peace, he may appoint as many special or temporary policemen and constables as he may deem necessary. In the common council, the mayor shall have a vote only in case of a tie. The mayor shall

Mayor—his powers and duties.

have power to veto any ordinance or resolution passed by the common council, by notifying the common council of his objections thereto in writing, at any time within five days after the passage of such ordinance or resolution. In case of no session of the common council on any day after the passage of the same, and before the expiration of said five day, such notification shall be made by filing with the city clerk a copy of his objections; and if the common council shall not at its next regular meeting thereafter, re-enact such ordinance or adopt such resolution by the votes of five aldermen, the same shall be null and void.

President.

SECTION 3. At the first meeting of the common council, in each corporate year, they shall proceed to elect by ballot one of their number president; and in 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. In case the mayor

President pro tem.

and president shall both be absent at any meeting of the common council, that body shall proceed to elect a temporary presiding officer, who, for the time being, shall discharge all the duties of the mayor. The president or temporary presiding officer, while discharging any of the duties of mayor, shall be styled acting mayor, and acts performed by them, or either of them, in such capacity, shall have the same force and validity as if performed by the mayor. The common council at their first or second meeting after the charter election, in

Appointive officers.

each year, shall elect a city clerk, an assessor, and a street commissioner, and designate one or more newspapers printed in said city, in which they shall cause to be published their proceedings and all ordinances and resolutions adopted by them, and in the month of April, of each year, a statement of the receipts and expenditures of the various funds of the city. They shall regulate, by ordinance, the time of appointing a city superintendent of schools, city surveyor, city attorney, and such other officers as they may deem necessary; and all the appointed officers herein named, except city superintendent of schools, shall hold office for one year, and until their successors are chosen and qualified. The

Their salaries.

common council shall, by resolution, fix the salary or fees of all the appointive officers of the city, and such salary or fees shall neither be increased or diminished



during the corporative year in which such resolution may be adopted.

SECTION 4. The city clerk shall keep the corporate seal and all papers and records of the city. He shall keep a record of all the proceedings of the common council, whose meetings he shall attend. He shall draw and countersign all orders on the treasurer, pursuant to any vote or resolution of the common council, and keep an accurate record thereof, in books provided for that purpose. He shall file in his office and safely keep all chattel mortgages presented for that purpose, on payment of twenty-five cents therefor; and all chattel mortgages so filed, shall be as valid and legal as if filed in the town clerk's office in any town. He shall have power to take acknowledgments of deeds or other instruments, and administer oaths and affirmations; and he may appoint a deputy, for whose official acts he shall be responsible. Copies of all papers filed in the office of the city clerk, and transcripts from the records of said city, certified by him under the corporate seal, shall be evidence in all courts and places, in like manner as if the original were produced.

Clerk—his duties.

SECTION 5. The treasurer of said city shall perform such duties and exercise such powers as may be required of him by the laws of this state or ordinances of the city. All moneys raised, received, recovered or collected by means of any tax, license, fine, penalty, forfeiture or otherwise, by virtue of this act, or which belong to the said city, shall be paid into the city treasury, and shall not be drawn therefrom except by an order on that specific fund, signed by the mayor and countersigned by the clerk, by order of the common council. He shall keep an accurate account of all moneys or other property which may come into his hands as treasurer, in books to be provided for that purpose, which shall remain the property of the city, wherein he shall note the time when and the persons from whom the several sums were received, which books shall at all reasonable hours be open to the inspection of any person. As often as the common council may require, he shall render to said council a minute account of the receipts and expenditures of his office, and at the expiration of his term of office, he shall hand over to his successor all moneys, books, papers and property in his possession belonging to said city. The

Treasurer—his duties.

His fees.

said treasurer shall also be the collector of taxes in said city, and for this service he shall have the same powers and be subject to the same liabilities and governed by the same laws as treasurers of towns, except as otherwise provided for in this act: *provided, always*, that he shall keep an accurate account of all fees by him received as treasurer, from any and all sources, in a book to be provided for that purpose, and when the amount thereof shall reach the sum of four hundred dollars, all sums by him received over and above that amount, shall be by him paid and credited to the general fund of said city, for the use of said city; and such book shall be open at all reasonable times to the inspection of any person; and he shall, when required, make report to the common council, duly verified on oath, of all fees received by him as treasurer; and he shall receive no other or further compensation for his services as treasurer, except that the common council shall provide him all necessary books, blanks and stationery requisite to the discharge of his duties: *provided, further*, that whenever the aggregate amount of all taxes in the tax roll for any year, shall exceed the sum of twenty thousand dollars, the common council may, in its discretion, allow him extra compensation to an amount not exceeding one per cent. on such excess.

Extra compensation.

Marshal—his duties and powers.

SECTION 6. The marshal shall perform such duties as shall be prescribed by the common council, for the preservation of the public peace, and the collection of fines and license moneys. He shall possess all the powers of constables of towns, be subject to the same liabilities, and entitled to the same fees. 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. It shall be his duty to suppress all riots, disturbances and breaches of the peace, to remove all obstructions in the streets, avenues, alleys and highways in said city, to abate all nuisances, to apprehend any person in the act of committing any offense against any ordinance of said city or laws of the state, and within reasonable time bring such person before competent authority for examination or trial. He may appoint one or more deputies, to be approved by the mayor and clerk, for whose official acts he shall be re-

Regulate.

sponsible. The corner of Outagamie county, if a resident of the city of Appleton, may, upon filing a bond with the city clerk, in like sum and with like penalties as the bond of the marshal, duly approved by the mayor and clerk, exercise all the powers and prerogatives of a constable of any town, be subject to the same penalties and liabilities, and be entitled to the same fees.

Coroner may exercise powers of constable.

SECTION 7. The city surveyor shall be a practical surveyor and engineer. He shall keep his office at some convenient place in the city. He shall preserve and have open to the inspection of any person, all surveys, profiles, plans or estimates made by him for the city or wards, which shall be the property of the city, and which, with all books or papers pertaining to his office, he shall turn over to his successor or the city clerk, on the expiration of his term of office.

City surveyor.

SECTION 8. The city attorney shall be a person duly admitted to practice in the courts of record, conformably to the laws of this state.

City attorney.

SECTION 9. The city superintendent of schools shall possess the necessary qualifications of a common school teacher of the highest grade.

Superintendent of schools.

SECTION 10. The city printer or printers, immediately after the publication of any ordinance or notice which by this act is required to be published, shall file with the city clerk 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 ordinance or notice.

City printer.

SECTION 11. The mayor, acting mayor, sheriff of Outagamie county, each alderman, justice of the peace, marshal, chief engineer of the fire department, foreman of a fire company, policeman and watchman, shall be officers of the peace in said city, 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, military and fire companies; and if any person, military officer or private, or fireman, shall refuse to aid in maintaining the peace when so required, every such person shall forfeit and pay a fine of not less than ten nor more than fifty dollars; and in cases where the civil power may be required to suppress riots or dis-

Peace officers.

orderly behavior, the superior officer present, in the order mentioned in this section, shall direct proceedings.

Officers to deliver papers, &c. to successors.

