

CHAPTER 258.

[Published March 22, 1875.]

AN ACT to incorporate the city of Waupaca.

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

CHAPTER I.

CITY AND WARD BOUNDARIES.

SECTION 1. From and after the first Tuesday of April next, the district of country in the county of Waupaca, contained within the limits and boundaries hereinafter described, shall be a city by the name of the city of Waupaca, and the people now inhabiting, and those who shall hereafter inhabit the district of country herein described, shall be a municipal corporation by the name of the city of Waupaca, and shall have the general powers possessed by municipal corporations at common law, and in addition thereto, shall possess the powers herein specially 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 change and alter the same at pleasure.

SECTION 2. The territory lying in the county of Waupaca and being all of sections 19, 20, 29 and 30, and the north half of 31, and 32, of township 22 north, of range 12 east, shall comprise the territory and limits of the city of Waupaca.

SECTION 3. The city shall be divided into three wards, as follows: The first ward shall be all that portion of said city embraced within sections 19, 30, and 31, south of the Waupaca river, and west of the east line of said sections. The second ward shall be all that portion of said city embraced in sections 29 and 32, lying south of Waupaca river, and east of the west line of said section. The third ward shall be all that portion of said city lying north of Waupaca river.

SECTION 4. The corporate authority of said city shall be vested in one principal officer, styled the

General powers.

City boundaries.

Ward boundaries.

Corporate authority—in whom vested.

mayor, in one board of aldermen, consisting of two members from each ward, who, with the mayor, shall be denominated the common council, together with such other officers as are hereinafter mentioned, or may be created under this act.

CHAPTER II.

ELECTIONS.

Elective officers.

SECTION 1. The elective officers of said city shall be a mayor, a treasurer, a police justice of the city at large, and two aldermen from each ward, one of which shall be designated as supervisor and shall be entitled to represent his ward on the county board of supervisors, and one justice of the peace for each ward, which said officers shall hold their respective offices as follows: The mayor, treasurer and one alderman in each ward, for one year; one alderman in each ward, police justices and justices of the peace, for two years. The mayor, treasurer and police justice shall be qualified voters and residents of said city, and the ward officers shall be qualified voters and residents of the respective wards for which they were elected.

Elections.

SECTION 2. The qualified voters of the city of Waupaca shall hold an election on the first Tuesday of April in each year, after the first, for the election of city and ward officers. Said elections shall be held in the several wards, for the officers herein designated, and shall be presided over by the aldermen and justice of the peace, in the respective wards, or, in case of their absence or disability, the voters present at the hour of opening the polls shall elect *viva voce*, a sufficient number of inspectors to make three with the alderman or aldermen, or said justice present, who shall be sworn in accordance with the laws of this state. Such inspectors shall appoint two clerks of the election, who, before entering upon the discharge of their duties as such clerks, shall also be severally sworn in accordance with the laws of this state, and such inspectors shall see the names of the voters registered, and the ballots safely deposited in the ballot box; shall decide all questions that may arise as to the legality of the votes presented; shall count the ballots at the close of the polls, and shall certify and seal two returns, and the day following the election, shall direct and return one of the said returns to the city clerk of the city of Waupaca, the

other to the county clerk for the county of Waupaca. The mayor of the city, and such members of the common council as shall hold over, shall constitute a board of canvassers, who shall within five days after such election, meet at the common council chamber and canvass such returns, and after the aforesaid returns have been canvassed by said board, the mayor shall notify by a certificate the persons elected to the respective offices. The polls shall be kept open in the respective wards from nine o'clock in the forenoon until five o'clock in the afternoon. Said elections shall be conducted in accordance with this act, and of the existing laws of the state of Wisconsin, and any frauds or violation of said laws at such elections shall be punishable in the same manner as any violation of the election laws in any part of the state.

SECTION 3. In the event of a vacancy in the office of mayor, police justices or aldermen, by death, removal, or other disability, the common council shall order a new election, and shall give five days' notice thereof. Any vacancy in other offices shall be filled by the common council. The person appointed or elected to fill a vacancy, shall hold his office and discharge the duties thereof for the unexpired term, 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. All elections by the council shall be viva voce. 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 council, at such time and in such manner as they may direct.

Elections by
people to be by
ballot.

In case of tie
vote.

SECTION 5. All persons who are qualified electors of the state of Wisconsin, and who shall be bona fide residents in the city at time of any election of the city of Waupaca and in the ward where they offer their vote, shall be deemed qualified electors of said city and ward.

Qualification
of electors.

SECTION 6. If either of the inspectors of elections or aldermen shall suspect that any person offering to vote does not possess the necessary qualifications of an elector, or if such vote be challenged by an elector, the inspectors or aldermen, before receiving any such vote, shall require the voter offering his vote to take the following oath: "You do solemnly swear

Challenge of
votes.

Oath of elec-
tor.

(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 intentions to become a citizen, 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; and that you are now an actual resident in the city of Waupaca, and within this ward; and that you have not voted at this election, and that you have made no bet or wager depending on the result of this election." And if the person offering to vote shall take such oath, his vote shall be received, and if such person shall take such oath falsely, he shall be deemed guilty of wilful and corrupt perjury, and upon conviction thereof shall suffer the punishment provided by law for persons guilty of perjury. If any person, not a qualified voter, shall vote at any election, or if any person duly qualified shall vote in any other ward than the one in which he resides, or shall vote more than once at any election, he shall be deemed guilty of a misdemeanor, and on conviction thereof shall forfeit and pay a sum not exceeding one hundred dollars, nor less than twenty-five dollars. It shall be the duty of inspectors to keep a list of the names of all persons whose votes may be challenged as aforesaid, and shall swear in their votes; and if any inspector or alderman shall knowingly and corruptly receive the vote of any person not authorized to vote, or shall make out false returns of any election, or if any clerk shall not write down the name of every voter as he votes, or shall wilfully make untrue and incorrect counts and tallies of votes, each and every inspector or clerk shall be liable to prosecution, and, upon conviction thereof, shall severally forfeit and pay a sum not exceeding five hundred dollars, nor less than one hundred dollars. All such prosecutions shall be tried in the circuit court for the county of Waupaca.

Penalty for
illegal voting.

Penalty for
making false
returns.

Special elec-
tions.

SECTION 7. Special elections to all vacancies, or for any other purpose, shall be held and conducted by the aldermen and justice of the peace of each ward as inspectors, as provided by this act, and returns thereof shall be made in the same time, manner and form as of general or annual elections.

Election
of
aldermen.

SECTION 8. There shall be elected annually (after the first election), on the first Tuesday in April, one al-

derman in each ward, who shall hold his office for two years.

SECTION 9. Any officer removing from the city, and any ward officer removing from the ward for which he was elected, and any officer who shall neglect or refuse to qualify on or before the second Tuesday of April next after his election, shall be deemed to have vacated his office and the common council shall proceed to fill such vacancy as herein provided. All officers appointed or elected to fill any vacancy shall enter upon the duties of such office immediately after receiving notice of such election or appointment.

When offices shall be deemed vacant.

SECTION 10. The term of every officer elected under this law shall, after the election, commence on the second Tuesday of April of the year for which he was elected, and shall, unless hereafter or heretofore otherwise provided, continue for one year and until his successor is elected and qualified. And each of said officers shall have such powers and perform such duties as are prescribed in this act or as may be prescribed in any ordinance of said city not inconsistent with this act or which may not be incompatible with the nature of their respective offices.

Terms of office.

Powers and duties of officers.

SECTION 11. Should there be a failure by the people to elect any officer herein required to be elected on the day designated, the common council may order a new election to be held, ten days' notice of the time and place of holding the election being first given, and said election shall be conducted in all respects, so far as practicable, in the same manner as annual elections are herein provided for.

When council may order new election.

SECTION 12. The board of trustees of the village of Waupaca, or a majority of them, at a meeting which shall be held by them, on the 17th day of March, A. D. 1875, appoint a place in each ward, for holding the first election of officers in said city, and shall appoint three inspectors, and one clerk of election in each ward, and give notice of such election, stating the places where the same shall be held, and the names of the persons so appointed, at least four days previous to such election, by publishing the same in the newspapers printed within the limits of said city; such inspectors shall, at such first election, have the powers and duties conferred by this chapter on the aldermen and justices of the peace of each ward, acting as inspectors of elections; said election shall be held at the same time of day, and conducted in the same manner as the annual elections provided for in

First city election—how to be conducted.

this act, so for as practicable, and when the first election under this act shall be closed, the number of votes for each candidate or person voted for, shall be counted and ascertained by said inspectors, who shall make return thereof, stating the number of votes for each person, for each and every office, and shall deliver or cause to be delivered, such returns to the county clerk of Waupaca county within two days after such election; within five days after such election, the county clerk, county judge, and the register of deeds of said county, shall meet and canvass the

Canvass of returns.

SECTION 13. The first election of officers under the provisions of this act, shall be held on the fourth Tuesday of March, A. D. 1875.

Time of holding first election.

CHAPTER III.

OFFICERS—THEIR POWERS AND DUTIES.

Officers to subscribe oath of office.

SECTION 1. Every person elected or appointed to any office under this act, shall, before he enters upon the duties of his office, take and subscribe an oath of office, and file the same, duly certified by the officer taking the same, with the city clerk; and the treasurer, chief of police, street superintendent, police justices and justices of the peace, and such other officers as the common council may direct, shall severally, before they enter upon the duties of their respective offices, execute to the city of Waupaca a bond, in such sum and with such security and such conditions as the common council may direct; and the common council may, from time to time, require new or additional bonds, and remove from office any officer refusing or neglecting to give the same.

To give bonds.

Mayor—his powers and duties.

SECTION 2. The mayor when present shall preside over the meetings of the common council, and shall take care that the laws of the state and the ordinances of the city within the corporation, are duly enforced and observed, and that all officers of the city discharge their respective duties. He shall also appoint a chief of police and such further number of policemen, as the common council may at any regu-

lar meeting authorize, which appointments shall be approved by the common council before they shall enter upon the duties of their office; and the compensation of the chief of police shall not exceed two dollars and fifty cents per day, to be determined by the common council; and the said policemen for the respective wards shall receive the fees allowed to the constables for the same services, and in addition may be paid such compensation for extra services ordered by the mayor or common council, not exceeding one dollar per day, as the common council may determine. The mayor may also appoint as many special or temporary police on election days or other public or unusual occasions, as he may think proper, but no such special or temporary police shall be paid any compensation for his services out of the city treasury, unless otherwise ordered by a vote of three-fourths of all the members of the common council. The common council may by ordinance prescribe the powers and duties of police and other peace officers. The mayor shall communicate in writing to the common council, once a year, such information as he may deem necessary, and at all times give such information as the common council may require. The mayor shall have power to administer oaths and affirmations, take acknowledgments of deeds and other instruments, and perform marriage ceremonies.

Appointment
and compensation
policemen,

SECTION 3. At the first meeting of the common council in each year, or as soon thereafter as may be, they shall proceed to elect by ballot one of their number president, and in the absence of the mayor the said president shall preside over the meetings of the common council, and during the absence of the mayor from the city, or his inability from any cause to discharge the duties of his office, the president shall exercise all the powers and discharge all the duties of mayor. In case the mayor and president shall be absent from any meeting of the common council, they shall proceed to elect a temporary presiding officer who, for the time being, shall discharge the duties of mayor. The president or temporary presiding officer while presiding over the council, or performing the duties of mayor, shall be styled acting mayor, and acts performed by them shall have the same force and validity as if performed by the mayor. But the president of the council, as acting mayor, shall sign no order, warrant, or other proceeding

President of
council.

whatever which the mayor has refused to sign and communicated such refusal to the council.

City clerk.

SECTION 4. The common council shall elect a city clerk; he shall keep the corporate seal and all the papers and records of the city; he shall attend the meetings and keep a record of the proceedings of the common council. The records of the common council kept by him shall be evidence in all legal proceedings, and copies of all papers filed in his office and transcripts from the records certified by him under the corporate seal, shall be evidence in like manner as if the original were produced. He shall keep a full and accurate account of all certificates of appropriation and orders drawn on the city treasury in a book provided for that purpose, and shall also keep an accurate account with the treasurer, and charge him with all the tax-lists delivered to him for collection, and all sums of money paid into the treasury. Whenever the clerk shall be absent from any meeting, the city council may appoint a clerk *pro tem*. The city clerk shall have power and authority to administer oaths and affirmations, and take acknowledgments of deeds and other instruments. He may appoint a deputy in writing, under his hand, and file such appointment in his office, and such deputy, in case of absence or disability of the clerk, shall act in his place.

City treasurer.

SECTION 5. The treasurer shall receive all moneys belonging to the city, and keep an accurate and detailed account thereof, together with an account of all disbursements in such manner as the common council shall direct. He shall report to the common council as often as required, and annually at least ten days before the annual election, a full and detailed account of all receipts and expenditures after the date of the last annual report, and also of the state of the treasury, which statement shall be filed with the clerk.

