

SECTION 3. This act shall take effect and be in force from and after its passage and publication.

Approved March 18, 1878.

[No. 209, §S.]

[Published April 5, 1878.]

## CHAPTER 247.

AN ACT to incorporate the city of Fort Atkinson.

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

### CHAPTER I.

#### INCORPORATION.

**Incorporated.**

SECTION 1. All that district of country in the county of Jefferson hereafter described shall be and remain a city by the name of Fort Atkinson, and the people who now, or who may hereafter inhabit said district shall be a municipal corporation by the name of the city of Fort Atkinson, and shall have the general powers possessed by municipal corporations at common law, and also the powers hereinafter specifically granted, and the authorities thereof shall have perpetual succession, shall be capable of contracting and being contracted with, suing and being sued, pleading and being impleaded with in all courts of law and equity, and shall have a common seal, and may change and alter the same at pleasure.

### CHAPTER II.

#### CITY AND WARD BOUNDARIES.

**City boundaries**

SECTION 1. All that district of country in the town of Koshkonong and county of Jefferson, in the state of Wisconsin, included within the following described territory, to wit: The east half of section four and the west half of section three, township five north, of range number fourteen east, shall be included in and constitute the limits of the city of Fort Atkinson.

**Ward boundaries.**

SECTION 2. The said city is hereby divided into three wards to be called and known as the first, second and third wards, and limited and bounded as follows, to-wit: All that portion of said city lying south of

Rock river and east of the centre of Main street shall be and constitute the first ward; all that portion of said city lying south of Rock river and west of the centre of Main street shall be and constitute the second ward; and all that portion of said city lying north of Rock river shall be and constitute the third ward.

### CHAPTER III.

#### CORPORATE AUTHORITY.

SECTION 1. The corporate authority of said city, <sup>Corporate au-</sup> and the exercise of its corporate powers and manage- <sup>thority.</sup> ment of its financial, prudential and municipal concerns, shall be vested in one principal officer, styled the mayor, and one board of aldermen, consisting of two members from each ward, who with the mayor, shall be denominated the common council, and in such other officers as are hereinafter mentioned or may be created under this act.

### CHAPTER IV.

#### ELECTIONS.

SECTION 1. The annual election for ward and city <sup>Elections.</sup> officers shall be held on the second Tuesday of April in each and every year, at such place in said city as the common council shall direct. The polls of every election under this act shall be kept open from one o'clock in the afternoon until five o'clock in the afternoon of the same day.

SECTION 2. The common council shall give at least <sup>Notice of elec-</sup> ten days' notice of the time and place of holding every <sup>tion.</sup> such election, and of the city and ward officers to be elected thereat, by causing notice thereof to be published at least ten days before every such election, in a newspaper published in said city, or by causing such notice to be posted up in at least five conspicuous places in said city: *provided, however,* that a failure to give such notice shall not invalidate any annual election otherwise duly held in said city on the second Tuesday of April in any year.

SECTION 3. The mayor and any two aldermen of <sup>Officers of elec-</sup> said city shall preside at and be the judges and inspec- <sup>tion.</sup> tors of every election held under this act. The clerk of said city, hereinafter provided for, together with two suitable persons, electors of said city, appointed by the inspectors, shall be the clerks of every such election.

In case of the absence of the city clerk, the inspectors may also appoint an elector of said city to act as such clerk at such election, and in case of the absence of the mayor and two of the said aldermen in time to properly open the polls, the qualified voters of the city there present may choose from among their number one or more persons, as the case may be, to act as inspectors in the place of the absent mayor or aldermen. The clerks and inspectors shall take and subscribe an oath, in the same form and to the same effect, as near as may be, as the oath required to be taken and subscribed by clerks and inspectors of general elections under the laws of this state. The clerk shall keep a list of the names of persons voting, as hereinafter provided, and all elections under this act shall be conducted in the same manner, as far as may be, in accordance with the provisions of this act, as general elections are conducted under the laws of this state, and the plurality of votes shall in all cases decide the election.

**Ballot-boxes.**

SECTION 4. The common council of said city shall provide three ballot boxes, numbered one, two and three, to correspond with the wards aforesaid, to be used at all elections under this act.

**Elections.**

SECTION 5. All persons qualified to vote at general elections for state officers and who shall have been residents of said city for at least ten days next preceding any election, shall be legal voters for any officer required to be elected by this act; and if any person's right to vote be challenged, or if the inspectors of election shall have reason to believe that any person presenting himself to vote, does not possess the qualifications of an elector under this act, the inspectors shall decide upon the challenge, or upon the qualifications of the person as an elector, in the same manner as is required by law at general elections: *provided, however,* that the proper questions shall be propounded to and answered by such person to enable said inspectors to determine whether he has resided in said city for ten days prior to offering his vote.

**Elective officers and terms.**

SECTION 6. The elective officers of said city shall be a mayor and police justice, a city clerk and city treasurer, to be elected by and for the city at large; and two aldermen, to be elected by and from each ward. The mayor, aldermen, police justice, city clerk and city treasurer, shall be qualified voters of said city, and the aldermen shall be residents of the ward from which they shall be elected, and except the police justice, shall hold their respective offices for the term of

one year and until their successors shall be elected and qualified. The police justice shall hold his office for the term of two years and until his successor shall be elected and qualified.