SECTION 12. If any person, having been an officer in said city, shall not within ten days after notification, deliver to his successor in office all property, books, papers and effects of every description in his possession, pertaining to the office he may have held, or belonging to said city, he shall forfeit and pay to the use of said 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 and papers and effects, in the manner prescribed by the laws of this state. 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, not inconsistent with this act, and to appoint such other officers as may be deemed necessary to carry out the provisions of this act, in which case they shall fully prescribe their duties and liabilities.

Further duties may be required of officers.

Aldermen not to be interested in contracts.

SECTION 13. 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 shall 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, board of equalizers, or board of health. The senior alderman of each ward shall be *ex officio* a member of the county board of equalization of the assessments upon the real estate in the county of Outagamie.

Board of equalization.

Assessor.

SECTION 14. The assessor chosen by virtue of this act shall, in all things pertaining to his office, so far as practicable, be governed by the same laws as assessors in towns, except as soon as he has completed his assessment roll, he shall return it to the city clerk, and his compensation shall be established by the common council.

Street commissioner.

SECTION 15. The street commissioner shall have the power to order and contract for the making, grading, graveling, paving, repairing and cleaning of streets,

avenues, highways, alleys, public grounds, public wells, reservoirs, gutters and sewers, and all bridges within said city, and to direct and control the persons employed therein, conformably to the provisions of this act and to the order of the common council. He shall make report, in detail, whenever required by the common council, of all his acts and doings, and at the expiration of his term of office, shall deliver over to his successor all books, records, papers and other property pertaining to said office, or belonging to the city; and his records and papers shall be open to the inspection of any citizen of the city at all reasonable hours.

#### CHAPTER IV.

##### 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 Appleton do ordain," etc. The common council shall meet at such time and place as they by resolution shall determine. A majority of the aldermen shall constitute a quorum. They shall hold stated meetings, and the mayor or acting mayor may call special meetings, by notice to each member, to be personally served or left at his 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, and impose penalties for absence.

Common council  
—style of ordi-  
nances.

Meetings.

Rules.

SECTION 2. The common council shall have the management and control of the finances and property of the city, and shall likewise, in addition to the powers 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, the prevention of crime, and for the benefit of health, trade and commerce 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 ordinances, rules and by-laws; and such ordinances, rules and by-laws are hereby declared

Powers of coun-  
cil.

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:

**Licenses.**

1st. To license and regulate the exhibitions of common showmen, or shows of any kind, or the exhibition of caravans, circuses or theatrical performances, billiard tables, bowling alleys, and to provide for the abatement of all nuisances under the ordinances or at common law; and to grant licenses to such persons as they may deem proper to keep saloons, groceries, taverns and victualling houses, wherever may be sold strong, spirituous, ardent or intoxicating liquors, beer, ale, wine or cider, to be drank on the premises, in a quantity less than one gallon, under such regulations, conditions and restrictions as they may deem expedient: *provided*, that such license shall not be less than thirty dollars nor more than seventy-five dollars a year, and that no license shall be granted for a term greater than the current corporate year by the present or any succeeding common council.

**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.

**Riots.**

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, brewery, distillery, stable, barn, privy, sewer or other unwholesome, nauseous house or place, to cleanse, remove or abate the same from time to time, as often as may be deemed necessary for the health, comfort and convenience of the inhabitants of said city.

**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 to regulate

the storage, keeping and conveying of gunpowder or other combustible materials.

6th. To establish public markets, build or purchase market houses, make rules for the government of the same, appoint suitable officers to oversee such markets, and to restrain all persons from violating or interfering with such rules; to license and regulate butchers' stalls, shops and stands for the sale of butchers' meat, game, poultry, fish, butter, provisions of all kinds, fruit and garden produce; to regulate the place and manner of weighing and selling hay, and measuring and selling fuel, and to appoint suitable persons to superintend and conduct the same; to regulate the size and weight of bread, and to provide for the seizure and forfeiture of bread baked contrary thereto; to license, regulate and prescribe the fees of hacks, cabs, omnibuses, drays and express wagons.

Public markets,  
butchers' stalls,  
&c.

7th. To prevent the encumbering of streets, avenues, alleys, highways, sidewalks and crosswalks, with railway cars, locomotives, engine or engines, carriages, carts, wagons, sleighs, boxes, lumber, firewood or any other substances or materials whatever; to compel the owners or occupants of buildings or grounds to remove snow, dirt or rubbish from the sidewalks, streets, alleys, avenues and highways 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; 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 the same upon his premises, or shall have placed it upon the premises of another, and in default, to authorize the removal thereof, at the expense of such person or persons offending.

Encumbering  
streets, &c.

Putrid animal  
matters.

8th. To prevent horse-racing, immoderate riding or driving, the riding or driving of any horse, ox, mule or other animal on the sidewalks, or the doing any damage to such sidewalks, and to regulate the hours and places of swimming or bathing in the waters within the limits of said city.

Racing and  
bathing.

9th. To restrain the running at large of cattle;

Animals and  
dogs.

horses, swine, sheep, poultry and geese, and authorizing the distraining and sale of the same; 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 ordinance.

Pounds, water works, hacks, lamps, &c.

10th. To make and establish public pounds, wells, cisterns and reservoirs, and to provide for the erection of waterworks for the supply of water to the inhabitants, or as a protection against fire; to erect lamps and provide for lighting the streets, public grounds and public buildings with gas or otherwise: *provided*, that either of the foregoing may be had and established in any one ward of said city, at the expense of said ward, whenever a majority of the electors of such ward, voting at any election called by authority of the common council for the purpose, shall authorize the same so to be done.

Board of health.

11th. To make regulations for the board of health, provide hospitals and poor houses, purchase and control cemetery grounds, regulate the burial of the dead, the return of bills of mortality, and the exemption of burial grounds set apart for public use from taxation; to which end, said city may purchase and hold within or without the city limits, not exceeding three hundred and twenty acres of land for hospitals and poor houses, or cemetery purposes, and may issue city bonds for the purchase and improvement of the same, to an amount not exceeding five thousand dollars, at a rate of interest not exceeding seven per cent. per annum, and payable at such time as the common council may direct, not exceeding twenty years.

Firearms, fireworks, &c.

12th. To prevent the shooting of firearms or crackers, and to regulate and restrain the exhibition of fireworks.

Drunkenness, obscenity, &c.

13th. To restrain drunkenness and obscenity or vagrancy in the streets or public places, and to provide for the arrest and punishment of the offender or offenders.

Runners.

14th. To restrain and regulate runners and solicitors for railways, steamers, vessels, stages, public houses or other establishments, and to establish and regulate the police of the city, and to appoint watchmen and prescribe their duties.

Auctions.

15th. To regulate the time, place and manner of holding public auctions, to provide for a standard of



weights and measures, and prescribe by ordinance the punishment for the use of false weights and measures.

16th. To protect trees and monuments.

Trees.

17th. To regulate the construction of wharves or piers extending into Fox river, to prescribe and control the prices to be charged for wharfage or pierage, to prevent the throwing or depositing of any filthy or putrid substance, or any slabs, chips, shavings or other substance in said river, and, by ordinance, to construct, alter and maintain, or cause to be constructed, altered or maintained, at the expense of said city, or any of the wards, wharves along the banks of said river.