Chief of police.

SECTION 6. The chief of police shall perform such duties as shall be prescribed by ordinance for the preservation of the public peace, and the collection of fines and license money. He shall possess all the powers and perform all the duties of a constable under the laws of the state, and receive like fees, but he shall not go beyond the city limits to make arrests or to serve any process, unless the cause for making such arrest or for issuing such process arose within the city; and the said policemen of said city shall be

under the control and direction of the mayor and chief of police, and shall have all the powers, and shall perform all duties of a constable under the laws of the state of Wisconsin. But no fees shall be paid by the city to the chief of police or any policeman for making any arrest or serving any civil or other process.

SECTION 7. The common council shall have power from time to time to require other and further duties to be performed by any officer whose duties are herein prescribed, and to appoint such other officers as may be necessary to carry into effect the provisions of this act, and to prescribe their duties, and to fix the compensation of all officers elected or appointed by them, such compensation to be fixed by resolution at the time the office is created, or at the commencement of the year, and shall not be increased or diminished during the term such officers shall remain in office.

Further duties of officers.

Compensation not to be changed.

SECTION 8. The common council shall, at their first meeting, or as soon thereafter as may be, and annually thereafter, designate a newspaper, printed and published in the county of Waupaca, to publish all ordinances and by laws, and to do all other printing under the provisions of this act, and they may let the same by contract to the lowest responsible bidder for the term of one year; and the printer of said newspaper shall, either in person or by his foreman, file with the clerk of the city, his or their affidavits of the length of time said ordinance, by-law or proceeding, has been published, and such affidavit shall be prima facie evidence of the publication of such notice, ordinance, proceeding or by-law.

Official paper.

SECTION 9. If any person having been an officer in said city, shall not within ten days after notification and request, deliver to his successor in office all property, money, books, papers and effects of every description in his possession belonging to said city, or pertaining to the office he may have held, he shall forfeit and pay to the use of the city one hundred dollars, besides all damages caused by his neglect or refusal so to deliver, and such successor may recover the possession of such books, papers, and effects in the manner prescribed by the laws of this state.

Penalty for neglect to deliver books and records to successor.

SECTION 10. The mayor, sheriff of Waupaca county, each and every alderman, justice of the peace, policeman and watchman, shall be officers of the peace, and suppress in a summary manner, all rioting and dis-

Peace officers—their powers and duties.

orderly behavior within the limits of the city, and for such purposes may command the assistance of all bystanders, and if need be of all citizens and military companies. If any person, by-stander, military officer or private, shall refuse or neglect to aid in maintaining the peace when so required, every such person shall forfeit and pay a fine of fifty dollars; and in case the civil power may be required to suppress riots or disorderly behavior, the superior or senior officer present, in the order above mentioned in this section, shall direct the proceedings.

Police justice
—power and
authority of.

SECTION 11. The police justice shall have and possess all the authority, powers and rights of a justice of the peace in civil proceedings, and shall have sole exclusive jurisdiction to hear all complaints, and conduct all examinations and trials in criminal cases within the city, cognizable before a justice of the peace; but warrants returnable before said justice may be issued in criminal cases by any other justice in the city, but no fees shall be received therefor by said justice. The said justice shall have exclusive

Exclusive ju-
risdiction in
certain cases.

jurisdiction in all cases cognizable before a justice of the peace in which the city is a party, and shall have cognizance and exclusive jurisdiction of all suits, prosecutions, or proceedings for the recovery of any fine, forfeiture or penalty under any by-law, ordinance or regulation of said city of Waupaca, or its charter, or for a breach or violation of any such ordinance, by-law and regulation, and in all cases of offenses committed against the same. All prosecutions for assaults,

Prosecutions
to be commenc-
ed in name of
city.

batteries and affrays not indictable, and for a breach or violation of any such by-law, ordinance or regulation, shall be commenced in the name of the city of Waupaca, and the same proceedings shall be had in all civil and criminal suits before said justice, where not otherwise herein directed, as are established and required to be had in civil and criminal actions by the laws of this state before a justice of the peace: *pro-*

No appeal in
certain cases.

vided, that in cases of prosecution for a breach or violation of an ordinance, by-law, or regulation of said city, or its charter, or for any (*assessment*) assault, battery, or breach of the peace, or any affray not indictable, committed within the city limits, no appeal shall be allowed where the judgment or fine imposed, exclusive of costs, in less than twenty-five dollars (\$25.00.) In all cases of conviction for assaults, batteries and affrays within the said city, and in all cases of conviction under any ordinance of said city for any breach of the peace,

disorderly conduct, keeping houses of ill-fame or of frequenting the same, and of keeping or maintaining disorderly and ill governed houses, said justices shall have power in addition to the fine or penalty imposed to enter judgment for costs of prosecution against the defendant, and to compel such offenders to give security for their good behavior and to keep the peace for a period not exceeding six months, and in a sum not exceeding five hundred dollars. The said justice shall have the same power and authority in case of contempt as a court of record; *provided*, that nothing herein contained shall be deemed to divest the circuit judges of their authority as conservators of the peace, nor to effect in any manner the jurisdiction or power of the circuit courts or supreme court of this state. In case of absence, sickness, or other inability of such justice, or for any sufficient reason, the mayor, by warrant, may authorize any justice of the peace within said city to perform the duties of said justice for the city, and it shall thereupon be the duty of the mayor to inform the city attorney and the police of such substitution, and make report thereof to the common council, and they may confirm or set aside such appointment, or appoint some other justice of the peace; and the justice of the peace so appointed shall for the time being possess all the authority, powers and rights of said police justice; all the fines and penalties imposed by the police justice for offenses committed within the city limits, or for violation of any ordinance, by-law or regulation of said city, shall belong to and be a part of the finances of said city.

Proviso.

In case of inability of police justice.

SECTION 12. The police justice shall quarterly report to the common council a list of all proceedings instituted before him in behalf of the city, and the disposition thereof, and shall at the same time, account for and pay over to the treasurer the amount of all penalties and fines collected, which may by law accrue to the city. The city shall not be liable for or pay any costs for violation of any law of this state, and such justice shall pay to the county treasurer all fines collected for offenses against the laws of this state, in the same manner that justices of the peace are required by law to do.

Police justice to report to common council and pay over fines collected to treasurer.

SECTION 13. On the third Tuesday of April in each year, or within ten days thereafter, the common council may elect one superintendent of streets, and a city surveyor, each one of which shall hold his of-

Superintendent of streets and city surveyor.

fice until the next third Tuesday in April, and the common council shall have power to fill from time to time, vacancies that may exist in said offices.

Assessing districts and assessors.

SECTION 14. The common council shall, on or before the first Tuesday of May in each year, by an ordinance, divide said city into two districts to be styled assessing districts, and shall at such meeting elect an assessor for each of said districts who shall hold their respective offices for the term of one year, and until their successors are elected and qualified.

Duties of assessors.

SECTION 15. The assessor so elected shall assess all the taxable property of their said districts as required by law, and each shall complete and return their assessment rolls to the common council on or before the first Monday of July in each year. During the last month of June, in each year, the assessors shall attend at the common council chamber for the purpose of hearing the complaints of persons who may feel themselves aggrieved by such assessments, and shall make alterations and such amendments thereto as justice and equity may require. The assessors

Compensation of assessors.

shall receive for their services such compensation as the common council may determine, not exceeding the sum of two hundred dollars each for the term for which they were elected. The said assessors, together with the mayor, or, in his absence or disability, the president, city clerk, and city treasurer, shall constitute a city board of equalizers, and they shall meet at the office of the city clerk of said city on or before the third Monday of July in each year, and proceed to equalize the said several assessments in the same manner in all respects, as town boards of equalizers are now authorized by law to do.

City board of equalizers.

Duties of superintendent of streets.

SECTION 16. The superintendent of streets shall perform the duties, and, under the restrictions and for the compensation prescribed in section seven of chapter six of this act, and such other duties as may be required of him by this act and the ordinances of the common council of said city, not inconsistent with this act.

City surveyor—his duties.

SECTION 17. The city surveyor shall be a practical surveyor and engineer. He shall keep his office at some convenient place within said city, and the common council shall prescribe the duties and fix the fee and compensation for any service performed by him. All surveys, profiles, plans and estimates made by him for the city, shall be the property of the city, and shall be carefully preserved in the office of the

surveyor, open to the inspection of the parties interested, and the same, together with all the books and papers appertaining to said office, shall be delivered over by the surveyor at the expiration of his term of office to his successor or to the common council.

CHAPTER IV.

THE COMMON COUNCIL—ITS GENERAL POWERS AND DUTIES.

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

Common council—powers and duties.

SECTION 2. The common council shall hold stated meetings, and the mayor may call special meetings by notice to each of the members, to be served personally, or left at their usual place of abode. The common council shall determine the rules of its own proceedings, and be the judge of the election and qualification of its own members, and have power to compel the attendance of absent members, and to enforce its rules, to punish by fine and imprisonment, by a vote of two-thirds of its members, any member for disorderly or contemptuous conduct, and by a vote of two-thirds of its members may expel any member for cause.

Shall hold stated meetings.

SECTION 3. The common council shall have the control and management of the finances, and of all property of the city; and shall likewise, in addition to the powers herein vested in them, have full power 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 and immorality, for the prevention of crime, and for the benefit of trade, commerce, and health, as they shall deem expedient, declaring and imposing penalties, and to enforce the same against any person or persons who may violate any of the provisions of such ordinance, rule and by-law, and such ordinances, rules and by-laws are hereby declared to be and have the force of law; *provided*, they are not repugnant to the constitution and laws of the United States or of

General powers of council.

this state; and for these purposes shall have authority, by ordinances, resolutions or by-laws:

To license shows, places of amusement, etc

1st. To license and regulate the exhibition of common showmen or shows of any kind, or the exhibition of caravans, circuses, or theatrical performances, billiard-tables, bagatelle-tables, pigeon-hole-tables, and bowling saloons, etc., and to provide for the abatement and removal of nuisances under the ordinances or at common or statute law, and to grant licenses for selling spirituous, vinous or fermented liquors, and to regulate and license groceries, taverns, victualing houses, and all persons vending or dealing in spirituous, vinous or fermented liquors, and to revoke the same for a violation thereof; *provided*, that the sum to be paid for any such license shall not be less than the amount fixed and provided by the laws of the state, and that no license shall be granted for a less time than one year from the date of filing the application for such license in the office of the city clerk; and in case the person so applying for a license shall have a former license within the year next preceding such application, then such license shall be granted for the term of one year from the date of the expiration of such former license.

To license selling of liquors.

Proviso.

To prevent gambling, and sale of liquors without license

2d. To restrain and prohibit all descriptions of gaming and fraudulent devices and practices, and all playing of cards, dice or other games of chance, for the purpose of gaming in said city, and restrain any person from vending, giving or dealing in spirituous or vinous liquors, unless duly licensed by the common council.

To prevent rioting, noise, etc.

3d. To prevent any riots, noise, disturbance 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.

To abate nuisances.

4th. To compel the owner or occupant of any grocery, cellar, tallow chandler's shop, soap factory, tannery, stable, barn, privy, sewer, or other unwholesome, or nauseous house or place, to cleanse, remove or abate the same from time to time, as often as it may be deemed necessary for the health, comfort and convenience of the inhabitants of said city.

To direct location of slaughter-houses markets, etc.

5th. To direct the location and management of slaughter-houses and markets, and to prevent the erection, use or occupation of the same, and to establish rates for, and license venders of gunpowder, and

regulate the storage, keeping and conveying of the same or other combustible material.

6th. To provide for making, grading, improving and repairing of the streets of the city of Waupaca, and to make such other necessary public improvements as shall be deemed necessary and proper, and for the general benefit, health and welfare of the inhabitants thereof, and to provide for the making, constructing and repairing of gutters and sidewalks in said city, and to prevent the encumbering of the streets, sidewalks, lanes, highways and alleys with carriages, sleighs, boxes, lumber, firewood, or other materials or substances whatever.

To provide for public improvements.

7th. To prevent horse-racing, immoderate driving or riding in the streets or on the bridges, within said city, and to regulate the places of bathing and swimming in the waters within said city limits.

To prevent encumbering of streets.

8th. To restrain the running at large of dogs, and to authorize the destruction of the same in a summary manner when at large contrary to the ordinances of said city.

To prevent racing and regulate places of bathing.

9th. To restrain the running at large of horses, cattle, swine, sheep, poultry and geese, and to authorize the distraining, impounding and sale of the same.

To restrain dogs.

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

To restrain running at large of horses etc.

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

To prevent depositing of unwholesome substances.

12th. To establish and regulate boards of health, provide hospitals and cemetery grounds, regulate the burial of the dead and the return of the bills of mor-

To establish public pounds, wells, etc., and to provide for erection of water-works.

To establish boards of health.

tality, and to exempt burial grounds, set apart for public use, from taxation.