SECTION 7. All elections by the people shall be by ballot, on which the names of all persons voted for shall be written or printed, and when any aldermen, or supervisors to represent the several wards of said city in the county board of supervisors are to be elected at any election, the ballot shall designate the number of the ward from which such aldermen or supervisors are to be elected. At each annual election, the inspectors of election shall cause three poll lists to be made and numbered one, two, and three, to correspond with the three wards hereinbefore provided for, and the inspectors of election, at the opening of the polls, shall designate which of the three clerks of election hereinbefore provided for shall have charge of the poll list for each of the said wards respectively. Every person when he presents his ballot, shall give his name and the number of the ward in which he resides, and the clerk of election who has charge of the poll list of the ward in which he resides, shall enter his name on the list, numbered so as to correspond with the number of the ward of which said person is a resident. The ballot of each elector shall be deposited in the box numbered to correspond with the ward wherein he resides, and no ballot which shall be deposited in a box other than the one corresponding in number to the ward wherein the person named in such ballot for alderman or supervisor resides, shall be counted. Immediately after the closing of the polls, the ballots in each box shall be counted separately by the inspectors and clerks, and the two persons named on the ballots in any box for aldermen, and the one named thereon for supervisor, who shall have received a plurality of all the votes cast by the electors of the ward corresponding in number with the box, shall be declared elected aldermen and supervisor of such ward, and the persons who shall receive a plurality of all the votes of the electors of said city for the offices of mayor, police justice, city clerk and city treasurer, shall be declared elected to such offices respectively. When two or more candidates of an elective office shall receive an equal number of votes for the same office, the election shall be determined by the casting of lots, in the presence of the common council, at such time and in such manner as the common council shall direct.

Elections, how conducted.

Penalty for illegal voting.

SECTION 8. If any person who is not a qualified voter of said city shall willfully and knowingly vote at any election, or if any person duly qualified shall willfully and knowingly give his name as belonging to a ward in which he does not reside, and shall willfully and knowingly deposit or cause to be deposited his ballot in a box not corresponding in number to the ward in which he resides, or if any person shall vote more than once at any election, he shall forfeit and pay a sum not exceeding fifty dollars and not less than twenty-five dollars, to be recovered in the same manner as other fines and penalties are recovered under this act, and shall also incur all the pains and penalties provided by any general law of this state for illegal or fraudulent voting. If any inspector shall knowingly and corruptly receive the vote of any person not authorized to vote, or shall make out false returns of an election, or if any clerk shall willfully omit to write down the names of every voter as he votes, or shall willfully make untrue or incorrect counts or tallies of votes, such inspector or clerk shall be liable to indictment or punishment by information, and on conviction thereof shall forfeit and pay a sum not exceeding five hundred dollars, or less than one hundred dollars.

Election returns.

SECTION 9. Immediately after the counting of the ballots at any election under this act, the inspectors and clerks of election shall, under their hands, make a written statement of the result of such election, and attach thereto the oaths of the inspectors and clerks, and the three poll lists kept at such elections, and shall cause the same to be filed in the city clerk's office, and the said statement shall be recorded in the records of said city by the city clerk; and the said statement shall be *prima facie* evidence, in all courts and before all tribunals, of the statements therein contained. Immediately after filing such statement, the city clerk shall make out and deliver to each person who appears by such statement to have been elected to any office, a certificate of election under his hand and the seal of said city.

Appointive officers.

SECTION 10. All other officers necessary for the management of said city shall be appointed by the common council thereof, and the said common council shall, at its first regular meeting in each year, appoint one marshal, an attorney, one or more street commissioners, and such other officers as the council shall deem it necessary to appoint at that time. In case the

council shall for any reason fail or neglect to elect a marshal, an attorney, one or more street commissioners, or either of them, at the first meeting in each year, the mayor shall call a special meeting of the common council, to be held within fifteen days after such regular meeting, at which special meeting the common council shall appoint such of said officers as it neglected or failed to appoint at its first regular meeting. Notice of the time and place of holding such special meetings, and of the officers to be appointed thereat, shall be published at least ten days before such meeting in some newspaper published in said city, or by posting such notice up in at least five conspicuous places in said city, at least ten days before such special meeting.

SECTION 11. All the village officers of the village of Fort Atkinson shall hold their respective offices until their successors shall be elected and qualified, or appointed and qualified under this act; and the term of every officer elected under this act shall commence the third Tuesday in April of the year for which he shall have been elected, and shall, unless otherwise provided, continue for one year, and until his successor is elected and qualified. Village officers.

SECTION 12. All duties herein required of the mayor, aldermen, common council, or clerk, in regard to elections, shall be performed, so far as may be necessary, by the present president, trustees, board of trustees, and the clerk of the village of Fort Atkinson, in regard to the first election and the organization of the city government under this act. Duties of village officers.

SECTION 13. The first election of officers under the provisions of this act shall be held on the second Tuesday in April, A. D. 1878, and the president and any two trustees of the village of Fort Atkinson shall be the inspectors, and the clerk of said village, together with two other clerks, to be appointed by said inspectors, shall be the clerks of such election. First election.