Wharves, piers, &c.

18th. To regulate, control and prevent the landing of persons from railways, steamers, vessels or other conveyances, wherein are contagious or infectious diseases or disorders, and to make such disposition of such persons as to preserve the health of said city.

Contagious diseases.

19th. To establish and regulate pest houses within or without the limits of said city.

Pest houses.

20th. To prescribe and regulate the construction of all drains and sewers within said city.

Sewers, &c.

21st. To lay out, make, open, keep in repair, alter or discontinue any highways, streets, avenues, lanes, alleys and public squares, to purchase land and to establish it for public parks or squares, and to keep them free from encumbrances, and protect them from injury: *provided*, that a record of the establishment and discontinuance of a highway, street, avenue, lane or alley shall be made in the office of the register of deeds of Outagamie county.

Streets, alleys, public squares, &c.

22d. To alter or change the name of any street, to alter or vacate the recorded plat of said city, or any part thereof surveyed, platted and recorded in the office of the register of deeds of Outagamie county, upon petition, and upon such notice as is required in vacating town plats in the circuit court.

Vacating streets, &c.

SECTION 3. The powers conferred upon the common council to provide for the abatement or removal of nuisances, shall not bar or hinder suits, prosecutions or proceedings in the courts according to law. Depots, houses and 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

In relation to nuisances.

the license required therefor, are hereby declared and shall be deemed public or common nuisances.

Ordinances, &c.  
to be published.

SECTION 4. All 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 or acting 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 said ordinances, regulations or by-laws shall be recorded, the publication thereof, respectively, within the said time, shall be proved by the affidavit of the printer, publisher or foreman 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. A printed copy of an ordinance, regulation, by-law or resolution, passed by the common council and published in an official newspaper of said city, or in pamphlet or book form, shall be *prima facie* evidence of its due passage and publication, and shall be received in evidence on the trial of all cases cognizable before any court in this state.

Affidavit of pub-  
lication.

Evidence.

Appropriations.

SECTION 5. No appropriation shall be made without a vote of a majority of the common council in its favor, which vote shall be taken by ayes and noes, and entered among the proceedings of the common council; nor shall any appropriation be made for any purpose not authorized by this act, nor any judgment nor penalty recovered in favor of the city, be remitted or discharged, except by a majority of the aldermen elect.

Council to audit  
accounts of of-  
ficers.

SECTION 6. The common council shall examine, audit and adjust the accounts of all officers and agents of the city, at such times as they may deem proper, and also at the end of each corporate year, and before the time for which the officers or agents of said city are chosen, shall have expired. The common council shall require each and every such officer and agent to exhibit his books, accounts, vouchers, moneys, and funds for such examination and settlement; and if any such officer or agent shall neglect or refuse to comply with the orders of the common council in the discharge of their duties, in pursuance of this section,

When office may  
be declared va-  
cant.

or shall neglect or refuse to render his accounts or present his books, funds, moneys and vouchers to said common council, it shall be the duty of the common council to declare the office of the offending person vacant, and the city attorney shall thereupon institute suits and proceedings at law against any officer or agent so offending, who may be found delinquent or defaulting in his accounts; and a full record shall be made by the city clerk of all settlements and adjustments.

SECTION 7. The common council shall have authority to investigate and examine into all and every official act and transaction of the mayor, any member of the common council, or any other officer or agent of the city, and also into all and every official act or 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, acting mayor, president of the common council, or any member of any committee appointed by the common council, shall have power to administer all necessary oaths or affirmations to persons who may be called before the common council, or any such committee, to give testimony. The mayor, acting mayor, or president of the common council, is authorized and empowered to issue a subpoena, by him signed, commanding any person to appear before the common council or committee designated, to testify concerning any matter under examination or investigation, as above provided, and to produce before the common council or such committee, any books, papers or documents relating to the matter under examination or investigation, and every person served with such process is hereby required to obey the same without the prepayment of fees.

Council may investigate acts of officers.

SECTION 8. If any person shall neglect or refuse to appear and testify, and produce such books, papers and documents, as required by section seven of this chapter, the common council may declare him in contempt, and upon proof of service, it shall be the duty of the county judge of Outagamie county, or the judge of any court of record, upon the application of the mayor, acting mayor or president of the common council of said city, or any committee appointed by such common council, to issue a summary process,

Contempt—punishment.

either in term time or vacation, for such offending person, and to bring him before him, and then unless such person shall purge himself of contempt, and go before the common council or such committee, and testify and produce such books, papers or documents, to commit him to the common jail of Outagamie county, there to remain in close confinement until he shall so testify, or produce the books, papers or documents as required, or he is discharged by the common council or any such committee; and the jailer of such county is hereby required to receive and secure any such person pursuant to any such commitment.

How examination may be had.

SECTION 9. The examination and investigation hereinbefore provided for may be had, done and taken by the common council when in session, or by a committee to be appointed by the common council, who are authorized to perform such duties when that body is not in session.

Evidence.

SECTION 10. Any admission which any person shall make when testifying before such committee or the common council, shall not be used against him as evidence in any civil or criminal suit.

## CHAPTER V.

### FINANCES AND TAXATION.

Council to manage funds.

SECTION 1. All funds in the treasury, except state, school and county funds, and the special funds for street improvements, as provided for in section seven of chapter seven of this act, 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 treasurer shall specify the purpose for which they were drawn, and shall be payable from its appropriate fund only.

Annual tax—limit.

SECTION 2. The common council shall annually levy upon the taxable property of said city, to defray the current expenses of the city, as follows: For the support of the poor, a tax not exceeding one thousand five hundred 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, except for principal and interest upon city bonds which have been or may hereafter be issued, a tax not ex-

ceeding four thousand dollars: *provided*, that nothing herein contained shall be so construed as to lessen or interfere with any ward or city tax elsewhere authorized to be levied and collected by the provisions of this act, when such tax has been duly authorized by a vote of the people of the ward or city; *and provided, further*, that this section shall not be so construed as to conflict with any general law of this state authorizing the levying and collection of taxes to pay bounties to volunteers, or for the support of the families of volunteers.

Proviso.

Bounty taxes to volunteers.

SECTION 8. Whenever it shall be necessary to build new bridges, or to aid in the construction of a railway bridge, 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 in a separate column in the assessment roll, particularly specifying the purposes 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.

Bridges—special taxes.

SECTION 4. Upon the approval of the aldermen of each ward of any debts contracted by such ward for the current year, the said common council shall allow the same, if such debt be a proper charge against said ward, and direct the mayor and clerk to issue orders of the city to the amount allowed to the persons entitled thereto: *provided*, that the common council shall in no case allow any such debt, if such allowance will cause the whole amount of orders issued to meet the indebtedness of such ward, to exceed the amount of ward tax which may be levied pursuant to this chapter, to meet the ward expenses for the current year, assuming as a basis the tax list of such year, if then made out, if otherwise, the tax list of the preceding year; and any alderman who shall contract debts against his ward, in any one year, to an amount greater than authorized by this act, shall be personally responsible for the same, as if it was a liability personally contracted; and no action or legal proceeding shall be maintained against the ward or the city therefor: *provided*, that no action shall be maintained against an alderman, under the provisions of this section, without proof of his assent to the contracting of the liability by the ward.