- To establish size and weight of bread. 13. To establish the size and weight of bread, and to provide for the seizure and forfeiture of bread baked contrary thereto.
- To protect sidewalks. 14th. To prevent all persons riding or driving any horse, or mule, cattle and other animals on the sidewalks in said city, or in any way doing damage to said sidewalks.
- To prevent shooting of firearms, etc. 15th. To prevent shooting off firearms or crackers, and to prevent the exhibition of fireworks in any situation which may be considered by the council dangerous to the city or any property therein, or annoying to the citizens thereof.
- To restrain drunkenness. 16th. To restrain drunkards, immoderate drinking, or obscenity, in the streets or public places, and to provide for the arresting, removing and punishing any person or persons who may be guilty of the same.
- To restrain runners. 17th. To restrain and regulate runners and solicitors for stages, cars, public houses and other establishments.
- To regulate police. 18th. To make rules and ordinances for the government and regulation of the police of the city.
- To establish and regulate markets. 19th. To establish public markets and make rules and regulations for the government of the same; to appoint suitable officers for overseeing and regulating such markets, and to punish or restrain all persons from interrupting or interfering with the due observance of such rules and regulations; to license and regulate butcher stalls, shops and stands for the sale of game, poultry, meats, fish and other articles.
- To regulate weighing of hay, etc. 20th. To regulate the place or places, and manner of weighing and selling hay, and measuring and selling fuel, lime, and other gross commodities and to appoint suitable persons to superintend and conduct the same.
- To compel removal of dirt and rubbish. 21st. To compel the owners of buildings or grounds, or the occupants where the same are occupied, to remove snow, dirt or rubbish from the sidewalks, street or alley opposite thereto, and to compel such owner or occupant to remove from the lot owned or occupied by him all such substances as the board of health shall direct; and in default, to authorize the removal of or destruction of all the objectionable substances by some officer of the city, at the expense of such owner or occupant.
- To preserve health of city. 22d. To regulate, prevent and control the landing

of persons from cars and stages, or other conveyances, wherein are contagious and infectious diseases or disorders, and to make such disposition of such persons as to preserve the health of the city.

23d. To regulate the time and manner of holding public auctions and vendues. To regulate auctions.

24th. To appoint watchmen and prescribe their duties. To appoint watchmen.

25th. To provide by ordinance for a standard of weights and measures, and for the punishment of any person using, or keeping for use, any false weights and measures. To regulate weights, and measures.

26th. The common council shall have jurisdiction over the entire waters within the city, so as to prevent any deterioration of the waters, or any nuisance being cast therein by which the health of the inhabitants of the city, or the purity of the waters, shall be impaired, or for any other purpose authorized in this act. To prevent deterioration of waters.

27th. The common council shall have power to require the owner of any lot or grounds in the city to set out ornamental trees in the street or streets fronting on the same, and in default thereof, to cause the same to be done and to levy a special tax upon such lot or grounds to pay the expense of the same. To compel planting of shade trees.

SECTION 4. No appropriation shall be made, nor shall any debt be created or liability incurred against the city, except by a vote of a majority of all the members of the council; and all laws, ordinances, rules and resolutions shall be passed by an affirmative vote of a majority of all the members of the common council, and ordinances, before the same shall be in force, shall be signed by the mayor, and all resolutions or measures for the appropriation of money, whereby a debt shall be created against or a liability incurred by the city, shall be approved by the mayor before the same [shall] be in force; *provided*, that in case the mayor shall refuse to sign any ordinance or any certificate of the appropriation of money or shall refuse to approve any resolution or by-law creating a debt or establishing a liability against the city, four aldermen voting in the affirmative shall have power to repass such ordinance, resolution, by-law or certificate, notwithstanding the objections of the mayor; and all ordinances shall be published in a public newspaper printed in the county of Waupaca, which may have been selected by the common council to do the printing for the city, and

How appropriations, ordinances, etc., shall be made.

Proviso.

be in force from and after their passage and publication; and within fifteen days after publication, such publication being duly proved by the affidavit of the printer or foreman of the printers of such newspaper and filed in the office of the city clerk, shall be prima facie evidence of the passage and publication.

Power conferred upon council not to bar proceedings in court.

Public nuisances.

SECTION 5. The power conferred upon the said council to provide for the abatement or removal of nuisances, shall not bar or hinder suits, prosecutions or proceedings in the courts according to law. Gambling houses, houses of ill-fame, disorderly taverns and houses or places where spiritous, vinous or fermented liquors are sold without the license required therefor, houses or buildings of any kind wherein more than twenty-five pounds of gunpowder are deposited, stored or kept at any one time, are hereby declared and shall be deemed public or common nuisances.

City officers to account to common council.

SECTION 6. The common council shall examine, audit and adjust the accounts of the clerk, treasurer, chief of police, street superintendent, and all other officers or agents of the city, at such time as they may deem proper, and also at the end of each year, and before the time for which the officers of the said city are elected or appointed shall have expired. And the common council shall require each and every such officer or agent to exhibit his books, accounts and vouchers for such examination and settlement; and if such officer or agent shall refuse to comply with the orders of the council in the discharge of their said duties, in pursuance of this section, or shall neglect or refuse to render his accounts or present his books and vouchers to said council, it shall be the duty of the common council to declare the office of such person vacant; and the common council shall order suits and proceedings at law against any officer or agent of said city who may be delinquent or defaulting in his accounts, or in the discharge of his official duties, and shall make a full record of all such settlements; and the common council shall have power, by an affirmative vote of two-thirds of its members, upon reasonable notice, for cause, to remove from office any officer of the city elected by the common council, or whose appointment shall have been confirmed by it.

Removal of officers.

CHAPTER V.

OPENING OF STREETS, ALLEYS, ETC.

SECTION 1. The common council shall have power to lay out public squares, grounds, streets and alleys, and to widen the same, and to make all necessary and proper improvements within the limits of said city as follows: Whenever ten or more freeholders residing in any one ward, shall, by petition, represent to the common council that it is necessary to take certain lands within the ward where such petitioners may reside, for the public use, for the purpose of laying out public squares, grounds, streets or alleys, or the enlarging or widening of the same, or for other public improvements, the courses and distances, metes and bounds of the lands proposed to be taken, together with the names and residence of the owners of such premises, if the same shall be known to the petitioners, to be set forth in such petition, the common council shall thereupon cause notice of such application to be given to the occupant or occupants, owner or owners of such land, or if a portion of such lands shall not be in the actual occupation of any person, and the owner or owners are non-residents of the said city, 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 for four weeks, at least once in each week.

Opening of streets, alleys, etc.,—mode of procedure.

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

Notice to be given to owners of grounds to be taken.

SECTION 3. Upon the presentation of such application, and upon proof of publication or service of the notice herein required, the said judge shall thereupon appoint six reputable freeholders, residents of the city, but not residents of the ward in which such premises may lie, or interested in such application. The said judge shall thereupon issue his precept, directed to said jurors, requiring them within thirty days to view said premises, to be specified in said pre-

Jury to view premises to be taken.

cept, and to make return under their hands to the common council, whether, in their judgment, it is necessary to take said premises for the purpose specified in such application.

In case any juryman is disqualified.

SECTION 4. If any of the jurors so appointed shall be disqualified from acting, or shall refuse to act, the judge shall appoint others, in their places, and a memorandum of such substitution shall be endorsed on the precept.

Jury to take testimony.

SECTION 5. The said jurors at such times as they may agree upon, shall 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.

To report proceedings.

SECTION 6. After viewing the premises and hearing such testimony as may be offered, the jurors shall make a report of their proceedings, which shall be signed by them respectively, and which shall state whether, in their judgment, it is necessary to take the premises in question for the public use, which said report, testimony and precept, shall be returned to the common council within the time limited therein.

Jury to assess damages or benefits.

SECTION 7. Should the jurors report that it is necessary to take such premises, the common council shall enter an order among the proceedings confirming said report, and directing the same jurors, within one month thereafter, or such further time as they may deem proper, to again view said premises for the purpose of ascertaining and determining the amount of damages to be paid to the owner or owners of the property proposed to be taken, and also what lands and premises will be benefited by such taking, and to assess and return within the time limited such damages and benefits to the common council.

When lands occupied by buildings.

SECTION 8. If there should be any building standing in whole or in part upon the lands to be taken, the jurors before proceeding to make their assessment, shall first estimate and determine the whole value of such building to the owner, aside from the value of the land, and the injury to him in having such building taken from him; and secondly the value of such building to remove.

Ten days' notice of determination to be given.

SECTION 9. At least ten days' personal notice of such determination shall be given to the owner or his agent, if known, and a resident of the city, or left

at his usual place of abode. If not known, or a non-resident, notice to all persons interested shall be given by publication in the official paper three successive weeks. Such notice shall specify the building and the award of the jurors. It shall also require the parties interested to appear by a day therein named, or give notice of their election to the common council either to accept the award of the jurors, and allow such building to be taken with the land appropriated or their intention to remove said building, at the rate set thereon by the jurors to remove. If the owner shall agree to remove such building, he shall have such time for this purpose as the common council shall allow.

SECTION 10. If the owner refuse to take the building at the value to remove, or fail to give notice of his election as aforesaid within the time prescribed, the common council shall have power to direct the sale of such building at public auction for cash, giving ten days' notice of such sale. The proceeds shall be paid to the owner, or deposited for him in the city treasury.

Building to be sold in certain cases.

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

Duty of jury in making assessment.

SECTION 12. If the damages to any person be greater than the benefit received, or if the benefit be greater than the damages, in either case the jurors shall

To ascertain difference to be paid to or received by owner.

strike a balance and carry the difference forward to another column, so that the assessment will show what amount is to be received or paid by such owner or owners respectively, and the difference only shall be, in any case, collected of them or payable to them.

When lands subject to lease, judgment or mortgage.

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

Award of jurors.

SECTION 14. Having ascertained the damages and expenses of the said improvement as aforesaid, the jurors shall thereupon apportion and assess the same together with the costs of the proceedings upon the real estate by them deemed benefitted, in proportion to the benefits resulting thereto from the proposed improvements as nearly as may be, and shall describe the real estate upon which the assessment may be made. The award of the said jurors shall be signed by them and returned together with the testimony taken, to the common council, within the time limited in the order of their appointment, and thereupon, if the common council shall deem it expedient, they may, by ordinance, order such street to be opened or widened, or such improvements to be made, and an assessment made in pursuance of such award; and if the common council shall not deem it expedient to open or widen such street, or to make such improvements, they shall, by resolution, order all further proceedings upon such petition to be discontinued.

Common council may open street or order proceedings discontinued.

When lands may be taken.

SECTION 15. The land required to be taken for the purposes mentioned in this act, shall not be appropriated until the damages awarded therefor to the owner thereof shall be paid or tendered to the owner or his agent, or, in case the said owner or agent cannot be found or is unknown, deposited to his or their credit in some safe place of deposit, under the direction of the judge of the circuit or county court of Waupaca 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 laws and ordinances of the city.

City clerk to give notice of assessments.

SECTION 16. Whenever any improvement chargeable to the property adjacent thereto shall have been determined upon, the proportion of the costs properly chargeable to each lot, part of lot or parcel of land,

subject to contribute to the payment of the same, shall be ascertained, and the city clerk shall forthwith issue to each person occupying such premises, liable to contribute, a certificate stating the amount assessed and chargeable to the premises occupied by such person, and the amount so chargeable to any particular lot or parcel of land shall be from the time it is so ascertained, a lien and charge thereon, and upon no other property; and the said amount shall be entered against such lot or lots in the tax warrant for the year in which the assessment is made, and collected in the same manner as other taxes. The damages assessed shall be paid or tendered; or deposited, as herein required, within twelve months from the confirmation of such assessments and reports; and if not so paid, tendered or deposited, all proceedings in such case shall be void.

Damages to be paid within twelve months.

SECTION 17. When the whole of any lot or tract of land, or other premises, under lease or under contract, shall be taken by virtue of this act, all the covenants, contracts or engagements between landlord and tenant or any other contracting parties, touching the same or any part thereof, shall, upon the confirmation of such report, respectively cease and be absolutely discharged.

When land to be taken is under lease or contract.

SECTION 18. 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 respectively, the same, upon the confirmation of such report, shall be absolutely discharged as to the part thereof so taken, but shall remain valid as to the residue thereof, and the rents, considerations and payments reserved, payable and to be paid for and 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 or in respect to the same.

When part of land is under lease or contract.

SECTION 19. When any known owner of lands or tenements affected by any proceedings under this act shall be an infant, or labor under any disability, the judge of the circuit court of Waupaca county or the judge of any court of record in said county, may, upon the application of the common council, or such party or his next friend, appoint a guardian for such party, and all notices required by this act shall be served on such guardian.

When owner of land is under legal disability.

SECTION 20. After the jurors shall have made their

Jurors to take
oath.

report as to the necessity of taking any lands under this act, and the same shall have been confirmed, the common council shall have power to appoint new jurors in the place of any who shall neglect or refuse to serve, and the jurors, before entering upon the discharge of their duties, shall severally take an oath before some competent officer, 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.