SECTION 14. The common council may at any time, when in its judgment the interests of the city require it, appoint an assistant marshal or assistant marshals, and may remove the same at pleasure; and such assistant marshal or marshals, when so appointed, shall have the same power and authority, rights and privileges, and be subject to the same duties as the marshal of said city. Assistant marshal.

SECTION 15. Immediately after any corporation officer shall be elected or appointed and qualified, the clerk of said city shall, under his signature and the cor- Statement of officers elected.

porate seal of said city, make out two statements containing the names of the persons so elected or appointed and qualified, and the office to which each shall have been elected or appointed and qualified, and he shall transmit said statements, the one to the county clerk, and the other to the clerk of the circuit court of Jefferson county; and the said clerks shall file and preserve the same in the same manner as they file and preserve like certificates of the election or appointment and qualification of town officers.

## CHAPTER V.

### VACANCIES AND REMOVALS.

**Vacancies.** SECTION 1. The death, neglect to qualify, refusal to serve, or removal from said city, of any officer elected or appointed under this act, or his inability for any cause to discharge the duties of his office, or his removal by the common council as hereinafter provided, shall create a vacancy in such office, and the removal of any alderman or supervisor from the ward for which he shall have been elected shall create a vacancy in the office held by him.

**Removals.** SECTION 2. For good cause shown, the common council may remove any officer elected under this act, but before any officer shall be so removed, written charges shall be made against him and filed in the city clerk's office, and a copy of such charges, together with a written notice of the time and place, when and where the council will hear testimony to prove or disprove the same, shall be served upon such officer at least ten days before the time appointed for such hearing; and the officer against whom charges shall be so filed shall have the right to appear in person or by attorney, or both, at such hearing, and to examine witnesses, and present other pertinent evidence in his own behalf, and to cross-examine any witness that may be produced against him.

**Vacancies.** SECTION 3. Whenever a vacancy shall occur in the office of mayor or police justice, the common council shall call and cause to be held a special election to fill such vacancy. Every special election shall be held in the same manner as annual elections, and the same notice shall be given as is required to be given of annual elections. Whenever a vacancy shall occur in any office other than that of mayor or police justice, the common council shall fill such vacancy by appointment at its next regular meeting after such vacancy

occurs, or at a special meeting to be called for that purpose. Every person elected or appointed to fill a vacancy shall hold the office to which he shall have been elected or appointed for the unexpired term of his predecessor, and until his successor shall be elected or appointed and qualified.

## CHAPTER VI

SECTION 1. Every person elected or appointed to fill any office under this act shall, before he enters upon the discharge of the duties of his office, take and subscribe an oath of office, to the effect that he will faithfully discharge the duties of his office, and will support the constitution of the United States and the constitution of the state of Wisconsin and the laws thereof, which oath shall be duly certified by the officer administering the same, and filed with the city clerk; and the treasurer, police justice, marshal 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 Fort Atkinson a bond in such sum and with such sureties 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 neglecting or refusing to give the same.

SECTION 2. The mayor, when present, shall preside over all meetings of the common council, sign all orders upon the treasurer for the payment of money, all ordinances passed, and all commissions, licenses and permits granted by 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 from time to time communicate to the common council such information and recommend such measures as he may deem advantageous to the city, and at all times give such information respecting city officers as the common council may require. In case of a riot or other disturbance or apparent necessity, he may appoint as many temporary assistant marshals as he may deem necessary. He shall have power to administer oaths or affirmations, and to take the acknowledgment of deeds, and other instruments in writing, and when presiding over any meeting of the common council shall poll a vote only in case of a tie.

SECTION 3. At the first meeting of the common

Oaths.

Bonds.

Duties of mayor.

Duties of president.



council in each year, or as soon thereafter as may be, it shall proceed to elect by ballot one of its 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 temporary 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. The common council, in case the mayor and president shall both be absent from any meeting thereof, 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 as acting mayor shall have the same force and validity as if performed by the mayor.

Duties of  
of clerk.

SECTION 4. The city clerk shall keep the corporate seal and all the papers and records of the city. He shall attend the meetings and keep in a book, to be provided by the common council for that purpose, a correct record of the proceedings of the common council, and of the doings and votes of the inhabitants of said city at their annual and other elections. He shall keep a full and accurate account of all orders drawn on the treasurer, in a book to be provided for that purpose, and shall keep all accounts of the city with individuals, and shall keep an accurate account with the treasurer, and charge him with the amount of all tax lists delivered to him for collection and all sums of money paid into the treasury. He shall, within fifteen days after its publication, record in a book to be provided for that purpose, each ordinance passed by the common council, and the proof of publication of such ordinance. The records so kept by him, and the papers filed in his office, and copies of said records and papers duly certified by said clerk under the corporate seal, shall be received in evidence of the statements therein contained in all courts and tribunals.

Duties of  
treasurer.