Ward debts.

Not to exceed tax.

Personal liability

Proviso.

SECTION 5. 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

Verification of accounts.

shall be substantially as follows: "I, —, being duly sworn, depose and say, the above account is just and true, and the same has not been paid, or any part thereof, and that the same accrued by the order of —. Subscribed and sworn to before me, this — day of —, A. D. —."

Accounts to be presented within one year.

SECTION 6. No account against the city or any ward shall be allowed by the common council or collected in any court, unless the same was presented for allowance within one year from the time the same accrued.

Assessment roll—equalization.

SECTION 7. It shall be the duty of the city clerk, annually, upon the receipt of the assessment roll, to lay the same before the common council, who, with the mayor, city clerk and assessor, shall constitute the city board of equalization, and shall meet at the office of the common council on the first Monday of July, in each year, at nine o'clock in the forenoon, and shall proceed, in all respects, so far as practicable, as town boards are required to proceed, to make such amendments, corrections and alterations, and to review, correct and equalize the assessments of the several wards, in their order. The mayor shall be president of the board of equalization, and the city clerk the clerk thereof, and all changes made in the assessment roll shall be recorded by such clerk. When the assessment roll has been duly equalized and corrected, the common council may, at any time thereafter, proceed to levy upon the whole amount of such assessment so equalized and corrected, such a per centage of tax as a majority of the common council shall deem necessary for all corporation purposes for the current year, subject to the restrictions contained in this act.

Levy of tax.

Taxes a lien on lands.

SECTION 8. All taxes and assessments, general or special, levied by virtue of this act, shall be and remain a lien upon the lands and tenements upon which they may be assessed, and upon 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 affect said lien. Any personal property belonging to the person taxed, may be taken and sold for the payment of taxes upon personal property.

Personal property may be taken.

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 "the tax list," and to it shall be appended a warrant, signed by the mayor and clerk, and sealed with the corporate seal of the 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. Before delivering such tax list to the treasurer, the city clerk shall compare it with the assessment roll as confirmed, and shall add to it his certificate, that the same has been by him compared, and that it is a true, full and complete copy of such assessment roll; and the tax list, when so certified, shall be *prima facie* evidence in every court, that the lands and persons therein named were subject to taxation, and that the assessment was just and equal.

Warrant.

List to be compared, &amp;c.

SECTION 10. All the general laws of this state which are now or may be hereafter 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; but the five per cent. included in said return as collection fees, shall, when collected, be paid over to the city treasurer, and by him placed in the general fund of the city, for the use and benefit of the city. The city treasurer shall be entitled to charge, collect and receive for said city, as fees for the collection of taxes and assessments, two per cent. on all sums collected by or paid to him prior to the first day of January, in each year, and five per cent. on all sums collected by or paid to him after said day and before his return to the county treasurer. The city treasurer shall, upon the receipt of the tax list, publish a notice in the weekly newspapers printed 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 eighth day of January next ensuing, at his office in said city, and that all taxes and assessments not paid by that day, will be col-

Collection of taxes.

Treasurer's fees.

Notice to be published—what to specify.

lected by the seizure and sale of the goods and chattels 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 such taxes and assessments within the time limited in such notice, shall be deemed a refusal to pay the same.

Sales to the city  
for taxes.

SECTION 11. If at any sale of personal estate, for taxes or assessments, no bids shall be made for any goods or chattels offered, the same shall be struck off to the city, and thereupon the city shall receive in its corporate name, a certificate of sale, and shall be vested with the same rights as other purchasers; and personal property so purchased by the city, shall be subsequently sold by the marshal at public auction, and the avails thereof paid to the city treasurer.

Taxes on lands  
omitted.

SECTION 12. If it shall appear to the assessor, 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, he 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 whatsoever hands they may have come. Should the taxes 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 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 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 relieved, shall be and continue a lien upon

Reassessment.



said lot or tract, and shall be collected as other taxes and assessments are collected under this act.

SECTION 13. The common council shall not have power to issue any bonds or other evidences of debt, payable at a day subsequently to the date thereof, except in cases authorized by this act or some law of the state; nor shall the common council issue, in any one year, orders upon the city to an amount greater than the surplus funds on hand, and 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 the common council shall be personally liable therefor, and the amount of such excess may be collected of them, or any of them, by any person holding such orders, in any court of competent jurisdiction: *provided*, that no alderman 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 14. Whenever the taxes upon personal property shall not be paid by the 15th 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 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.

When warrant  
may issue to  
marshal.

SECTION 15. All the directions 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 intrusted 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.

Errors shall not  
vitate, &c.

SECTION 16. 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

Setting aside of  
assessments.

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.

Board not to change relative valuation of the wards.

**SECTION 17.** The county board of equalizers of Outagamie county, shall equalize the assessment roll of the city with the assessment rolls of the towns in that county; but in such equalization, shall consider the assessment roll of the city as an entire roll, and shall not change the relative valuation of the different wards.

Board may levy tax.

**SECTION 18.** The county board of supervisors may levy taxes, 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 various purposes to be certified to the city clerk, as prescribed by law; and the city clerk shall make out a tax list for that purpose, and shall deliver the same to the city treasurer, as provided by law.

Laws governing treasurer.

**SECTION 19.** The city treasurer in collecting such taxes and making his return to the county treasurer, and in all other respects not herein provided for, 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 20.** In case the city treasurer is unable to collect any tax assessed upon any personal property, and payable by any person named in the tax list, he shall proceed in all things according to chapter 18 of the revised statutes, and the acts amendatory thereto, in bringing the 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 law of 1860, and any act that may be hereafter passed amendatory to said act, or in addition thereto.

## CHAPTER VI.

### OPENING OF STREETS, ALLEYS, ETC.

Laying out public grounds, &c.

**SECTION 1.** The common council shall have power to lay out and establish public grounds and squares, streets, alleys and highways, and to widen the same, as follows: Whenever ten or more freeholders, residing in

any ward, shall represent, by petition to the common council, that it is necessary to take certain lands within the ward where said petitioners reside, for public use, for the purpose of laying out public squares, grounds, streets, alleys or highways, or the enlarging or widening the same, the courses, distances and quantities of the lands proposed to be taken, as near as may be, together with the names and residences of the owners, if known to said petitioners, the common council shall thereupon cause notice of such application to be served upon the actual occupant or occupants of such lands, if any there be; and if any portion of such lands shall not be in the 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, at least once in each week, for two weeks successively.

SECTION 2. Such notice shall state that upon a <sup>What notice to state.</sup> day therein to be named, not less than five 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 of Outagamie county, naming such officer, for the appointment of twelve jurors to view the premises proposed to be taken, determine whether it will be necessary or expedient to take the same for the purposes specified in said petition, and to ascertain, appraise and determine the value of the land and the amount of damages to be paid to the owner or owners of the property determined to be taken.