Appeal from
assessment.

SECTION 21. Any person whose property is taken, or against whom any assessment is made, may, within ten days from the return of the jurors to the common council, appeal from said assessment or damage or benefit, to the circuit court of Waupaca county, where such appeal shall be tried by the court and jury, as in ordinary cases. The common council shall have the same right of appeal. After the award and assessments heretofore provided for shall have been made, and it shall have been found that the amount of such assessments over and above the amount of the awards, shall not be sufficient to pay the whole cost of any such contemplated improvement, the amount of such deficiency shall be assessed by the common council upon the city.

Survey and
profile to be
made.

SECTION 22. Whenever any public ground, street or alley, shall be laid out, widened or enlarged, or other public improvements made under the provisions of this chapter, or this act, the common council shall cause an accurate survey and profile thereof to be made and filed in the office of the city clerk.

CHAPTER VI.

IMPROVEMENT OF STREETS AND SIDEWALKS.

Ordinances for
repair or con-
struction of
streets—how to
be passed.

SECTION 1. Every ordinance, resolution or by-law providing for the repairing, construction or reconstruction of any sidewalk or gutter, or for the grading, repairing or improving any street at the expense, in whole or in part, of the owners of the lots or parcels of land abutting or fronting such sidewalk, gutter or street, shall, on being introduced at a meeting of the common council, be referred to some appropriate committee, and any such ordinance, resolution or by-law shall not be passed or adopted sooner than fourteen days after the introduction thereof, nor until ten days after the proceedings of the council had

relative thereto, at the meeting when such ordinance, resolution or by-law was introduced, shall have been published in the official newspaper of the said city.

SECTION 2. The common council of the city of Waupaca shall have power to establish the grade of the streets of said city, and to change and re-establish such grade, as they shall deem expedient; *provided*, that whenever they shall change or alter the grade of any street, any person who shall claim to have sustained damages by such change or alteration of grade, shall have his right of action against the city for the recovery of such damages, but no suit shall be commenced against the city therefor until application has been made to the common council to pay such damages, and said council shall have refused or neglected for three months to pay or settle the same.

SECTION 3. It shall be the duty of the superintendent of streets to see that all the ordinances of the city relating to the obstruction and cleansing of sidewalks, streets, alleys, public grounds, reservoirs, gutters, sewers, waters and water-courses in said city are duly observed and kept, and direct and control the persons employed therein. The superintendent of streets shall have a general supervision over all works let by contract for the improvement of streets or sidewalks in said city, unless the common council shall otherwise provide.

SECTION 4. Sidewalks shall be constructed, reconstructed or repaired upon the proper established grade of any street in said city, of such width, in such manner, of such materials, and in such time as the common council, by ordinance, resolution or order shall direct, by the owner or owners of any lot or piece of ground in front of which such sidewalk shall be ordered. If the owner or owners of any such lot or piece of ground shall not construct such sidewalk as aforesaid, in the manner, of the material, or at the time, as so directed, the common council may cause the same to be constructed forthwith at the expense of such owner or owners. The contract for the construction of any such sidewalk shall be let to the lowest reasonable, responsible bidder, and notice shall be given by publication in the official paper of the city, for at least three days, of the time, place and manner of receiving such bids. The common council shall levy a special tax upon each lot or piece of ground in front of which any sidewalk shall be constructed by contract, sufficient to pay the cost of

Grade of streets.

Duty of superintendent of streets.

Construction and repair of sidewalks.

constructing the same; *provided*, that no such contract shall be let until twenty days after notice shall have been given to such owner or owners, of the ordinance, resolution or order requiring the construction of such sidewalk, by the publication of the same at least five days in the official paper of the city.

Powers of council in ordering construction or repair of sidewalks.

SECTION 5. The common council shall have power, by a vote of two-thirds of all the members of the common council, to order the building, construction, re-construction or repair of sidewalks in the city of Waupaca, in such manner as they may deem proper. The city clerk shall receive all proposals for constructing and repairing sidewalks, and shall open them in the presence of the council, which shall award the contract to the lowest responsible bidder; *provided*, such bid is a reasonable one, subject to such provisions, in case of violation of contract, and to such other particular provisions as the council may prescribe. The proceedings for ordering the repair of sidewalks, and levying and collecting special taxes on the respective lots to pay for the same, shall be the same as herein provided as in case of constructing a new sidewalk, except as otherwise provided in this section. No contractor for building or repairing sidewalks shall receive any pay therefor from [the] city, under any circumstances, until the tax levied for that purpose shall have been paid to the city or county. Whenever a sidewalk shall be out of repair and so remain for the space of twenty-four hours, which in the opinion of the superintendent of streets will not cost to exceed the amount of five dollars in front of any one lot, to repair the same, he shall be authorized, and it is hereby made his duty to cause the same to be immediately repaired; and when the same is completed, he shall make out an itemized bill of the cost of such repair, specifying the lot and block, or piece or parcel of land in front of which said work was done, verified by his oath, and shall deliver the same to the city clerk, and said clerk shall forthwith present the same to the owner of such lot, piece or parcel of land, if a resident of the city of Waupaca, for payment; and if the owner of such lot, piece or parcel of land shall refuse or neglect to pay the same for ten days, then the clerk shall report the fact to the council, and the council shall thereupon levy a special tax upon said lot, piece or parcel of land, to pay the same, in the same manner as special taxes are levied for the construction of sidewalks.

In case the owner of such lot, piece or parcel of land does not reside in the city of Waupaca, the said superintendent shall return said account to the common council with his certificate stating that fact, and the council shall thereupon levy a special tax to pay the same, in the manner in this section provided.

Poll-tax.

SECTION 6. Every male inhabitant of the city of Waupaca, over twenty-one years of age, and under sixty, except active members of the fire department, shall pay into the city treasury annually, the sum of one dollar and fifty cents each, as a poll tax. It shall be the duty of each of the assessors of the city of Waupaca, during the Month of May, 1875, to make out duplicate lists of all persons liable to said tax in his assessing district of the city of Waupaca, and said assessor shall, on the first Monday of June, 1875, deliver one of said lists to the city clerk and one to the treasurer of the city of Waupaca. The said treasurer shall thereupon immediately proceed to collect the same; and all persons liable to pay such tax, who shall not have paid the same after demand, either personal or by written notice left at their usual place of abode, on or before the first day of July, 1875, shall be liable to and shall pay a penalty of two dollars, together with the costs of prosecution, to be prosecuted for by said treasurer in the name of the city of Waupaca. The process in such case shall be by warrant, and in case judgment shall be rendered against the defendant in such action, and he shall refuse or neglect to pay such judgment, he shall be imprisoned in the county jail not to exceed ten days. The assessor shall, also, at the time of assessing the annual taxes in each year after the year 1875, make out such duplicate lists of persons liable to pay such tax as aforesaid, and deliver one of the said lists to the city clerk and one to the city treasurer at the time he returns to the city clerk his assessment roll of real and personal property of the city of Waupaca, and the city treasurer shall collect the same in the same manner as hereinafter in this section provided; and in case said taxes are not paid to said treasurer, he shall prosecute for them in the manner hereinbefore provided. The said assessor, in making such list, shall designate the ward in which such person on said list resides, and the treasurer shall credit each ward of the city with the amount thus collected from the inhabitants of such ward. The moneys collected as above shall be kept as a distinct fund, and shall be

expended under the direction and supervision of the superintendent of streets, on the repair and improvement of streets of the respective wards in which said tax is paid, and to be drawn out upon itemized accounts of the street commissioner, certified to by the senior alderman of the ward in which said work is done, and audited by the common council. The mayor, city clerk and treasurer, shall constitute a board to determine the liability of persons to pay such tax; and all persons claiming to be exempt from such tax must apply to said board within twenty days from the time when said lists shall be delivered to the treasurer as aforesaid. The city treasurer shall receive the same fees for collecting said tax as he does for collecting taxes assessed upon real and personal property.

Powers and duties of superintendent of streets.

SECTION 7. The superintendent of streets shall, before entering upon the duties of his office, execute to the city a bond in the penal sum of one thousand dollars, with two sufficient sureties, to be approved by the council, conditioned for the faithful performances of the duties of his office and for such other duties as may be required of him by the council, and for the proper expenditure of the money which may be collected or come into his hands by virtue of his office. He shall have a general supervision of all streets; he shall expend the money realized from the poll-tax in each ward, at such places in each ward as he shall see fit; he shall, on or before the first day of September in each year, report to the council in writing, under oath, a true and correct statement of all moneys received by him by virtue of this act, and from whom received, and how, where and when expended, and the said superintendent of streets shall be held strictly responsible for the full and complete execution of this act so far as the same relates to streets, according to the terms thereof, and the council may at any time remove him from office for neglect of duty, and appoint a competent man in his place. The street superintendent shall receive for his services not more than two dollars for each day actually and necessarily occupied by him in the discharge of his duties. The chief of police shall be street superintendent in any year when the common council shall so determine, and shall receive for his services as such superintendent such sum per day as the council shall determine, not exceeding more than one dollar per day.

Chief of police may be street superintendent

SECTION 8. The common council of said city shall have power, and may, in its discretion, by a vote of two-thirds of all the members, advertise and let to the lowest responsible bidder whose bid it shall deem reasonable and proper, the construction of any sidewalk or gutter or the making of, improvement on, or along any street or highway in said city limits which shall have been ordered, and levy a tax upon each lot or piece of ground in front of which said sidewalk, gutter or improvement shall have been ordered and constructed under such contract, sufficient to pay the costs of constructing the same, without giving notice requiring the owner or owners of such lot or lots, or pieces of ground to construct the same.

Letting of contracts for repair or construction of streets.

SECTION 9. The common council of the city of Waupaca, shall have the power, by an affirmative vote of two-thirds of all its members, to order and contract for the making, grading, paving and repairing and cleansing of streets, and parts of streets, alleys, public grounds, reservoirs, gutters and sewers in the manner hereinafter mentioned, and direct and control the persons employed therein.

Council to order and contract for work on streets, alleys, etc.

SECTION 10. The costs and expenses of surveying streets, alleys, sewers and gutters, and of estimating work thereon, in the execution of any public improvement, shall be chargeable to and payable by the city. The cost and expense of opening, grading, or graveling, planking, paving or repairing of streets and alleys, shall be chargeable to and payable wholly or in part by the lots or land fronting on such street or alley, so that each lot or parcel of land shall pay for work between the front of each lot or parcel of land and the center of such street or alley, or such portion thereof as the common council shall determine. Sewers and gutters may be ordered by the common council, and built at the expense of lots or parts of lots benefitted thereby, and fronting upon the side of the street along which said sewer or gutter shall be constructed; *provided, however*, that when sewers or gutters are constructed through alleys, no lots shall be assessed therefor except those situated in the block through which such sewers or gutters may be constructed; *and provided, further*, that in all cases when improvements or work of any kind are chargeable, by virtue of this section, upon lots benefitted, all such improvements across streets, alleys and public grounds shall be made and paid for

Expenses chargeable to city.

Expenses chargeable to property.

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by the city, in proportion to the width of the street, alley or public grounds.

Estimate of expenses to be made.

SECTION 11. Whenever the common council shall determine to make any public improvement as authorized by this chapter, they shall cause to be made an estimate of the whole expenses thereof, and of the amount thereof to be assessed and charged to each lot and parcel of land, and, in case of grading, of the number of cubic yards to be filled in or excavated in front of each lot, and the proportion thereof across each street, alley or public ground, as aforesaid; and such estimate shall be filed in the office of the city clerk, for the inspection of parties interested, before such work shall be ordered to be done. The common

Contract to be let to lowest bidder.

council may authorize the letting of such work by contract to the lowest bidder at the expense of the lots upon which such work is chargeable, in whole or in part, as aforesaid, all bids for doing the same to be approved by the council; and the said council shall have power to reject any and all bids, and may require such contractors to perform such contract within such time and under such conditions, and to give such security for the performance of such work as they shall direct; such contract, when approved by the council, to be executed on the part of the city by the mayor, and countersigned by the city clerk, notice of the time and place of receiving such bids to be published for ten days in the official paper of said city. The common council, instead of letting such work by contract to the lowest bidder, may, by an affirmative vote of two-thirds of the members of the council, order the grading, repairing or improving of any street, or the making of any public improvement to be done directly by and under the supervision of the street superintendent, at the uniform expense, in whole or in part, of the lots or parcels of land abutting or fronting on such street or public improvement.

Work may be done under supervision of street superintendent.

In case of extraordinary cutting or filling.