SECTION 5. The treasurer of said city shall perform such duties and exercise such powers as may be lawfully required of him by the ordinances or resolutions of said city, or by the laws of this state. All moneys received, raised, recovered or collected by means of any tax, license, penalty, fine, forfeiture, or otherwise under the authority of this act, shall be paid to and received by him, and he shall pay the same out only upon a written or printed order signed by the mayor and coun-

tersigned by the clerk, by order of the common council. Such order shall specify the amount of money to be paid thereon, the name of the person to whom, and the purpose for which it is to be paid. He shall keep a just and accurate account of all his receipts and disbursements in a book to be provided by the common council for that purpose, which book shall remain the property of the city, and in which he shall note the several sums received by him, the time when, the persons from whom, and the source from which each sum was received; and said book shall, at all reasonable times, be open to the inspection of the electors of said city. He shall, as often as the common council shall require, render to the common council a minute account of his receipts and disbursements, and at the expiration of term of his office, pay over and deliver to his successor all moneys, books, papers and vouchers in his possession belonging to said city.

SECTION 6. The marshal of said city shall attend all the meetings of the common council, and, in addition to the duties herein specifically named, shall perform such other duties as shall be prescribed by the common council for the preservation of the public peace and the collection of license money, fines, penalties and forfeitures. He shall possess all the powers of constables of towns, and be subject to the same liabilities. He may serve any process directed to him or to the sheriff or any constable of Jefferson county. It shall be his duty to suppress all riots, disturbances and breaches of the peace, to remove all obstructions from the streets and alleys of said city, to abate all nuisances in said city, and to arrest with or without process any person whom he shall find in any public place of said city in a state of intoxication, or making a loud or boisterous noise, or guilty of any act of lewdness or obscenity, or whom he may find in any place in said city engaged in any affrays or fights, or violating any ordinance, rule, regulation or resolution of said city made for the preservation of the peace and the good order thereof, or violating any law of this state, and having so arrested any such person, he shall, within a reasonable time thereafter, take him before competent authority to be dealt with according to law; it shall be his duty to obey all orders of the common council; and for all such services as are usually rendered by constables he shall receive the same fees as constables, and for other services rendered to said city he shall receive such compensation as the common council shall fix by order, ordinance or otherwise.

Duties of  
marshal.

**Duties of street commissioner.**

**SECTION 7.** It shall be the duty of the street commissioner of said city to build, construct, maintain and repair all such sidewalks, crosewalks, streets and alleys of said city as the common council shall direct him or them to build, construct, maintain and repair; and for all services rendered by him by direction of the common council, he shall receive such compensation as the common council shall fix by order, ordinance or otherwise.

**Duties of supervisors.**

**SECTION 8.** It shall be the duty of the supervisors elected for the several wards of said city to attend the meetings of the county board of supervisors of Jefferson county, as members thereof. They shall receive no compensation for their services from said city.

**Duties of city attorney.**

**SECTION 9.** It shall be the duty of the city attorney to attend to all legal business of the city, and to advise the officers of said city as to their official duties whenever his advice may be requested by them or either of them. He shall receive for his services such compensation as the common council shall fix by order, ordinance or otherwise.

**Refusal to surrender office.**

**SECTION 10.** If any person having been an officer of said city, shall not, within ten days after demand therefor, deliver to his successor in office all property, moneys, books, papers and effects of every description in his possession, or under his control, belonging to said city or pertaining to the office he may have held, he shall forfeit and pay to the city one hundred dollars, to be disposed of according to law, besides all damages caused by his neglect or refusal so to deliver, and such successor may recover the possession of such property, books, papers and effects in the manner prescribed by the laws of this state.

**Peace officers.**

**SECTION 11.** The mayor, sheriff and deputy sheriff of Jefferson county, each and every alderman, police justice and marshal shall be officers of the peace, and shall suppress in a summary manner all rioting and disorderly behavior within the limits of said city, and for such purpose may command the assistance of bystanders, and if need be, of all citizens, and military companies; and if any person, bystander, military officer or private shall refuse to aid in maintaining the peace when so required, he shall forfeit and pay a fine of not exceeding fifty dollars; and in all cases when the civil power may be required to suppress riots or disorderly behavior, the superior or senior officer present in the order mentioned in this section, shall direct the proceeding.

SECTION 12. 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 or assistants as they may deem proper or necessary to carry into effect the provisions of this act, or to protect the rights of the city, and to prescribe the duties and fix the compensation of all such other officers. Further duties of board.

## CHAPTER VII

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

SECTION 1. The mayor and aldermen shall constitute the common council, and the style of all ordinances shall be, "The common council of the city of Fort Atkinson do ordain," etc. A majority of the aldermen shall constitute a quorum; but no business, except adjourning, shall be done, either at regular or special meetings, unless four of the common council vote upon the business before the council. Common council.

SECTION 2. The common council shall hold stated meetings at such times and places as it shall by resolution direct: *provided, however,* that its first regular meeting shall be held the third Tuesday of April in each year; and the mayor may call, and upon the written request of not less than three aldermen, it shall be his duty to call special meetings by notice to each of the aldermen, to be served personally, or left at the usual place of his abode, and all their meetings shall be open to the public. 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 shall have power to preserve order and propriety in its proceedings, and compel the attendance of its members. Meetings.