SECTION 3. Upon presentation of such application, <sup>Precept to jury.</sup> and upon proof of the publication or service of the notice hereinbefore required, the said judge or court commissioner shall thereupon appoint as such jurors, twelve reputable freeholders, citizens and residents of said city, but not residents of the ward in which said premises may lie, nor personally 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 five days thereafter, to view the premises to be specified in said precept, and to make a return under their hands to the common council, whether in their judgment it is necessary to take the premises specified, or any adjoining premises, for the purpose specified in such application, and also

to make return of the value of the lands and the amount of damages to be paid to the owner or owners, respectively, of the property to be taken.

Service of precept.

SECTION 4. The city marshal or county coroner shall forthwith serve this precept on the jurors named, by reading the same to each of them that can be found, and immediately after such service, he shall return the precept, with his doings thereon, to the officer who issued the same.

Vacancy in jury.

SECTION 5. If any of the jurors so appointed cannot 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 shall indorse such substitution on the precept.

Oath to jurors.

SECTION 6. The said judge or court commissioner, or in his absence, any person authorized to administer oaths, 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.

Jurors to view premises, &c.

SECTION 7. The said jurors shall, at such time as they agree upon, without unnecessary delay, 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 witnesses. After viewing the premises and hearing the testimony, 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 and expedient to take the premises in question or adjoining premises, for the public use; and in case they find it necessary to take such premises, they shall report in parcels the value of the lands and the amount of damages awarded by them, which report, testimony and precept shall be returned to the city clerk within the time limited in said precept, and which award shall be final and conclusive: *provided*, that in case said jurors determine that it is necessary to take adjoining premises, not included in the original petition, the judge or court commissioner, on application of the jurors, shall extend the time, by indorsement on the precept, for a sufficient period to secure notice to the occupant

Report.

or owner of such premises, by personal service or by publication of the time and place when such jurors will receive testimony relative to the value of such adjoining premises, and the amount of damages to be awarded; *and provided, further*, that if the occupant or owner of any of the premises so viewed, shall show to the common council that he or she has other or further testimony, not previously attainable, which will tend to establish a greater value to the land proposed to be taken, or a greater amount of damages, the common council shall remand the case to the jurors to receive and act upon such testimony, and when their report is again presented, it shall be final and conclusive.

SECTION 8. 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.

Jurors' award in certain cases.

SECTION 9. The lands taken for the purposes mentioned in this chapter, shall not be appropriated to the public use, until the damages awarded therefor to each owner thereof, shall be paid or tendered to such owner or his agent, or in case the said owner or agent cannot be found, or is unknown, deposited to his credit with the county treasurer of Outagamie county, 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 ordinances and regulations of the city, in the same manner as streets, alleys and public grounds heretofore opened or laid out: *provided*, that the damages awarded by the aforesaid jurors shall be paid, tendered or deposited as hereinbefore required, within one year from the date of the filing of said award and report with the city clerk, and if not so paid, tendered or deposited, all the proceedings in such case shall be null and void.

Lands not to be taken until damages are paid.

SECTION 10. It shall be lawful for any person to pay, tender or deposit, as hereinbefore required, at any time within one year from the date of the filing of the award and report of the jurors, the damages awarded in any case arising under this chapter; 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

Filing of vouchers with clerk that damages have been paid, &c.

common council to enter an order among their proceedings, to take and appropriate such lands for the purpose required; and all expenses arising out of the provisions of this act, shall be chargeable to the ward wherein the lands taken shall lie, except for public grounds or parks, which shall be paid out of the general fund of the city.

Lands under lease.

SECTION 11. 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 chapter, all the covenants, contracts or engagements between landlord and tenant, or by any other contracting parties, touching the same, or any part thereof, shall, upon the filing of the award and report of the commissioners [jurors,] cease and be absolutely discharged.

Idem.

SECTION 12. 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 filing 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 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.

Proceedings when owner is a minor.

SECTION 13. When any known owner of lands or tenements affected by any proceedings under this chapter, shall be an infant, or labor under legal disability, the judge of any court of record in said county may, upon the application of the common council, or such party or his next of kin, appoint a guardian for such party, and all notices required by this chapter shall be served upon such guardian.

Survey and profile.

SECTION 14. Whenever any public ground, street, avenue, highway 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, and shall also cause the same to be recorded in the office of the register of deeds of Outagamie county.

## CHAPTER VII.

## CITY IMPROVEMENTS.

SECTION 1. The street commissioner shall adopt <sup>Street commissioner.</sup> general regulations, subject to the approval of the common council, requiring the owners or occupants of lots to cleanse and repair the sidewalks, streets, avenues and alleys adjoining such lots, and to employ any person or persons to cleanse and repair such sidewalks, streets, avenues and alleys, when such owner or occupant aforesaid shall neglect or refuse so to do. At some <sup>Report, &c.</sup> period prior to the delivery of the annual tax list to the city treasurer, under this charter, it shall be the duty of the street commissioner to make 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, and such amount shall be a lien upon such lot, and be levied thereon as a special tax, with all the legal consequences, both as to the collection of taxes and sale of such lot, prescribed in this act for special taxes.

SECTION 2. The street commissioner shall give notice to all owners or occupants of lots or lands which may be deemed injurious to health, by reason of stagnant water remaining thereon, to abate such nuisance, by draining or filling such lots or lands within a reasonable time 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, and the expense thereof shall be charged to and collected from said lots or lands, as provided in section one of this chapter. <sup>Unhealthy locations.</sup>

SECTION 3. The cost and expense of surveying <sup>Expense of surveying—how paid.</sup> streets, alleys, sidewalks, sewers, and of estimating work thereon, and of constructing and repairing public wells and reservoirs, 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 center thereof, shall be chargeable and payable by the lots fronting on such street or alley. Sewers may be ordered by the street commissioner, 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 commissioner, with the assistance of the city surveyor: *provided, however,* that where <sup>Provision.</sup>

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 lots 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.

Powers of commissioners.

SECTION 4. The street commissioner shall not have power to make, grade, gravel or pave any street, avenue, alley or public grounds, or to construct any well, reservoir, gutter, sewer or sidewalk, unless the same shall have been first duly authorized by an order of the common council, to be entered in their proceedings: *provided*, that nothing herein shall be so construed as to prohibit the street commissioner from making or causing to be made, all necessary repairs to any sidewalk, street, avenue, alley, public grounds, wells, reservoirs, sewers and gutters; *and provided, further*, that he shall be at liberty to construct public wells in any ward, whenever the aldermen of such ward make a written order directing him so to do; but there shall not be more than one such well to any four blocks upon any one street or avenue. Hereafter, no special improvements shall be ordered by the common council, exceeding in estimated cost the sum of two hundred dollars, unless more than one-half the owners of the lands or lots to be taxed for such improvement, shall petition, in writing, for the same, or unless the same shall be ordered by a vote of a majority of the aldermen elect. If the common council order any special improvement to be made, or pass any ordinance requiring any special improvement to be done, the vote thereon shall be taken by yeas and nays, and entered upon the journal of proceedings of said common council; and no special improvement shall be valid or binding, unless said vote be so taken and recorded.

When special improvements must be petitioned for.

Estimate of expense to be filed.