SECTION 12. Whenever the general interests of the city require deep cutting or extraordinary filling in any street, and the owners of the lots and lands fronting on such deep cutting or filling shall deem themselves aggrieved thereby, and shall present to the council in writing that the expenses of such excavation or filling will exceed the proportion that should be justly or equitably charged upon the property assessed therefor, the council shall require the chief of police to summon five freeholders, not residents of

the ward, nor interested in said lots or lands, who, after being sworn faithfully and impartially to discharge the trust, reposed in them, shall examine the premises within five days therefrom, and if in their opinion the cost of such work will exceed the amount that should be justly and equitably chargeable upon said premises, it shall be their duty to determine what portion of such work shall be chargeable to such lots or parcels of land respectively, and what lots and parcels of land on the street so to be improved will be benefited by such deep cutting or filling, and how much or what portion shall be chargeable to them, and to make report thereof in writing, as soon as practicable, but within ten days after such examination, to the common council; and such proportion as shall be reported as properly chargeable to the lots or parcels first mentioned, shall be assessed upon and collected from the same in the same manner as herein provided; in case such owners shall not do such work, and the remainder shall be assessed upon the lots benefited by such improvement, in proportion to their respective benefit as determined by said jury, the sum so assessed shall become a lien upon the premises assessed, and shall be collected therefrom as a special assessment in the same manner as other special assessments for improvements are collected; *provided*, that should said jury find that said petitioners were not entitled to any division of the expense so assessed upon their lots or parcels of land, then the expense of all proceedings under this section shall be paid by said petitioners, and the common council may require a bond for the payment of the same upon the filing of the petition; *provided, also*, that the petition of no owner feeling himself aggrieved shall be received unless the same be presented within twenty days after the publication of the notice requiring the same to be done; *and provided further*, that when it shall appear to the council that any such lands belong to non-residents, infants or persons laboring under legal disability, who shall not be represented by any agent or guardian, or not be benefited by the making of streets in front of such lots or lands to the amount of the costs and expenses thereof, it shall then be the duty of the said council to cause to be summoned a jury as herein provided.

Proviso.

SECTION 13. All work provided for in this chapter shall be done under the supervision of the mayor, Work to be done under su-

pervision of certain officers. superintendent of streets and city surveyor, and shall be approved by them before it shall be accepted by the council.

Certificates to be issued for work done. SECTION 14. Whenever any work has been done under contract, as provided in this act, and the work shall have been approved by the mayor, street superintendent and city surveyor, such contractor shall be entitled to a certificate therefor, stating the amount of work done by such contractor and 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 is not paid before the time of making out the annual assessment roll, the same may be filed with the city clerk, and the common council shall order the same assessed upon the said lots of land, respectively, as a special tax, and to be collected therefrom for the benefit of the holder of said certificate, as other taxes of real estate are collected by virtue of the laws of this state, except that personal property shall not be seized or sold for the payment thereof, and if the notice to do the work required shall have been given as herein prescribed, no informality or error in the proceedings shall invalidate or vitiate such assessment; *provided*, that in no event where work is ordered to be done at the expense of any lot or parcel of land, shall the city be held responsible for, or on account thereof, or for any proceedings for the collection of the pay therefor.

Amount to be assessed upon lots. Proviso.

CHAPTER VII.

FINANCES AND TAXATION.

Funds to be under control of council. SECTION 1. All funds in in the city treasury, except school, state and county funds, shall be under the control of the common council, and shall be drawn out upon the certificate of the mayor, countersigned by the clerk, duly authorized by a vote of the common council, and in no other manner; and all certificates drawn upon the treasurer shall specify the purpose for which they were drawn, and shall be payable generally out of any funds in the treasury belonging to the city.

How to be paid out.

No debt to be contracted except by majority vote of council. SECTION 2. No debt shall be contracted against the city, or certificates of indebtedness drawn upon the city treasury, unless the same shall be authorized by a majority of all the members of the common coun-

cil, and the vote authorizing the same shall be entered by ayes and noes upon the journal of the council, and no money shall be appropriated for any purpose whatever, except such as is expressly authorized by this act.

SECTION 3. All forfeitures and penalties accruing to the city for a violation of this act, or of any of the ordinances, by-laws, rules and regulations of the city, and all moneys received for licenses, shall be paid into the city treasury and become a part of the general fund, except as otherwise provided by this act.

Forfeitures and penalties to become part of general fund.

SECTION 4. All property, real or personal, within the city except such as may be exempt by the laws of the state, shall be subject to annual taxation for the support of the city government and the payment of its debts and liabilities and the same shall be assessed in the manner hereinafter provided; the assessors elected under this act shall have and possess the same powers that are or may hereafter be conferred upon township assessors, except so far as they may be altered by this act; *provided, however,* that the common council may prescribe the form of assessment rolls, and more fully define the duties of assessors, and make such rules and regulations in relation to revising, altering or perfecting such rolls, as they may from time to time deem advisable.

Property to be subject to taxation.

Proviso.

SECTION 5. The fiscal year of the city of Waupaca shall commence on the first day of September, on which day, or within thirty days thereafter, the common council shall, by resolution, determine what amount of money, including the estimated resources of the city not derived from direct taxation, for the year then next ensuing, will be required for general city purposes during that year; and the common council shall thereupon be empowered to levy, and shall by resolution levy a tax for general city purposes, not exceeding in amount one per centum of the assessed value of real and personal property of the city for that year. The common council shall also, in the month of September of each and every year, determine and levy the amount of highway tax in said city for the ensuing year, for the purpose of constructing and repairing streets, highways and bridges in said city, which amount shall not exceed five mills on the dollar upon all taxable property of said city as the same shall appear by the last assessment-roll, which shall be collected in the same manner as the general taxes of said city are collected. The city

Levy of tax.

For general city purposes.

For highway purposes.

treasurer shall credit each ward in said city with the amount of highway tax collected by him therein, and all the moneys so collected shall be expended on streets [and] highways in the wards where collected, under the direction of the street commissioner. The bridges shall be built and maintained by the city at large. The common council shall have power to levy a tax upon the assessment-roll, equal in amount to the interest for one year, not otherwise provided for, upon all bonds lawfully issued by the city of Waupaca; and no such special tax shall be used or applied for any other purpose whatever. No city order of any kind shall be received in payment of school or school-house tax, but the same shall be paid in money and shall be paid over by the city treasurer to the treasurer of the several school-boards, upon the order of the director and clerk thereof. All resolutions for the purpose of levying a tax shall require for their passage an affirmative vote of two-thirds of all the members of the common council.

For payment
of city bonds.

Taxes levied
to be lien upon
property.

Personal prop-
erty to be sold.

Assessment-
roll to be sent
to county clerk
and laid before
county board.

City of Waupaca to be regarded as a town in equalizing assessment-roll.

Tax may be levied without regard of division of city into wards.

SECTION 6. All taxes or assessments, general or special, levied under this act, shall be and remain a lien upon the lands and tenements upon which they may be assessed, and upon all personal property of any person or body politic, assessed for personal taxes, from the date of the warrant for the collection thereof, until such taxes shall be paid, and no sale or transfer of such real or personal property shall affect such lien. Any personal property belonging to the person taxed may be taxed [taken] and sold for the payment of taxes upon personal property.

SECTION 7. Before the annual meeting of the board of supervisors of the county of Waupaca, and by the time required by the laws of the state for the return of assessments from the several towns, the city clerk shall transmit a copy of the assessment-roll to the county clerk of said county, who shall lay the same before said board, at their annual meeting.

SECTION 8. The board of supervisors shall have the power to regard the city of Waupaca as a town, in equalizing the assessment-rolls of the several towns in said county, as provided by law, but in such equalization shall consider the assessment-roll of said city as an entire roll, and shall not change the relative valuation of the different wards.

SECTION 9. The board of supervisors may levy a tax or taxes, as now is or may hereafter be provided by law in relation to towns, but shall proceed therein

without regard to the division of the city into wards, and shall cause the amount of taxes so levied to be certified to the city clerk, in the manner provided by law in relation to towns or town clerks, and in all transactions with the board of supervisors of said county, said city shall be regarded as a town, except as herein otherwise provided.

SECTION 10. Upon receiving the statement of the amount of taxes so levied, the city clerk shall make out upon the assessment roll in a column left for that purpose or upon a copy thereof, a complete statement of the several amounts of the taxes levied for the state, county, city or other purposes, and all special taxes levied by the common council, since the making out of the last annual tax list, in such separate columns as may be necessary, with the total footings carried out opposite each tract or lot of land, or person named therein, which statement shall be preserved by said clerk as a record in his office, and shall have the same legal force and effect as the records of the common council. The said city clerk may calculate the state, county and city taxes together and carry the amount thereof into one column, but in such case he shall specify the per centum upon one dollar of valuation of state tax, county tax and city tax separately, in his warrant to the treasurer for the collection of such taxes.

Duty of city clerk upon receiving statement of taxes.

SECTION 11. The tax list made out and preserved as aforesaid shall be prima facie evidence in every court of record of this state that every act or thing required by law to be done relating to assessing or levying taxes from the election of the officers to the completion of the tax list inclusive, has been done regularly, correctly, and as required by law.

Tax-list to be prima facie evidence.

SECTION 12. Immediately after making out the tax list aforesaid, the clerk shall make out a duplicate copy thereof, to which shall be appended a warrant signed by the mayor and clerk, and sealed with the corporate seal of said city, directed to the treasurer, requiring and commanding him to collect the taxes and assessments specified in said duplicate copy of the tax list in the manner provided by law, and the said clerk shall on or before the second Monday of December of said year, or as soon thereafter as practicable, deliver the same to the city treasurer for collection and make a record of said delivery on the tax list preserved in his office.

Clerk to make duplicate tax-list and deliver to treasurer with warrant for collection of taxes.

SECTION 13. The city treasurer upon the receipt of

Duty of city treasurer in collection of taxes.

such duplicate copy of the tax list shall proceed to collect the same in like manner, and shall have like powers, and be subject to like requirements, liabilities and restrictions as town treasurers, except as otherwise provided in this act. The city treasurer shall receive one per centum fees upon all taxes paid to him before the first day of January, and three per centum fees upon all taxes collected after that time, to be added to the amount of taxes and collected with the same, and two per centum upon all other moneys paid into the treasury, which shall be in full for all services performed by said treasurer under this act, or the ordinances of the city.

Compensation of treasurer.

Treasurer to return list of delinquent lands and pay over money to county treasurer.

SECTION 14. On or before the fifteenth day of February of each year, unless the time be extended as provided by law, the city treasurer shall make out and return to the treasurer of Waupaca county, a list of all lands, lots and personal property, upon which taxes have not been paid, and shall also settle with and pay over all moneys properly payable to said county treasurer, in like manner as now is, or may hereafter be required of town treasurers; and all the provisions of sections eighty-one to eighty-seven inclusive, of chapter eighteen of the revised statutes, as modified by acts amendatory thereof, shall extend to and may be enforced to collect any delinquent personal property tax of whatever year now due to said city.

Sale of delinquent lands.

SECTION 15. The county treasurer shall sell all delinquent lands and lots returned from the city of Waupaca at the same time and in the same manner as other delinquent lands are sold in said county.

All real estate subject to special tax.

SECTION 16. All real estate exempt from taxation by the laws of this state shall be subject to all special taxes for the building of sidewalks and improvement of streets in front of the same.

Error or informality not to invalidate assessment of tax.

SECTION 17. No error or informality in the proceedings of any of the officers in assessing property, levying or collecting taxes, or making return of unpaid taxes, not affecting the substantial justice of the tax itself, shall invalidate or vitiate or otherwise affect the validity of the assessment or tax; *provided*, that this section shall not be so construed as to dispense with the requisite two-thirds vote of all the members of the council in the levying a tax.

Proviso.

Tax-certificates not to be received in payment of indebtedness.

SECTION 18. The city treasurer shall not receive from the treasurer of the county of Waupaca tax-certificates in payment of any indebtedness which

may become due from said county to said city. The city shall contract no debt, and the common council shall make no appropriations during any fiscal year, for city purposes, greater than the amount determined upon as provided in the foregoing section five of this chapter for such purpose, together with the amount of money which may at any time be in the city treasury, derived from other sources than taxation.

odness of county.

Limit of indebtedness.

SECTION 19. The common council shall have power, by a two-thirds vote of all the members thereof, to levy a tax or taxes to pay any or all judgments against the city.

Payment of judgments against city.

SECTION 20. In case the city treasurer shall at any time refuse or neglect to perform his duties in enforcing the payment of taxes, as provided by this act and as authorized and required by the laws of this state, the common council shall forthwith remove such treasurer from office, and appoint a suitable person to fill the vacancy.

City treasurer to be removed for neglect of duty.

SECTION 21. All accounts or demands against the city, before the same shall be allowed, shall be verified by affidavit, except salaries and amounts previously fixed and determined by law; and any person who shall falsely swear to any such account or demand, shall be deemed guilty of perjury.

Accounts to be verified by affidavit.