SECTION 3. The common council shall have the management and control of the finances, and of all the property, concerns and effects of the city, and shall, in addition to the powers herein specifically vested in it, have full power to make, enact, ordain, establish, publish, enforce, alter, modify, change, amend, and repeal all such ordinances, rules, resolutions, orders, and by-laws for the government and good order of the city, for the suppression of vice and immorality, for the prevention of crime, for the protection against fires, and for the benefit of trade and commerce and the public health, as it shall deem expedient, declaring and imposing pen- Powers of council.

alties, and to enforce the same against any person or persons who may violate any of the provisions of such ordinances, rules, resolutions, orders and by-laws; and such ordinances, rules, resolutions, orders and by-laws are hereby declared to be and have the force of laws; and the municipal court of said city, and all other courts of this state, shall take judicial knowledge of all such ordinances, the same as the general laws of this state.

**Fire companies  
and protection  
against fire.**

SECTION 4. The common council shall have power to organize, support and maintain fire companies, hook and ladder companies, and to regulate their government; to provide all necessary engines, hose and hose carts, hooks and ladders and trucks, and all other necessary apparatus for the extinguishment of fires; and to provide the necessary buildings for the safe keeping of the same; to require the owners of all buildings to provide and keep suitable ladders and fire buckets, which are hereby declared appurtenances to the real estate, exempt from seizure or sale, in any manner for debt, separate from the real estate, and if any such owner shall neglect, after reasonable notice, to provide suitable ladders or fire buckets, the common council may procure and deliver the same to him, and in default of payment therefor, the city may recover of such owner the cost of such ladder or fire buckets, or both together, with the cost of procuring and delivering the same to him, and the costs of suit and the amount of such money shall be a lien on such real estate; to regulate the sale and storage of gunpowder and other dangerous substances; to direct the safe construction of a place for the deposit of ashes; to appoint one or more fire wardens, to enter into, at all reasonable times, and examine all dwelling houses, lots, yards, inclosures, and buildings of every description, and to cause such as may be dangerous to be put in a safe condition; to regulate the manner of putting up chimneys, stoves and stovepipes; to prevent fires, and the use of fire-works and firearms in said city, or such part thereof as it may think proper; to compel the inhabitants of such city, and all others who may be therein at the time a fire occurs, to aid in the extinguishment of fires, and to pull, break down and raze such buildings and structures, and to remove such goods or materials in the vicinity of the fire as it shall deem necessary for the purpose of preventing its communication to other buildings; to construct, maintain and preserve reservoirs, pumps, cisterns, wells and other water works,

and to regulate the use thereof, and generally to establish such other measures of prudence for the prevention and extinguishment of fires as it may deem proper.

SECTION 5. The common council shall have power, by order, ordinance, rule, resolution, regulation or by law:

1st. To adopt all requisite measures for levying and collecting taxes and assessments, in manner hereinafter provided.

Further powers of council.

Taxes.

2d. To license and regulate the exhibition of common showmen, caravans, circuses, theatrical performances, or shows of any kind; to restrain, license or prohibit the keeping of or playing upon billiard tables, pigeon-hole tables, or other tables for gaming.

Entertainments may be licensed, etc.

3d. 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 to authorize the destruction of all instruments and devices used for the purpose of gaming.

Gaming, etc.

4th. To prevent any riots, noise, disturbances, disorderly conduct or disorderly assemblages, suppress and restrain disorderly houses and houses of ill-fame, and to provide for the abatement of all nuisances under the ordinances of said city, or laws of this state, or at common law.

Riots, etc.

5th. To compel the owner or occupant of any grocery, cellar, slaughter house, tallow chandler's shop, soap factory, 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 may be deemed necessary for the health, comfort and convenience of the inhabitants of said city.

Nauseous places.

6th. To direct the location and management of slaughter houses, and to prevent the erection or occupation of the same within the limits of said city.

Slaughter-houses.

7th. To prevent the incumbering of streets, sidewalks, lanes or alleys with carriages, sleighs, wagons, boxes, lumber, firewood, or any other materials or substances whatever.

Encumbering of streets.

8th. To prevent horse racing, or fast or immoderate riding or driving on streets.

Fast driving.

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

Running at large of animals.

10th. To prevent the running at large of dogs, and to authorize the destruction of the same in a summary manner, when at large contrary to ordinance.

Dogs.

- Pounds.** 11th. To make and establish a pound, and to appoint a poundmaster.
- Putrid substances.** 12th. To prevent any person from bringing, depositing or leaving within said city any putrid carcasses, or other unwholesome substances, and to require the removal of the same by any person who shall have upon his premises any such substances, and in default of such person removing the same, to authorize the removal thereof by some competent officer, at the expense of such person.
- Stagnant water** 13th. To require the owner of any lot or lots upon which there shall be any stagnant water, if deemed necessary for the health or welfare of the inhabitants of the city or any part thereof, to fill up such lots, so as to prevent water from standing thereon, and in case any owner shall neglect so to fill up said lot or lots, after thirty days notice being served upon him personally, or posted at some public place in the vicinity of said lot or lots, or at the postoffice in said city, the said common council may cause the same to be done, and may levy and collect a tax on such lot or lots sufficient to pay the expense of so filling such lot or lots exclusive of the costs of giving such notice, in like manner as other corporation taxes are levied and collected.
- Obstruction of sidewalks.** 14th. To compel the owners or occupants of lots or parts of lots or lands to remove snow, ice, dirt, or rubbish from sidewalks, streets or alleys opposite to such lots or parts of lots or lands, and in default of such owners or occupants removing of the same, to authorize the removal thereof by some officer of the city, at the expense of such owner or occupants, and to levy and collect tax upon such lots or parts of lots or lands to pay such expense, in like manner as other corporation taxes are levied and collected.
- Boards of health, etc.** 15th. To establish and regulate boards of health, to provide hospitals and cemetery grounds, regulate the burial of the dead and the returns of bills of mortality, and to exempt burying grounds set apart for public use from taxation.
- Improvements.** 16th. To make, lay out, keep in repair, grade, improve, alter, widen, vacate or discontinue streets, lanes, alleys, public squares, sewers and sidewalks, to keep them free from incumbrances, and protect them from injury; and also to protect, maintain and regulate the setting out of shade and ornamental trees on the public squares or in the streets of said city.
- Protection of sidewalks.** 17th. To prevent all persons riding or driving any horse, ox, mule, cattle or other animals on the sidewalks in said city.