SECTION 5. Whenever the street commissioner shall determine to make any public improvement, as authorized by sections three and four of this chapter, he shall cause to be made, and file in his office, an esti-



mate of the whole expense thereof, and of the proportion to be assessed and charged to each lot or parcel of land, and in case of grading streets, avenues, alleys, highways or sidewalks, of the number of cubic yards to be filled in or excavated in front of each lot or tract of land, and such estimate shall be open to the inspection of all parties interested. The street commissioner shall give notice personally, or by advertisement in the official paper or papers printed in the city of Appleton, to the owners or occupants of the lots or parcels of land fronting on any street, avenue, alley, highway 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 street commissioner shall enter into contract for the doing thereof.

Publication of  
notice to owners.

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, within fifteen days after the service or first publication of the notice requiring the improvement to be made, represent to the commissioner, 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 commissioner shall report the same to the common council, who, or a majority of them, shall examine the premises; and if in their opinion the costs of such work shall exceed the benefit derived therefrom, it shall be their duty to determine in writing, subscribed by them, and preserved with the records of said city, 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,* any party feeling himself aggrieved by the determination of the common council, may, within ten days from the date thereof, appeal to the circuit court, as hereinbefore provided.

Excavation, &c.

Remonstrance.

Council to examine premises, &c.

Appeal.

Commissioner's  
certificate for  
work done.

SECTION 7. After the completion and performance of any contract entered into by the street commissioner, for work chargeable to lots or lands, by virtue of this chapter, he shall give to the contractor or contractors a certificate, under his 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 indorsement thereon; and if the amount thereof shall not be paid before the time of making out the annual assessment roll or tax list, the same shall be levied 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 and levy: *provided*, that in no event not herein authorized, 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.

Expense of open-  
ing highways.

SECTION 8. The one-half of the expense of opening, grading or graveling any highway which now is or may hereafter be laid out and established through the unplatted portions of the city, shall be chargeable to and payable out of the ward fund wherein such highway shall lie, and the balance of such expense shall be chargeable to the tracts or parcels of land fronting on such highway.

## CHAPTER VIII.

### 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.

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 and promoting fires; to regulate and prevent the use of fireworks and firearms; to compel the owners and occupants of buildings to have scuttles in the roofs, and stairs or ladders leading to the same, and also to provide wells or cisterns on their premises; 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.

Council may prevent the construction of dangerous buildings, &c.

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, 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 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 enlistment. Every member of each company hereby authorized to be formed, shall be exempt from service as a juror, and from military duty, during the continuance of such membership; and any person having served for the

May purchase fire engines, &c.

Fire companies.

Exemption.

term of seven years in either of said companies, shall be forever thereafter exempt from military duty, except in case of insurrection or invasion.

Chief engineer,  
&c.

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 engineer, when they may nominate and recommend to the common council one chief engineer and three assistant engineers, and four fire-wardens, and the common council shall thereupon confirm or reject said nominations, and the persons so appointed shall perform such duties as the common council may prescribe.

Duties of fire  
wardens.

SECTION 5. It shall be lawful for said fire-wardens, at any time in the discharge of their duties, to enter any building or inclosure, for the purpose of inspecting the same.

Fines.

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

Penalty for re-  
fusing 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 some 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, to consist of not more than thirty members. Such company shall constitute a part of the fire department, and at fires shall be subject to the control of the chief engineer. 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 Appleton, and are here-

by vested with all the powers and authority which now is, are, or hereafter may 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 necessary, not inconsistent with the laws of this 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 a 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, a notice thereof shall be given to the city clerk, and they shall preserve a record of all the members of said company. No compensation

## CHAPTER IX.

### SUPPORT OF THE POOR.

SECTION 1. All 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 \$1,500, to comply with the provisions of such laws; such tax to be levied and collected in the same manner as annual city taxes. And the common council shall appoint one or more suitable persons to act as overseers of the poor of said city, who shall perform all the duties of overseer of poor in towns, and such other and further duties as the common council shall prescribe. Poor tax.

## CHAPTER X.

### PUBLIC SCHOOL SYSTEM.

SECTION 1. The supervision of public instruction in said city, shall be vested in a board of education, consisting of the mayor and the director and clerk of each school district. The city superintendent of schools Board of education.

shall be *ex officio* a member of said board, but shall not be entitled to a vote.

Meetings of board.

SECTION 2. Regular meetings of said board shall be held on the last Saturdays of December, March, June and September, in each year, at such stated hour as said board may designate, and special meetings may be called by the city superintendent, or any two members of the board, by leaving written notice thereof at the residence of each member.

Presiding officer.

SECTION 3. A majority of the whole board shall be necessary to constitute a quorum for business. The mayor shall preside at all meetings, but in his absence any one of the members present may be chosen a chairman *pro tem*.

Duties of board.

SECTION 4. The duties of the board of education shall be as follows. 1. To elect annually, at the regular meeting in June, a city superintendent of schools, and one of their number to officiate as clerk. Such clerk shall keep a record of the proceedings of each meeting, and discharge such other duties as the board may direct. 2. To arrange and determine the boundaries of school districts, and to form new districts, subject to the approval of the common council. 3. To arrange terms and vacations of all public schools, and establish uniformity in the school system. 4. To require uniformity in text books, and to adopt or reject text books at will. 5. To institute uniform regulations for schools, not conflicting with the constitution or laws of this state.

Duties of superintendent.

SECTION 5. The duties of the city superintendent shall be as follows. 1. To examine all applicants for teachers' licenses, in the branches taught in the public schools of said city, and, if approved, give them certificates authorizing them to teach in said city. 2. To annul a teacher's certificate whenever he may think proper: *provided*, that such teacher shall have the right to appeal to the board of education. 3. To visit each school department in said city at least twice during each term. 4. To report to the board of education at each regular meeting, relative to the condition of the schools under his supervision, to make such recommendations as shall in his judgment conduce to their welfare, and to perform such other duties as may be required of him by the board.

Compensation.

SECTION 6. The members of the board of education

shall not be entitled to any compensation for their services; but the common council shall provide them with all necessary books and stationery, and a suitable place to hold their meetings, and the common council may, in its discretion, allow a reasonable compensation to the clerk of the board of education.

SECTION 7. All the laws of this state relative to public schools, so far as the same shall be applicable, and not inconsistent with the provisions of this chapter, shall apply to the city of Appleton. Application of laws. e

## CHAPTER XI.

### MISCELLANEOUS PROVISIONS.

SECTION 1. All powers conferred upon the towns or cities of this state to vote, levy and collect special taxes to provide bounties to volunteers in the service of the United States or of this state, or to support the families of such volunteers, or their widows and fatherless children, shall be of full force and effect in said city; and whenever a majority of the electors voting at any election called for the purpose, shall vote to levy a tax for the purpose of providing bounties to volunteers, the mayor and clerk shall forthwith proceed to issue a special tax list, based upon the preceding assessment roll, conforming in all respects to the annual tax list; and the city treasurer shall proceed to collect the same within thirty days thereafter, in accordance with the laws for the collection of annual taxes, and immediately thereafter make return of all delinquent taxes to the county treasurer of Outagamie county. Bounties to volunteers.