SECTION 22. No money shall be appropriated or drawn out of the city treasury, except in payment of accounts and demands allowed by the common council, and then only upon the order of the mayor and countersigned by the city clerk; and upon the presentation of such order the city treasurer shall pay the same to the holder thereof. All such orders shall be numbered in regular series, commencing with number one, and shall be made payable to the person in whose favor the common council may have lawfully audited any account, and said order shall state the number of the bill in payment of which the same was drawn, for what purpose, and from what fund payable, and the city funds shall be paid out of the treasury in no other manner whatsoever, and no interest shall be allowed or paid on any city order or certificate whatever: *provided, however*, that when the city, being duly authorized thereto, shall borrow money, certificates of appropriation therefor may be issued payable at such time or times as the council may determine, and such certificates may be drawn to bear interest at a rate not exceeding ten per centum per annum, and when so drawn and signed

Payment of accounts and demand against city—how to be made.

Proviso.

by the mayor and clerk, interest shall be paid thereon as therein expressed.

Actions against city.

SECTION 23. No action shall be maintained by any person against the city of Waupaca upon any claim or demand until such person shall first have presented his claim or demand to the common council for allowance, and allowance thereof refused by said council.

Determination of council to be conclusive.

SECTION 24. The determination of the common council, disallowing in whole or in part any claim of any person, shall be final and conclusive, and a perpetual bar to any action in any court founded on such claim, except that such person may appeal to the circuit court, as provided in section twenty-six of this chapter.

Claims not to be entertained by council a second time.

SECTION 25. In case any person shall present his claim or demand to the common council, and the said council shall disallow the said claim in whole or in part, the said council shall not thereafter entertain such claim again, and such claimant, if he desires, may prosecute said claim by appeal to the circuit court, and not otherwise.

Appeals to circuit court.

SECTION 26. When any claim of any person against the city shall be disallowed in whole or in part by the common council, such person may appeal from the decision of the council disallowing such claim to the circuit court of the county of Waupaca, by causing a written notice of such appeal to be served on the clerk of said city within twenty days after the making of such decision, and executing a bond to the said city, with sufficient surety, to be approved by the said clerk, conditioned for the faithful prosecution of such appeal, and the payment of all costs that shall be adjudged against the applicant by the court. The clerk, in case such appeal is taken, shall make a brief statement of the proceedings had in the case before the council, with its decision thereon, and shall transmit the same, together with the bond and all the papers in the case, to the clerk of the circuit court of Waupaca county, and thereupon such appeal shall be entered, tried and determined in the same manner as cases originally commenced in the circuit court, and costs shall be awarded thereupon in like manner.

Clerk to give notice of appeal to mayor and council.

SECTION 27. The clerk, upon such appeal being taken, shall forthwith give notice thereof to the mayor, and shall also report the same to the council at its first sitting thereafter.

CHAPTER VIII.

FIRE DEPARTMENT.

SECTION 1. The common council for the purpose of guarding against the calamity of fire, shall have the power to prescribe the limits within which wooden buildings or buildings of other materials that shall not be considered fire-proof shall not be erected 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 of wooden buildings within the fire limits, when 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 damages.

Power of council to prescribe fire limits.

SECTION 2. The common council shall have power to regulate the building, construction, and condition of chimneys, fire-places, hearths, stoves, stove-pipes, ovens, boilers and apparatus used in or 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; and to regulate and prevent the carrying on of any manufactures dangerous in causing and promoting fire; to compel the owners and occupants of buildings to have scuttles in the roof, and stairs and ladders leading to the same; to authorize the mayor, aldermen, fire-wardens and other officers of the city to keep away from the vicinity of a fire all idle and suspected persons, and to compel the 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.

Further powers of council in guarding against fires.

SECTION 3. The common council shall have 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 to be prohibited and their apparatus to be delivered up. Each company shall not exceed

Power of council to purchase fire apparatus and provide for fire companies.

Formation of fire companies. seventy able bodied men, between the ages of fifteen and fifty, and may elect its own officers and form its own by-laws, not inconsistent with the laws of this state or the ordinances and 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 poll tax, from serving on juries and from military duty during the continuance of such membership.

Appointment of engineers of fire department. SECTION 4. The fire department shall, on the second Monday of April, in each year, at seven o'clock in the afternoon, meet at such place as the common council may appoint, at which time and place they may appoint one chief engineer, and two assistant engineers of the fire department, which appointment shall be confirmed by the common council before the same shall be in force; and if for any reason such appointments shall not be made at the time and in the manner provided in this section, and confirmed by the common council, then the common council may, at such time as they may deem proper, elect one chief engineer and two assistant engineers of the fire department.

Appointment of fire wardens. SECTION 5. At the same time the members of the fire department shall appoint one fire warden for each ward, who shall perform such duties as the common council shall prescribe.

Obedience to orders of officers to be enforced. SECTION 6. When any person shall refuse to obey any lawful order of engineer, fire-warden, mayor or alderman at any fire, it shall be lawful for the officer giving such order to arrest or direct orally the chief of police, policeman, watchman or any citizen to arrest such person, and to confine him temporarily in any safe place, until such fire be extinguished; and in the same manner such officers, or any of them, may arrest or direct the arrest and confinement of every 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 shall prescribe, not exceeding fifteen dollars.

Sack companies may act as special police. SECTION 7. The common council shall have power to organize a sack company, which shall be known as sack company No. 1, to consist of not more than twenty members. Such company shall constitute a part of the fire department, and at fires shall be subject to the control of the chief engineer. The mem-

bers of said company, either collectively or individually, are hereby authorized and empowered to act as special police in and for the city of Waupaca, and are hereby vested with all its power and authority which now is, or may be hereafter 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, so far as 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 this act and the laws of this state, or ordinances of the common council. The members of said company shall not be entitled to any pay or compensation for services rendered in their official capacity. They shall, in case of riot or disturbance of the peace, have free access to all licensed places of amusement in the city, and shall perform such services as may be necessary for the peace and good order of the same. The members of said company shall severally take an oath or affirmation that they will faithfully discharge the duties of their said office; and when any member of said company shall cease to be a member thereof, notice shall be given to the city clerk, who shall preserve a record of all the members of said company.

Duty at fires.

CHAPTER XIV [IX.]

ACTIONS TO RECOVER PENALTIES, ETC.

SECTION 1. All actions brought to recover any penalty or forfeiture under this act, or the ordinances, by-laws, or police or health regulations made in pursuance thereof, shall be brought in the corporate name of the city. It shall be lawful to declare generally in debt for such penalty or forfeiture stating the chapter and section of this act, or the section of the ordinance, by-law or regulation under which the penalty or forfeiture is claimed, and to give the special matter in evidence under it.

Actions to be brought in corporate name of city.

SECTION 2. In all prosecutions for any violation of any of the provisions of this act, or any by-law, ordinance or regulation, the first process shall be a summons, unless oath be made for a warrant as in crimi-

Prosecutions to be commenced by summons.

nal cases before justices of the peace, under the general statutes of the state for the time being.

Form of summons.

SECTION 3. When the action is commenced by summons, such summons may be substantially in the following form:

COUNTY OF WAUPACA—CITY OF WAUPACA—SS.

The state of Wisconsin, to the sheriff or any constable of said county, or to the chief of police of the city of Waupaca:

You are hereby commanded to summon A. B., if he shall be found within your county, to appear before the undersigned, police justice in and for said city, at my office in said city, on the — day of —, 18 —, at — o'clock in the —noon, to answer to the city of Waupaca in a plea of debt to the damage of said city, two hundred dollars or under.

Given under my hand, at said city, this — day of —, 18—. C. D., Police Justice.

How summons made returnable and served

SECTION 4. Such summons shall be made returnable and be served in the same manner as is now or hereafter may be prescribed by the laws of this state for the commencement of actions, before justices of the peace by summons; and all proceedings in the action except as hereinafter provided, shall be governed by the laws of the state for the time being, relative to actions commenced by summons and triable before justices of the peace.

Form of complaint.

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

The city of Waupaca against A. B.—In police court, before C. D., justice.

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

Form of complaint on oath.

SECTION 6. In all cases where oath is made for a warrant, for the complaint shall be made on oath of the complainant, and no other affidavit shall be neces-

sary, which last mentioned complaint may be substantially in the following form:

The City of Waupaca, against A. B.,

In Police Court, before C. D., Police Justice.

County of Waupaca, ss.

_____, being sworn, complains on oath to C. D., police justice in and for the city of Waupaca, in said county, that A. B., on the _____ day of _____, 18—, at said city, did violate (section—, of chapter—, of this act, or section— of an ordinance, or by-law, or regulation of said city, describing it by its title), which said _____ is now in force, as this complainant verily believes; and prays that said A. B. may be arrested and held to answer to said city of Waupaca therefor.

Sworn and subscribed before me this—day of—, 18—.

It shall be sufficient to give the number of the section and chapter of this act on [or] the section of the ordinance, by-law or regulation violated in the foregoing forms of complaint, and said complaint may be sworn to before any officer authorized to administer oaths. Upon the filing of such complaint with the police justice, he shall issue a warrant substantially in the following terms:

Sufficient to give number, chapter, etc.

County of Waupaca, City of Waupaca—ss.

The State of Wisconsin:

Form of warrant.

To the sheriff or any constable of said county, and to the chief of police or any policeman of the city of Waupaca, greeting:

Whereas, _____, has this day complained to me in writing, on oath, that A. B. on the _____ day of _____, 18—, at said city, did violate (section _____, of chapter _____, of this act, or section _____ of an ordinance or by-law, or regulation of said city, describing it by its title), which said _____ is now in force, as the complainant believes; therefore you are commanded to arrest the body of said A. B., and bring him before me forthwith to answer to the city of Waupaca on the complaint aforesaid.

C. D., Police Justice.

Upon the return of the warrant, the justice shall proceed summarily with the case, unless it be adjourned by consent or for cause. If the case be adjourned

Defendant to give security for appearance.

the defendant, if required by the court so to do, shall recognize with security to be approved by the court for his, her or their appearance in such sum as the court shall direct, or, in default thereof, may be put in charge of the officer who made the arrest, or be committed to the common jail of Waupaca county. The complaint made as aforesaid shall be the only complaint required, and the plea of not guilty shall put in issue all subject matter not embraced in the action.

Printed copy of ordinance, etc., to be prima facie evidence.

SECTION 7. A printed copy of an ordinance, by-law or regulation passed by the common council, and published in a newspaper or in pamphlet or book form, purporting to be published by authority of the common council, shall be prima facie evidence of its due passage and publication and shall be received in evidence on trial of all cases cognizable before any court of this state.

Witnesses and jurors to attend without payment of fees

SECTION 8. Witnesses and jurors shall attend before the police justice, in all city and criminal suits, without the payment of fees in advance, or a tender thereof, upon proces duly served, and in default thereof their attendance may be compelled by attachment.

Jury not allowed in city prosecutions.

SECTION 9. In city prosecutions, no jury shall be allowed either party, and the findings of the court shall be guilty or not guilty. If guilty, the court shall render judgment thereon against the defendant for the fine, penalty or forfeiture presented in this act, or in the ordinance, by-law or regulation for the violation of which the person or persons shall have been adjudged guilty, and for costs of suit; but if not guilty, the costs of suit shall be taxed against the city. Upon the rendition of judgment against the defendant, and the non-payment thereof, the police justice shall forthwith issue execution as in cases of tort, in case the action was commenced by summons, or a commitment in case it was commenced by warrant, and shall in either case determine and enter upon his 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 shall be in the following form:

When defendant to be committed.

Form of execution.

County of Waupaca, City of Waupaca:—ss.

The state of Wisconsin to the sheriff or any constable of said county, or to the chief of police or policemen of the said city, and to the keeper of the common jail of said county, greeting:

Whereas, the said city of Waupaca, in [on] the— day of —, 18—, recovered a judgment before the undersigned, police justice, in and for said city, against — —, for the sum of — dollars together with — dollars and — cents, costs of suit, for the violation of (section —, of chapter —, of this act, or section —, of an ordinance or by-law or regulation of said city, describing it by its title), you are hereby commanded to levy distress of the goods and chattels of said — —, excepting such as the law exempts, and make sale thereof according to law to the amount of said sums, together with your fees, 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, to take the body of the said — —, and him convey and deliver to the keeper of the common jail in Waupaca county; and said keeper is hereby commanded to receive, keep in custody in said jail, the said —, for the term of — unless the said judgment, together with all the costs and fees are sooner paid, or he be discharged by due course of law.

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

C. D., Police Justice.

The form of the commitment shall be substantially the same as that of the execution, omitting all that relates to the levy and sale and return of writ. Form of commitment.

SECTION 10. In any case where the judgment or fine imposed, exclusive of costs, is twenty-five dollars or more, the defendant may appeal from such judgment, to the circuit court of the county of Waupaca; *provided*, that such defendant within twenty-four hours enter into a recognizance with one or more sufficient sureties, to be approved by such justice, conditioned to appear before said court and abide the judgment of the court therein. The justice from whose judgment an appeal shall be taken shall make a special return of the proceedings had before him, and shall forthwith cause the summons or warrant and return, together with the proceedings and a copy of the entries in his docket in the action, together with the recognizance, to be filed in the office of the clerk of the said court; and the city may appeal from any such judgment, as in other cases before justices of the peace. Right of appeal.