18th. To regulate the police of the city, to appoint watchmen and firemen, prescribe their duties, fix their compensation and punish their delinquencies. Police.

19th. To provide for the cleaning out of rivers in said city, of driftwood, and other obstructions, and to prevent any person from placing in either of said rivers any article of wood, stone, earth, or other substance which may retard the flow of water, or fill up or obstruct the bed of either of said rivers, or which may be prejudicial to the health of said city. Rivers.

20th. To regulate the taking of ice from the rivers in said city, to designate the locations therein from which ice may taken, and to prohibit the taking of ice from any other localities therein than such as are thus designated. Ice.

21st. To call regular and special meetings of the voters of said city, prescribe the compensation of the clerk and other officers whose compensation is not herein fixed; to examine, audit and adjust the accounts of all persons; but the members of the common council shall receive no compensation whatever for their services as officers of the city. Meetings, etc.

22d. To prohibit the erection or construction of wooden buildings on such streets, alleys or blocks, or parts of streets, alleys or blocks, as the public safety may, in its judgment, seem to require. Wooden buildings.

23d. To insure the public property of said city. Insurance.

24th. To restrain drunkards, immoderate drinking or obscenity in the streets or other place in said city, and to provide for the arresting, removing and punishing of any person who may be guilty of the same, and to restrain and punish vagrants. Drunkards.

25th. To direct in the prosecution and defense of actions in which said city may be a party, or otherwise interested, and employ council for that purpose to assist the city attorney. Direction of prosecution.

26th. To procure the necessary blank books for records, accounts, orders, etc., and such stationery as may be required for city purposes. Blank-books, etc.

27th. To regulate and control the running of engines and cars through said city, and the rate and speed of the same, and to prevent the encumbering of streets, lanes, alleys, highways, sidewalks and crosswalks with railway cars or engines, or any other substance or materials pertaining to railways. Railways.

28th. The common council shall have exclusive authority within the corporate limits of the city, to grant licenses for selling wine, beer, cider or spirituous, in- Relating to liquors.



toxicating, alcoholic, vinous, fermented, malt or mixed liquors, liquids or drinks, regulate and license groceries, taverns, hotels, victualing-houses and saloons; and all persons vending or dealing in such liquors, liquids or drinks, and to revoke the same; and no person shall vend, sell, deal in, or for the purpose of evading the provisions of law or of this act, or the ordinances, rules or regulations of said city, give away any such wine, beer, cider, or intoxicating, spirituous, alcoholic, vinous, fermented, mixed or malt liquors or drinks, within such corporate limits without having first obtained a license therefor as provided by this act, the laws of this state and the ordinances of said city. Any person who shall in any manner violate any of the provisions of this section or of the ordinances or the laws herein referred to shall, on conviction thereof, be punished as provided by the laws of this state, and the ordinances of this city on that subject, and all such offenses may be prosecuted as provided by such laws and ordinances. All moneys received from such licenses shall be paid to the treasurer of said city for its use. The sum to be paid for any such license, shall not be less than fifty dollars, for a retail license, nor less than twenty-five dollars for a wholesale license. In all prosecutions for any violation of this section, or the laws or ordinances herein referred to, it shall be sufficient to allege in general terms the selling, vending, dealing in or giving away without such license of any such inhibited liquors, liquids or drinks, and the proof on the trial, of such selling, vending, dealing in or giving away to any person of any such inhibited liquors, liquids or drinks, shall be sufficient to warrant and sustain a conviction; proof that the person charged kept a bar, side-board or any thing or fixtures with bar furniture, usually used by persons vending or dealing in such inhibited liquors, liquids or drinks, and that any persons obtained or had such inhibited liquors, liquids or drinks in the room containing such bar, side-board or other furniture or fixtures, shall be *prima facie* evidence sufficient to warrant and sustain a conviction; proof that he delivered any such inhibited liquors, liquids or drinks to any person, shall also be *prima facie* evidence, sufficient to warrant and sustain a conviction for any such violation.