SECTION 2. All work for the city, or any ward therein, or any school district, when the amount exceeds fifty dollars, 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 3. All actions brought to recover any penalty or forfeiture under this act, or the ordinances, fire, health or police 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 ordinance or regulation, under which the penalty or forfeiture is claimed, and to give the special matter in evidence under it. Actions—how brought.

Prosecutions.

SECTION 4. In all prosecutions for any violation of any of the provisions of this act, or any ordinance or regulation, the first process shall be a summons, unless oath be made for a warrant, as in other cases.

Summons.

SECTION 5. When the action is commenced by summons, the complaint therein may be substantially in the following form :

Form.

"THE CITY OF APPLETON }  
                                    against           } In justice court.

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"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 regulation, describing it by its title,) which said \_\_\_\_ is now in force. By reason of such violation, an action hath accrued to the city of Appleton, 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."

Complaint.

SECTION 6. 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 :

"THE CITY OF APPLETON }  
                                    against           } In justice court.

---

Form.

"STATE OF WISCONSIN, } ss.  
                                  OUTAGMIE COUNTY, }

"\_\_\_\_ being duly sworn, complains on oath to\_\_\_\_, a justice of the peace of the city of Appleton, that \_\_\_\_ did, on the \_\_\_\_ day of \_\_, 18\_\_, violate section \_\_\_\_ of an ordinance (or regulation) of said city, (describing it by its title,) which said \_\_\_\_ is now in force and effect, as this complainant verily believes; and prays that said \_\_\_\_ may be arrested and held to answer to the said city of Appleton therefor.

"Subscribed and sworn to before me, this \_\_\_\_ day \_\_, 18\_\_."

It shall be sufficient to give the number of the section or sections, and the title of the ordinance or reg-



ulation of the law violated, in the foregoing forms of the complaints, and said complaint may be sworn to before any officer authorized to administer oaths. Upon the filing of such complaint with the justice of the peace, he shall issue a warrant thereon, which may be substantially as follows :

Warrant.

“STATE OF WISCONSIN, }  
 OUTAGAMIE COUNTY, } ss.  
 CITY OF APPLETON, }

Form.

“To the sheriff or any constable of said county, or to the marshal of the city of Appleton, greeting :

“Whereas, — has this day complained to me in writing, on oath, that — did, on the — day of —, 18—, violate section — (or sections —) of ordinance, (regulation or law, as the case may be, describing it by its title,) which said — is now in full force and effect, as the said complainant verily believes : Therefore, in the name of the state of Wisconsin, you are hereby commanded to arrest the body of said — and him bring before me forthwith, to answer to the city of Appleton, on the complaint aforesaid.

“Given under my hand the — day of —, 18—.

“ — justice of the peace.”

Upon the return of the warrant, the justice may proceed with the case, unless it be continued by consent or for cause. If the cause be adjourned, the defendant, if required by the court so to do, shall recognize with security, to be approved by the court, for his or her appearance, in such sum as the court shall direct, or in default thereof, may be put in charge of the officer making the arrest, or be committed to the common jail of Outagamie county. The complaint made as aforesaid, shall be the only complaint required, and a plea of “not guilty” shall put in issue all subject matter embraced in the action.

Proceedings before justice.

SECTION 7. Witnesses and jurors shall attend before a justice of the peace in all city and criminal suits, without the payment of fees in advance, or a tender thereof, upon process of the court duly served, and in default thereof, their attendance may be compelled by attachment.

Witnesses and Jurors.

SECTION 8. In city prosecutions, the finding of the court or jury shall be either guilty or not guilty. If

Finding, and judgment.

Execution.

guilty, the court shall render judgment thereon against the defendant for the fine, penalty or forfeiture contained in the ordinance or regulation, for the violation of which the defendant shall have been adjudged guilty, and for the costs of the suit; but if not guilty, the costs shall be taxed against the city. Upon conviction and the non-payment of such judgment, the court may forthwith issue an execution, as in cases of tort, and shall determine and enter upon the docket the length of time the defendant shall be imprisoned, which in no case shall exceed six months, and also insert such time in the execution or commitment. Such execution may be in the following form :

Form.

“STATE OF WISCONSIN, }  
 OUTAGAMIE COUNTY, } ss.  
 CITY OF APPLETON, }

“To the sheriff or any constable of the county of Outagamie, or to the city marshal, and to the keeper of the common jail of said county, greeting :

“Whereas, the city of Appleton, on the — day of —, 18—, recovered a judgment before —, a justice of the peace of said city, against —, for the sum of — dollars, together with — dollars cost of suit, for the violation of an ordinance, (by-law, resolution or law, as the case may be:) These are, therefore, in the name of the state of Wisconsin, to command you to levy distress of the goods and chattels of said —, except such as the law exempts, and make sale thereof according to law in such case made and provided, to the amount of said sum, together with your fees, and twenty five cents for this writ, and the same return to me in thirty days; and for want of such goods and chattels whereon to levy, take the body of the said —, and him convey and deliver to the keeper of the common jail in Outagamie 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.

“Given under my hand, this — day of —, 18—.

“—, justice of the peace.”

SECTION 9. No person shall be an incompetent judge or 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  
Judges, &c.

SECTION 10. All ordinances, regulations or by-laws now in force in the city of Appleton, 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 11. 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. vest-  
ed in corporation.

SECTION 12. All that part of Fox river within the limits of said city, shall be under the exclusive jurisdiction of said city and its common council, and all bridges over said river, within said limits, shall be under its control, and the common council shall have full power to build and construct, or cause to be built and constructed, new bridges, at such points as they may deem necessary, and for the best interest of the city, and to maintain and support all bridges which said city may now or may hereafter own, at the expense of said city.

Jurisdiction of  
city over bridges,  
&c.

SECTION 13. 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-craft, or by the master or any person 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.

Laws applicable  
to the prosecution  
of bridges.

SECTION 14. When any suit or action shall be commenced against said city, the service thereof may be made by leaving a copy of the process, by the proper officer, with the mayor, and it shall be the duty of the

Actions against  
the city.

mayor forthwith to inform the common council thereof, or take such other proceedings as by ordinances or the by-laws of said council may be in such case provided.

Exemption.

SECTION 15. 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.

Commissioners to establish line of streets.

SECTION 16. The common council of said city may at any time appoint four commissioners, one from each ward, who, with the assistance of the city surveyor, or such other assistant surveyor 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, avenues, highways, 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 surveyor, and a copy thereof shall be filed in the office of the register of deeds of Outagamie county.

Survey to be evidence.

SECTION 17. The survey and landmarks so made and established, shall be *prima facie* evidence of the lines and boundaries of all streets, avenues, highways, alleys, sidewalks, wharves, blocks and public grounds, in all cases in which they shall be drawn in controversy, in all courts in this state:

Grade.

SECTION 18. The common council of said city may, at such times as they deem proper, establish the grade of all streets, avenues, alleys, highways 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 Outagamie county; and should the grade so established be at any time thereafter 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 injured in consequence of any alteration of such grade: *provided*, that nothing in this section shall be so construed as to prevent the street commissioner from ordering or causing to be done the grading of any street, avenue, alley or highway, to a temporary grade to be by him established.

Temporary grade

SECTION 19. Said city may purchase, lease 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. City may hold real estate.