Provide.

Duty of justice in case of appeal.

SECTION 11. Said appeal shall stand for trial by jury, unless a jury be waived in the manner provided No notice of trial required in case of appeal.

by law, in said circuit court, and the next term thereof after the day the judgment of the justice shall be rendered, and no notice of trial shall be required to be given to or by either party.

In case judgment of justice is affirmed.

SECTION 12. If the judgment of the justice shall be affirmed, or if upon the trial the defendant shall be convicted, the court shall inflict the penalty provided by this act, or the ordinance, resolution, by-law, or regulation under which he or they are prosecuted, and enter judgment against him or them and their sureties for such penalty, together with the costs in both courts, and enforce the same by execution as in actions of tort.

Residence in city not to be deemed a disqualification.

SECTION 13. No person shall be an incompetent judge, justice, juror or witness 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.

Village ordinances and regulations to remain in force.

SECTION 14. All ordinances and regulations now in force in the village of Waupaca, and not inconsistent with this act, shall remain in force until altered, modified or repealed by the common council, after this act shall take effect.

Actions, etc., under village ordinances to be vested in city.

SECTION 15. All actions, rights and penalties, fines and forfeitures, in suits or otherwise, which have arisen or accumulated under the several ordinances or act incorporating Waupaca village, shall be vested in and prosecuted by the corporation hereby created.

Actions against city.

SECTION 16. When any suit or action shall be commenced against said city, the service thereof shall be made by leaving a copy of the process of summons with the mayor or clerk of said city, and it shall be the duty of said mayor or clerk so served, forthwith to inform the common council thereof, or to take such demand or proceeding as by ordinance or resolution of said council may be in such cases provided.

Penalties, etc., to be paid to city.

SECTION 17. All penalties and forfeitures recovered and collected under and by virtue of this act, shall be paid into the city treasury for the use and benefit of said city, except as provided in chapter nine of this act.

Fire apparatus exempt from execution.

SECTION 18. All fire engines, hose-carts, hooks and ladders, and wagons therefore and all other apparatus and implements used to extinguish fire, and all houses or buildings owned or occupied by said city for such engines, hose-carts, hooks and ladders and other apparatus and implements, shall be exempt from attachment or execution issued in any action, or on any judgment wherein the said city shall be a party.

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

Private property exempt from execution against city.

SECTION 20. In all cases where a defendant shall be convicted of any violation of any ordinance or police regulations of said city, the court before whom the same is tried, shall have power to sentence the defendant to a term of imprisonment in the common jail of Waupaca county, for any period not exceeding six months.

Power of courts to sentence to imprisonment.

CHAPTER X.

PUBLIC SCHOOLS.

SECTION 1. The mayor and council of the city of Waupaca shall, at their first regular meeting after this charter shall go into effect, elect as school commissioners one person from each ward of said city, who shall hold office until the first Monday of July, 1875, and one other person from such ward who shall hold office until the first Monday in July, 1876, and one person from the city at large who shall hold office until the first Monday in July, 1875; and annually thereafter the said mayor and council shall, at their regular meeting in May, elect one school commissioner from each ward, who shall hold office for two years, and each alternate year after 1875, one from the city at large, unless sooner removed for misconduct or other sufficient cause, by a vote of two-thirds of the appointing power. The terms of office of said commissioners who shall be elected after the first election shall commence on the first Monday of July in each year; *provided*, that all members of the school board now in office shall hold their respective offices for the full term for which they were elected, and until their successors are duly elected and qualified.

Election of school commissioners.

Proviso.

SECTION 2. The school commissioners elected under the provisions of section one of this chapter shall form the "board of education of the city of Waupaca," and a majority of said board shall form a quorum for the transaction of business. It shall be the duty of the mayor and council to supply by appointment any vacancy which may occur from time

Board of education.

to time in the number of said school commissioners by resignation or otherwise.

President of board—his duties.

SECTION 3. The board of education shall, at its first regular meeting, and on the first Monday in July of each year thereafter, elect one of its members president, who shall preside at all meetings of the board, and preserve order and decorum thereat, and decide all questions of order, subject to appeal to the board. He shall countersign all orders drawn by the secretary for the payment of teachers' and janitors' wages, and all other incidental and necessary expenses of said board of education, and in all suits brought by or against the school district, he shall appear in behalf of the district, unless some other provision is made by the board of education. He shall declare all votes taken on questions coming before the board; *provided*, that on all questions requiring appropriations of money, or the adoption of new text-books, the vote shall be taken by ayes and noes, and on any other question the ayes and noes shall be called when any member shall request it; *provided, further*, that in the absence of the president, the board shall elect a president pro tempore.

Proviso.

Meetings of board.

SECTION 4. The board of education shall have at least one regular meeting in each month, at such time and place as may be directed by them, and they may have special meetings at such other times as they may deem necessary, or when called together by the president, but no such special meeting shall be legal unless each member of the board shall have first been served with notice in writing, of the time and place of such meeting.

Duties of board.

SECTION 5. The duties of the board of education shall be as follows:

To employ teachers and regulate salaries of same.

1st. To decide upon the number of teachers to be employed, the grade of school to be kept by each, and the amount of salary to be paid each, and to hire and make contracts with the teachers; and before any teacher shall enter upon his or her duties as such, he or she shall enter into a written contract, which contract shall be signed by such teacher and by the said board of education, or by some member thereof designated for that purpose by resolution of said board. Such contract shall be made in duplicate, and one copy thereof filed with the clerk, and the other copy delivered to such teacher.

To arrange terms and es-

2d. To arrange and determine terms and vacations in all public schools, to establish uniformity in the

school system, and to require and secure uniformity in text-books, and to adopt or reject text-books at will.

establish uniformity in text books.

3d. To establish rules and regulations for the schools not in conflict with the constitution or laws of this state, but the mayor and council may, in their discretion, do away with, annual [annul] or abrogate any such rule or regulation by a two-thirds vote of the whole number of aldermen of said city.

To establish rules and regulations.

4th. To make contracts for all fuel, stationery, and articles of furniture required for the use of the schools; to make all necessary repairs on school-houses, not exceeding one hundred dollars in value for any one school-house; to make contracts for all incidentals required for carrying on the school-houses, such as lighting fires, sweeping school-rooms, etc.; and such contracts, when executed, shall be paid by orders drawn on the city treasurer, payable out of the school-fund, which orders shall be signed by the president of the board of education, and countersigned by the clerk of said board.

To make contracts for fuel, stationery, etc.

5th. The said board shall annually, on or before the first day of November in each year, submit a statement to the mayor and council, showing the amount of teachers' wages that have accrued and become due during the year, and the amounts of all other indebtedness accruing on contract or otherwise, that have been made by order of the board, and for that purpose they shall cause sureties [entries] to be made in a book or books to be provided by the city, of contracts made with the teachers, and the amount of salary to be paid, and of all other expenditures made or authorized by said board at the time the same shall be made or authorized, which book or books shall be subject to inspection in the same manner as the records of the proceedings of said board, and they shall at the same time submit for the consideration of the council a statement of the estimates required for carrying on the schools for the ensuing year, specifying the amount required for teachers' wages and other items separately and specifically. Nothing in this section contained shall prevent the mayor and council from taking into consideration the amount to be received from the state from the income of the school fund, and the amount to be received from the county school tax during the ensuing year.

To submit statement of teachers' wages and other indebtedness.

To keep record of contracts.

SECTION 6. Whenever repairs to a larger amount than one hundred dollars shall, in the opinion of the

When repairs to be made exceed \$100.

When another school-house is required.

board, be required for any one school house, they shall cause a statement to be made showing the repairs required, and an estimate of the cost thereof to be laid before the mayor and council; and whenever, in their opinion, another school house or school houses shall be required, they shall cause estimates of the cost of a site for such house or houses, and a plan of the proposed building or buildings, together with the estimates of the cost of the same, to be made, and shall submit the same for the consideration of the mayor and council, who shall forthwith take measures to raise a tax to defray the cost of such repairs, or the erection of such building or buildings, and the purchase of a site or sites, unless there shall be a two-thirds vote of the whole number of aldermen of the city against the same, in which case such proposed repairs shall not be made, nor shall such site or sites be purchased or building or buildings be erected; and it shall be the duty of said board to enter into contracts for making such repairs, or for the erection of such buildings, or for the purchase of such sites, whenever it shall be made to appear that the necessary tax for the same has been levied or authorized by the mayor and council.

President and secretary of board to draw orders.

SECTION 7. It shall be the duty of the president and secretary of the board of education, to draw orders on the city treasury, payable out of the school fund, for teachers' and janitors' wages, and all other expenditures authorized by this act.

No member of board to be interested in contract.

SECTION 8. No member of the board of education shall have any interest, direct or indirect, in any contract made by said board, and every contract so made, in which any member of said board shall have such interest, shall be absolutely void.

City clerk to act as secretary of board.

SECTION 9. The city clerk shall, in addition to his other duties, act as secretary of the board of education.

CHAPTER XI.

MISCELLANEOUS PROVISIONS.

City of Waupaca invested with property of village of Waupaca.

SECTION 1. The city of Waupaca shall be, and is hereby, invested as the lawful owner and successor of real and personal property, and all the rights and privileges belonging to the corporation of the village of Waupaca, and such part of all the real and personal property, rights and privileges belonging to the town

of Waupaca, and included in said city limits, together with all the funds, revenues, debts and demands, due and (on)owing to the said village of Waupaca, and that part of said town of Waupaca not heretofore included in said village, but now by this act included in said city limits which, by or under any former acts, ordinances, grants, donations, gifts, construction, or purchases, have been acquired, vested or in any manner belong to said village and such portion of said town or either of them.

SECTION 2. The village treasurer and village clerk of the village of Waupaca, and the town treasurer and the town clerk of the town of Waupaca, shall, on or before the first day of May, 1875, deliver over to the city treasurer of the city of Waupaca, all the moneys, books, papers and property of every nature whatever in their hands, belonging to each of said organizations of which he is treasurer or clerk, and which would properly, under this act, belong to said city, or which may be adjudged to belong thereto as hereafter provided, and thereupon the city treasurer of the city of Waupaca shall give to each of the said treasurers and clerks of said town and village his receipt therefor for the articles or moneys so delivered. In case any treasurer or clerk of either of said town or village shall fail, neglect or refuse to deliver over to the city treasurer of the city of Waupaca any moneys, books, papers or property pertaining to each of their several offices as aforesaid at the time, or as required by this act, then the officer so failing, neglecting or refusing, shall forfeit and pay, for the use of the city, one hundred dollars, besides all damages caused by his neglect or refusal so to deliver, and the aforesaid city officer may recover the possession of such moneys, books and papers, or other property of said organizations in the manner prescribed by the laws of this state; such books and papers as aforesaid of the town of Waupaca shall only be retained by said respective city officers for the sole purpose of making an abstract or copy of so much of such records and papers as shall pertain to highways now in said city, and necessary to a full and complete settlement between that portion of the town of Waupaca included in the limits of said city of Waupaca, and that portion of said town outside of said city limits; and upon the completion of said settlement, said books and papers shall be delivered over to the proper officers of said town as it may at

Moneys, books, papers, etc., to be delivered over to city treasurer.

Penalty for failure to deliver books, etc.

Books and papers to be delivered to proper officers.

that time exist, and all moneys that may be found due and owing on account of the proportionate value of any moneys or property which may have been received in common at the time of the organization of said city, shall be immediately paid over to the proper officer or officers. The moneys, books and papers of the village of Waupaca shall remain in the hands of said city officers.

Settlement
between town
and city of
Waupaca.

SECTION 3. Within twenty days after the first election of said city, as hereinbefore provided, it shall be the duty of the common council of said city and the board of supervisors of said town of Waupaca, as it may at that time exist, to meet together at some convenient place upon notice given by either body, and, if possible, agree upon some just, fair and equitable settlement or adjustment of the property, moneys, credits, duties, liabilities, obligations and every other matter or thing made necessary by the organization of said city, outside of the territorial limits of said village and town of Waupaca; and among other things, making a fair and just proportion of the bonded indebtedness of said town, between the town and said city, fixing forever the amount of said indebtedness to be paid by said city and the amount by said town, as it shall at that time exist.

In case town
and city fail to
agree, circuit
judge to ap-
point commis-
sioners.

SECTION 4. If the common council of said city, and board of supervisors of said town, shall be unable to agree upon an honorable, just and fair settlement or adjustment as provided in the preceding section, then it is hereby made the duty of the circuit judge of the circuit court in and for the county of Waupaca, upon application made to him by either of said bodies, five days notice having been previously given to the other body, to appoint three commissioners, one to be a resident of said city, one of said town, and one to reside outside of both city and town, who shall have the power, and it is made their duty, as soon as may be, after their appointment and filing with the clerk of the circuit court in and for said county, of their oaths, to faithfully and fairly to adjust and settle all matters of dispute between said city and town as hereinbefore mentioned, to examine into and fairly, equitably and justly make a division of all property, moneys, credits and property owned by said city or any part thereof in common with said town, make a full and complete settlement or adjustment of all matters between said city and said town arising or growing out of the formation of said city,

out of the territorial limits of said town, and especially of the indebtedness of said town, any portion of which said city ought to pay. The said commissioners shall, as soon as possible, make their award in writing, and file the same in the clerk of the court's office of said county.