**Restraints.**

29th. The common council shall have power to prohibit any person from selling, giving or delivering to any such person, as the council may designate, any of the liquors, liquids or drinks mentioned in the pre-

ceding subdivision of this section. A notice in writing under the hand of the mayor or any alderman, or of the clerk, shall be a sufficient notice to all persons of such prohibition. A duplicate of such notice shall be filed in the office of the city clerk, and such duplicate shall be *prima facie* evidence of the contents of the same. In all prosecutions under this subdivision, proof that the person charged delivered or caused to be delivered any such inhibited liquors, liquids or drinks to the person prohibited, shall be *prima facie* evidence, sufficient to warrant and sustain a conviction in all cases.

30th. To license, regulate, restrain, or suppress hawkers, peddlers, auctioneers, so-called Cheap Johns, transient dealers and persons who travel from place to place to sell goods, wares or merchandise, and sales by hawkers, peddlers, auctioneers, so-called Cheap Johns and transient dealers and persons who travel from place to place to sell goods, wares or merchandise, within the limits of said city, and when licensed, to fix the amount to be paid for such license. Hawkers and peddlers.

31st. To provide by ordinance for the measuring or weighing of wood, lime and other articles sold in said city. Wood, lime, etc.

32d. To let by contract, to the lowest bidder, all work to be done for said city. Contracts.

33d. To remove, for good cause shown, any officer of said city. Removals.

SECTION 6. The common council shall, at its first regular meeting after the annual election in April of each year, by resolution to be entered on the records, limit and determine the number of licenses for the sale of wine, beer, cider, or spirituous, intoxicating, alcoholic, vinous, fermented, malt or mixed liquors, liquids or drinks during the ensuing year, and shall in said resolution fix the amount to be paid for each such license, which shall in no case be less than fifty dollars for retail, and twenty-five dollars for a wholesale license. Every license granted by the common council in such year, in excess of the number limited and determined in such resolution, or for less than the amount so fixed in said resolution, to be paid for each such license, shall be absolutely void, and shall confer no rights or privileges upon any one, and shall not be received as evidence for any purpose in any prosecution for selling, giving away or dealing in any inhibited liquors, liquids or drinks. Licenses for sale of liquor — number to be fixed.

SECTION 7. In all cases in relation to which, by the Penalties may be prescribed.

provisions of this act, the common council has power to enact or pass ordinances, resolutions or by-laws in relation to any subject, it may prescribe any penalty for the violation of such ordinance, resolution or by-law, not exceeding fifty dollars for any one offense in violation or non-observance thereof, and may also provide that in default of payment of any judgment rendered for such violation or non-observance, the person so violating any such ordinance, resolution or by-law shall be imprisoned in the common jail of Jefferson county, or such other place as the city of Fort Atkinson may provide, not exceeding fifty days for any one offense, for which purpose the said city shall have the use of the common jail of Jefferson county, and all persons committed to jail by virtue of this act or pursuant to the ordinances, resolutions or by-laws of said common council shall be under the charge of the sheriff of said county for the time for which they shall have been so committed, and shall be maintained at the expense of Jefferson county, and all persons who shall be committed to any place other than the common jail of said county, shall be under the watch, guard and supervision of such person or persons as the common council may appoint.

## CHAPTER VIII

### ORDINANCES.

Style of ordinances.

SECTION 1. The style of all ordinances shall be: "The common council of the city of Fort Atkinson do ordain," etc. Every ordinance passed by the common council shall be signed by the mayor and countersigned by the clerk, but the failure of either or both of said officers to so sign or countersign any ordinance, which shall have been duly passed by said council, shall not invalidate any such ordinance.

Ordinances, etc to be published

SECTION 2. All ordinances, rules, resolutions, regulations, orders or by-laws imposing any penalty or forfeiture for the violation of their provisions, appropriating money, creating a debt or levying or assessing a tax, shall be published in a newspaper published in said city, before the same shall be in force, and within fifteen days thereafter they shall be recorded by the city clerk in a book to be provided for that purpose, but before any of said ordinances, rules, resolutions, orders or by-laws shall be recorded, the publication thereof shall be proved by the affidavit of the printer or publisher of such paper, and such affidavit shall

be recorded therewith, and the said record, as well as copies thereof duly certified by the clerk under the seal of the city, shall be received and considered in all courts and before all tribunals as sufficient evidence of passage and publication of such ordinances, rules, resolutions, regulations, orders and by-laws.

## CHAPTER IX.

### FINANCES AND EXPENDITURES.

**SECTION 1.** All moneys, credits and demands belonging to said city shall be kept by and deposited with the city treasurer, and be under the control of the common council, and shall be drawn out only upon the order of the mayor and clerk, authorized by a vote of the said council, as herein provided, and in no other manner. **Funds.**

**SECTION 2.** All fines, forfeitures and penalties accruing to said city for the violation of this act, or any ordinance, by-law, rule or regulation of said city, and all moneys received from licenses, shall be paid into the city treasury for the use of the city, and shall become a part of the general fund. **Fines.**

**SECTION 3.** All accounts and demands against the city, before the same shall be acted upon, shall be verified by affidavit to the effect that the said account or demand is just, correct and true, and that the same has not been paid, nor any part thereof. Before the final disposition of any such account or claim, the same shall be indorsed as follows: If allowed in part or in whole the word "allowed," and the amount allowed shall be endorsed thereon, and if disallowed, the word "disallowed" shall be endorsed thereon, which indorsement shall be made and signed by the clerk. A memorandum of each and every account or claim allowed by said common council, shall be entered upon the minutes of the proceedings thereof, setting forth to whom the account or claim was allowed, for what purpose, and the amount; and no account or claim against said city shall be paid until it shall have been presented to and allowed by the common council, as provided by this act, and every account or claim duly allowed in any amount, shall be filed in the clerk's office, together with the affidavit thereto attached; and every account or claim presented in any year, shall be numbered from one and upwards, and filed by the clerk in the order in which they were received. **Accounts.**

Money, how ap-  
propriated.