SECTION 20. Real estate exempted from taxation by the laws of this state, shall be subject to special taxes as other real estate under this act, for special improvements. Special taxes.

SECTION 21. Every individual or company of individuals, or body corporate, owning a lot or tract of land within the limits of the city of Appleton, who may desire to subdivide or plat such lot or tract of land into city lots, shall, in platting the same, cause the streets, avenues and alleys in such plat to correspond in width and general direction with the streets, avenues 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 plat, 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 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 by the city clerk, shall be affixed to said plat, it shall not be lawful for the register of deeds of Outagamie 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 resolution 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, for the use of said city. Subdivision of lots, &c.

Plats to be approved by council.

Penalties.

SECTION 22. In all cases when by the provisions of this act, or of any ordinance of said city, personal service is required upon the owner or occupant or agent of any property in said city, it shall be sufficient to deposit such notice, in a prepaid envelop, in the Ap- Personal notice.

pleton postoffice, directed to such owner, occupant or agent residing in said city.

Parties to deeds.

SECTION 23. When the city 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 Appleton," and the person or persons authorized to execute such deed or lease need not be named in the body thereof.

Deeds to lands belonging to the city.

SECTION 24. The mayor of said city is hereby authorized to execute a deed or deeds, lease or leases, or other conveyance, of any real estate belonging to the city: *provided*, that such sale, lease, quitclaim or other conveyance shall first be authorized by the common council, by ordinance or resolution, which ordinance or resolution shall fully describe the real estate and interest to be conveyed. Said deed or other instrument shall be signed by the mayor and countersigned by the city clerk, and sealed with the corporate seal of said city, and duly witnessed and acknowledged, as prescribed by law.

Copy of ordinance to be attached to and recorded with deed.

SECTION 25. When any such deed or other conveyance is so executed, the city clerk shall attach thereto a true and attested copy of such ordinance or resolution, and the same shall be recorded by the register of deeds of Outagamie county, with said instrument; and such copy, so attached and recorded, shall be *prima facie* evidence in all courts and places, of the authority of such mayor to make and execute such deed, lease or other conveyance.

Question of issue of improvement bonds may be submitted to vote.

SECTION 26. At each annual election held in said city pursuant to this act, for a period of five years from and after the year 1865, the question of issuing city bonds to an amount not exceeding four thousand dollars in any one year, to be applied to the construction, improvement or repair of roads and bridges leading to or from said city, said bonds to draw an annual interest not to exceed seven per centum per annum, on not exceeding twenty years' time, shall be submitted by the common council to the qualified electors of said city, under such conditions and restrictions as said common council shall prescribe.

Negotiation of bonds.

SECTION 27. In any one year when a majority of the electors voting at the annual election in said city, under this act, shall vote in favor of the issue of city

bonds, as provided in the preceding section, the common council shall authorize the mayor or an alderman, or any other person, to negotiate the sale of said bonds, and to allow a reasonable compensation therefor: *provided*, that all such bonds shall be signed by the mayor, and the seal of said city attached thereon, and every bond shall have interest bonds or coupons attached thereto; *and provided, further*, that the common council may, in their discretion, require that said bonds shall not be sold at less than their par value.

SECTION 28. In case any city bonds shall be issued pursuant to this act, the common council shall annually cause to be levied and collected on the taxable property of said city, a sufficient sum to pay the interest on said bonds as it becomes due; and when the principal of such bonds becomes due, to cause to be levied and collected on the taxable property of said city, a sum sufficient to pay such principal; and if they fail to order such sums to be levied and collected at the times aforesaid, they may be compelled to do so by the order of the circuit court, in term time or in vacation.

Tax for interest  
and principal.

SECTION 29. The said common council shall have full power to make and repair any established road, and build and repair bridges thereon, in any town or towns adjacent to said city, whether within or without the county of Outagamie, and may, through its street commissioner, enter into all necessary contracts for labor and materials: *provided*, that the written consent of a majority of the supervisors of such town shall first be obtained to the making of such expenditure and improvement.

Repair of roads  
and bridges out  
of city.

SECTION 30. Nothing in this act, nor in the succeeding section of this chapter, shall be so construed as to repeal or invalidate, or in any manner modify, the provisions of chapter 199 of the general laws of 1864, but said chapter 199 shall be and remain in full force and effect; and all the acts of the common council, and of the people of said city, begun and had pursuant to said chapter 199, in holding and conducting an election, and voting and authorizing the issue of city bonds to the amount of twenty-five thousand dollars, shall be and remain in full force and effect; and whenever the mayor and common council of said city shall deem it expedient, they may order an election, giving at least ten days' notice thereof, upon the question of issuing

Construction.

**Branch roads.** the further sum of twenty-five thousand dollars, in city bonds, to be applied to the construction of a branch railroad, and all necessary side tracks, within said city; and said mayor and common council are fully authorized and empowered to contract with any railroad company which now is or may be hereafter operating [any road] in the county of Outagamie, Calumet or Winnebago, for the construction of a branch railroad and side tracks to, through or from said city, and may appropriate the avails of the bonds so voted, as well as the avails of the bonds for twenty-five thousand dollars heretofore voted, toward the construction of any such branch railroad and side tracks: *provided*, that such bonds shall be issued in sums not less than fifty nor more than five hundred dollars, with coupons or interest warrants attached, which interest shall not exceed seven per centum per annum; *and provided, further*, that the last twenty-five thousand dollars of such bonds herein provided for, shall not become due and payable until a period of twenty years from the date of their issue.

**Repeal.** SECTION 31. An act entitled "an act to incorporate the city of Appleton," approved March 29th, 1857, and the several acts amendatory thereof, and all acts or 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 in force and carried out as fully and effectually, to all intents and purposes, as if this act had not been passed. And all ordinances, resolutions, regulations, rules, by-laws and orders of the common council of said city, or parts thereof not repealed, suspended or made void by this act, shall continue and remain of the same force and effect as if this act had not been passed, until altered, amended, repealed or suspended by the common council in pursuance of this act.

**Publication.** SECTION 32. This act shall be published in each of the newspapers published in the city of Appleton, at the expense of such city: *provided*, that the expense



thereof shall not exceed 30 cents per folio to each of said newspapers.

SECTION 33. No general law of this state, Relating to repeal, ac. of this act. 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.

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

Approved March 31, 1865.

## CHAPTER 269.

[Published May 18, 1865.]

AN ACT relating to marriage certificates.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. The clerk of the circuit court of each county in this state, shall forthwith transfer to the office of the register of deeds of his county, all records of marriages and all marriage certificates on file in the office of said clerk. To be transferred to office of register.

SECTION 2. The said register shall immediately after said transfer, record in the manner now provided by law, such of said certificates as are not already recorded; and the clerk and register of deeds of any county where such records may be, shall receive for their services such compensation as the board of supervisors of such county shall deem just and proper, not exceeding the rates now allowed by law for similar services. Register to record them. Fees.

SECTION 3. Copies of the records of any marriage certificate of record in the office of any register of deeds, shall be *prima facie* evidence of the matters therein stated. Copies to be evidence.

SECTION 4. This act shall take effect when published.

Approved April 1, 1865.