SECTION 5. Any and all amounts found as aforesaid to be owing by said city to any portion of the territory outside of the city, which comprised a part of the town of Waupaca from which said city was formed, shall be paid by said city to the proper officers authorized to receive and receipt for the same. But if it shall be found, upon such settlement, that there is any amount due any portion of said city from any portion of territory outside of said city limits, which was an organization from which said city was formed, that portion of said territory so owing said part of said city, shall pay the amount thereof to the city treasurer. And in case any portion of territory so indebted shall fail, neglect or refuse to pay the amount thereof so found to be due, the city treasurer of said city shall proceed to collect the same in the manner as is now provided by the laws of this state for the collection of debts against towns, cities and villages.

How settlement shall be made.

SECTION 6. The common council of the city of Waupaca shall have the same powers in relation to all school districts situated in whole or in part within said city limits, as are now conferred upon town boards of supervisors by the laws of this state, and shall perform all duties relative thereto in the same manner as town boards of supervisors are authorized to do.

Powers of council over school districts.

SECTION 7. All work for the city or either ward thereof shall be let by contract to the lowest reasonable, responsible bidder, and due notice shall be given of the time and place of letting such contract; *provided*, that the council, by a vote of two-thirds of the members thereof, may otherwise provide for all work.

Work to be let by contract to lowest bidder.

SECTION 8. In all cases where an action might be brought by the city of Waupaca against any person, company or corporation, such action may be commenced and prosecuted in the name of the city, by any elector of said city; *provided*, that before any person, other than the proper officers of said city, shall prosecute any such action, the person or persons so commencing, shall enter into bonds with suf-

Actions to be brought in name of city—how proceeded with.

ficient surety to the opposite party, to be approved by the judge or justice before whom such action shall be brought, conditioned that he or they will pay all costs that might be recovered against the city in such action. After the filing of such bond, with the papers in the case, such action shall not be discontinued or defeated by the city, nor shall the city be liable for any costs on account of any such action, but such costs, where the action shall fail, may be recovered against the party commencing the same, upon the bond filed as aforesaid; *provided*, that nothing herein contained shall be so construed as to prevent any peace officer from arresting, without process, any person in a state of intoxication, or guilty of immoderate drinking, improper reveling, obscenity or noisy, boisterous or disorderly conduct in the streets or public places, and taking such person or persons forthwith before the police justice, or keeping them in confinement until such time as said justice can reasonably hear and dispose of such offenders.

Proviso.

In cases of conviction court to enter judgment.

Defendant to be imprisoned for non-payment of fine and costs.

When election is not held at prescribed time to be held at subsequent date.

SECTION 9. In all cases of conviction in actions brought or prosecuted to recover a penalty under any of the provisions of this act, or to recover a penalty or forfeiture for the violation of any city ordinance or regulation, the court shall enter judgment against the defendant for the fine and costs of prosecution, and if the defendant shall refuse or neglect to pay such fine and costs, the court shall enter a judgment that the defendant be imprisoned in the county jail of Waupaca county for a term not exceeding three months, and shall forthwith commit the defendant for the term fixed by said judgment, and in all cases where the judgment shall be that the defendant shall be imprisoned in the county jail, the court may, in its discretion, enter a further judgment that the defendant pay the costs of prosecution and that he be held in imprisonment in the said jail until such costs be paid, or he be otherwise discharged by due course of law.

SECTION 10. If any election by the people or common council, shall not from any cause be held at the time or in the manner herein prescribed, it shall not be considered reason for arresting, suspending or abolishing said corporation, but such election may be held on any subsequent day by order of the mayor; and if any of the duties enjoined by this act, or the ordinances or by-laws of the city, to be done by any officer, at any time specified, and the same are not

done and performed, the common council may appoint another time at which said acts may be done and performed.

SECTION 11. Said city may lease, purchase or hold real or personal property sufficient for the convenience of the inhabitants thereof and may sell and convey the same, and the same shall be free from taxation while owned or held by said city.

City may hold real or personal property.

SECTION 12. No general law contravening the provisions of this act shall be considered as repealing, amending or modifying the same, unless such purpose is expressly set forth in such law.

Act not to be repealed by general laws.

SECTION 13. From and after the third Monday of March, 1875, the connection between the town of Waupaca, and that part of said town included within the city limits, for all town purposes, shall be dissolved. The duties now and hereafter imposed upon supervisors and other town officers, so far as they relate to the city of Waupaca, shall be performed by the aldermen of the wards and the other officers of said city, except as hereinafter provided.

Connection between town and city dissolved.

SECTION 14. Every member of the common council of the city of Waupaca who shall, directly or indirectly, vote to himself or knowingly to any other person any sum of money for any purpose whatever, in violation of the city charter or any amendment thereof, or shall ask or receive any compensation for doing any official act, except as an inspector of elections, member of the board of registry, and as a member of the board of equalization; any member of the common council or other city officer who shall be directly or indirectly interested in any contract made with or in behalf of the city, and any member of said council or other city officer who shall, directly or indirectly, purchase or be interested in the purchase of any city order or city indebtedness for any less than the full amount thereof, shall be deemed guilty of a misdemeanor in office, and may be prosecuted either by indictment or complaint before the police justice or any justice of the peace having jurisdiction, and upon conviction thereof shall be punished by fine not exceeding one hundred dollars nor less than twenty dollars, or by imprisonment in the county jail not more than thirty days nor less than ten days, or both, at the discretion of the court, and any contract made in violation of the provisions of this section, shall be void.

Penalty for voting money in violation of charter, receiving compensation for official acts or being interested in contracts.

SECTION 15. The paupers of said city shall be cared

Care of paupers.

for in such manner as shall be provided by the laws of the state relating to the care of paupers.

Licenses—how issued.

SECTION 16. Every license issued by the authority of this act or the ordinances of the city, shall be signed by the mayor and city clerk, and sealed with the corporate seal, but no such license shall be issued by said mayor and clerk until the person applying for the same shall have deposited with the said clerk the receipt of the city treasurer for the amount required to be paid therefor, nor shall any license be issued for dealing in, selling or vending spirituous, vinous or malt liquors, until the applicant shall have filed his receipt as aforesaid, together with a bond, as required by the laws of this state, which bond shall be approved by the mayor, and a sum not less than the minimum nor greater than the maximum sum fixed by the laws of this state to be paid for such license, shall be paid to the city treasurer in money. It shall be the duty of the mayor and city clerk to report to the council, at each regular meeting thereof, the licenses theretofore issued by them and not before reported, and the council shall, by vote, approve or disapprove of the same. If the council disapprove thereof, it shall be the duty of the city clerk forthwith to notify the person holding such license that the same has been revoked by action of the common council, and such license shall thereafter be void, and the council shall refund the license money paid therefor, except a fair proportion thereof for the time said license was in force.

County jail to be used by city.

SECTION 17. The use of the jail of Waupaca county, until otherwise provided, shall be granted to said city for the confinement of offenders, and every such offender shall be delivered to the sheriff of said county for whose custody, safekeeping and delivery the said sheriff shall be responsible as in other cases; but said county shall not incur or pay any liability or expense on account of any person committed to said jail for a violation of any ordinance, by-law, rule or regulation of said city, but such expenses shall be paid by the city.

Judgments against city.

SECTION 18. When a judgment shall be recovered against any officer of said city, or any ward thereof, in any action prosecuted by or against him, in his name of office, where the same should be paid by the city or ward thereof, no execution shall be issued or awarded upon such judgment, except as hereinafter provided, but the same, unless reversed, shall

be levied and collected as other city or ward charges, and when so collected shall be paid by the city treasurer to the person to whom the same shall be adjudged, upon the delivery of a proper voucher therefor; but if payment thereof be not made within sixty days after the city treasurer is required to make his return of city or ward taxes next after the rendition of such judgment, execution may be issued thereon, upon the order of the court authorized to issue such execution on special application therefor.

SECTION 19. No member of the common council shall be elected or appointed to any office, agency or place of public trust or profit by the council, except as provided by this act; neither shall the common council sell or authorize the sale of any city order or certificate of indebtedness for the purpose of raising money for the payment of any debt for less than the amount expressed upon the face thereof.

Members of council ineligible to other offices.

City orders not to be sold at discount.

SECTION 20. The mayor shall have power to grant pardons or commutations, after conviction, for all offenses against the ordinances of the city, upon such conditions as he may deem proper; he shall communicate any such action to the council, at its next meeting, with his reasons therefor. All fines imposed by the police court of the city of Waupaca, for violation of this act, or ordinances, by-laws or regulations made in pursuance thereof, shall be paid by the officer collecting the same, into the city treasury, and a separate account made thereof; and in the months of March and September in each year, the city clerk shall report to the council the amount so received during the preceding six months, and also the expenses attending such prosecutions in the city during the same year.

Power of mayor to pardon.

Fines to be paid into city treasury.

SECTION 21. The mayor shall have power, and it shall be his duty, to remove from office any policeman for incompetency, misconduct or neglect in the discharge of his official duties, or for refusing or neglecting to perform such acts as are required of him by law.

Removals from office.

SECTION 22. Any person who shall be guilty of drunkenness, or immoderate drinking, improper reveling, obscenity, or noisy, boisterous or disorderly conduct in the streets or public places of the city of Waupaca, shall be deemed guilty of a misdemeanor, and on conviction thereof before the police justice of said city, shall be punished by a fine of not less than one, nor more than one hundred dollars, or by im-

Punishment for various offenses.

prisonment in the county jail of Waupaca county for a term of not less than two days nor more than three months.

Complaints—
how made.

SECTION 23. Whenever any complaint is made to the police justice of said city by any police officer, sheriff, policeman or other person, that any offense has been committed within the said city against the provisions of the charter of said city, or of the by-laws or ordinances passed in pursuance thereof, whether such offense is made punishable under such charter or ordinances, by fine, penalty or imprisonment, the said justice shall examine the complainant on oath, and reduce the complaint to writing, and cause the same to be subscribed by the complainant; and if it shall appear that any such offense has been committed, the said police justice shall issue his warrant, reciting the substance of the complaint, requiring the officer forthwith to arrest the accused and bring him before such police justice to be dealt with according to law. All the laws of this state relating to the manner of conducting criminal actions before justices' courts shall be applicable to all trials before the police justice under this act, so far as the same do not conflict with the provisions of this act; *provided*, when the complaint is made by any person other than a police officer of said city, or sheriff of Waupaca county, the said justice, before issuing his warrant, shall require security, as provided in section 13 [of chapter ten] of this act.

Previso.

Compensation.

SECTION 24. No compensation or salary shall be paid the mayor or any alderman of said city, except as provided in section twenty-one of this chapter.

Assignment
of licenses.

SECTION 25. No assignees of any license shall be permitted to pursue the occupation or business licensed, except by a vote of two-thirds of the common council.

Town and
village officers
to remain in
office.

SECTION 26. The town board of supervisors of the town of Waupaca, and the board of trustees of the village of Waupaca, the town clerk, and village clerk, town treasurer and village treasurer of said town and village included, in whole or in part, within the city limits of said city, shall hold their respective offices, and discharge their respective duties as such officers until the first Tuesday in April next, in the same manner, and shall have the same power as if this act had not been passed, anything in this act to the contrary notwithstanding.

Act defined.

SECTION 27. This act is hereby declared to be a pub-

lic act, and shall be liberally construed in all courts of this state.

Approved March 5, 1875.

CHAPTER 259.

[Published March 19, 1875.]

AN ACT to amend section forty-nine (49), of chapter thirteen (13,) of the revised statutes, entitled, "Of counties and county officers."

The people of the state of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Section forty-nine (49), of chapter thirteen (13), of the revised statutes, entitled, "Of counties and county officers," is hereby amended so as to read as follows: Section forty-nine (49). Each member of the board of supervisors shall be allowed and paid by the the county, a compensation for his service and expense in attending the meetings of the board, at the rate of two dollars (\$2.00) per day for the time he shall actually attend, and six cents for each mile traveled in going to or returning from the place of meeting, for any distance traveled, but no per diem allowance shall be made for any time occupied in traveling when mileage is allowed therefore; and no supervisor shall be allowed to draw pay for more than fifteen days attendance on the county board in any one year: *provided*, that in counties where the population exceeds fifteen thousand (15,000), the county board of supervisors may sit and receive pay for such a number of days in each year, not exceeding twenty, as they may deem necessary for the transaction of the business that may come before them.

Amended.

Compensation of supervisors.

Proviso.

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

Approved March 5, 1875.