SECTION 4. No money shall be expended for any special or extraordinary purpose, unless said expenditure shall have been authorized by a vote in favor thereof by a majority of the qualified electors of said city voting at a general or special election. The ballots cast upon such questions shall contain the words "for the appropriation," or "against the appropriation" either written or printed, or partly written and partly printed, and shall be deposited in a separate box. Said ballots shall be counted, and a statement made and the result declared in the same manner as is provided in this act for the canvass of votes upon the election of officers of said city.

## CHAPTER X.

### ASSESSMENT AND COLLECTION OF TAXES.

Poll tax.

SECTION 1. The common council of said city shall have, and are hereby granted, power to tax annually, each male person or inhabitant within the corporate limits of said city, between the ages of twenty-one and fifty years, a sum not to exceed one dollar and fifty cents, to be appropriated to the improvement of streets, roads and crosswalks within the corporate limits of said city, which amount shall be collected by and paid to the city treasurer as hereinafter provided, and when so collected and paid, shall be expended and paid out by and under the direction of the common council, or such person or persons as the common council may appoint.

Poll tax list.

SECTION 2. The clerk of said city shall, on or before the second Monday in May of each and every year, make and present to the common council, a list of the names of all male persons between the ages of twenty-one and fifty years, who may be residents of said city on such second Monday in May. The names on said list shall be arranged by wards, so as to conform to the wards provided for in this act, and so that the names of the residents of each ward shall appear in said list in a group by themselves; but any mistake in grouping said names shall in no respect interfere with or prejudice the collection of the amount which the common council may have directed to be collected. The common council shall thereupon correct such list if it shall be necessary, by adding or striking out names, so that the said list shall contain the names of every male person between the ages of twenty one and fifty years, who are residents of said city, and may also strike from

said list the name of any person who, in its judgment may be unable to pay the said tax. When said list shall have been corrected as herein provided, the clerk of said city shall affix thereto the ordinance or resolution fixing the amount to be paid, and shall carry out the amount to be paid, opposite to each person's name on said list, and shall thereupon deliver said corrected list, with said ordinance or resolution thereto affixed, to the treasurer of said city for collection.

SECTION 3. As soon as the city treasurer receives said corrected list, as provided in the preceding section, he shall proceed to collect the same. He shall demand of each person named in said list the amount set opposite his name therein, and if any such person neglects to pay the same for ten days after such demand, an action may be brought against such person for the amount of said tax, with damages, as hereinafter provided. If the treasurer finds that any person or person's name has been left off the list that should appear thereon, under the provisions of this act, he shall put the name of such person or persons on the list, and the proper amount opposite thereto, and demand the same of such person or persons; and the money may be collected of such person or persons, the same as if his or their names had originally been placed on said list by the clerk. Collection of  
tax.

SECTION 4. If any person, whom a tax of not to exceed one dollar and fifty cents for highway, road, or crosswalk purposes, is assessed or required, as appears by said list, shall for the space of ten days after demand shall have been made of him by the treasurer, as hereinbefore provided, neglect or refuse to pay the same as required by ordinance or resolution of the common council, the said city, in its corporate name, may sue for and collect of such persons the amount of such tax, with fifty per cent. damages on the same, together with costs of suit, before the police justice herein provided for, or before any justice of the peace of Jefferson county; and in case the judgment rendered in such action is not paid, execution shall issue thereon against the body of the defendant in such action. City may sue.

SECTION 5. On the first Monday in October in each and every year, or sooner, if required by the common council, the treasurer shall return said list to the common council, with a statement under his oath thereto attached, which statement shall contain the names of all persons on said list from whom he has received the tax, the amount received from each, the total amount Return of list.

received from all, the names of all persons on said list from whom he has not received such tax, and the date of demanding such tax from each of such delinquent persons: *provided, however*, that in case any person be named on said list of whom a demand has not been made, the treasurer shall state the reason why the demand was not made.

Special high-  
way tax.

SECTION 6. In case the highway tax provided for in the preceding section of this chapter, shall not, in the judgment of the common council, be sufficient to improve and keep in repair the streets, roads, highways and crosswalks of said city, the common council shall have full power to levy and collect on all the taxable property of said city an additional tax for that purpose.

Tax, how ex-  
pended.

SECTION 7. All highway taxes assessed or payable on property or persons resident or living within said city, shall be assessed, collected and expended by the order of the common council of said city, or under its directions, and the said council may expend the same on any street, road, highway or crosswalk therein. The said common council shall also have the power to expend and lay out upon any highway in the town of Koshkonong which leads into said city, a portion of the tax assessed, not to exceed one-third thereof in any one year, when in the judgment of the common council it will be for the interest of said city so to do.

Overseer of  
highways.

SECTION 8. No overseer of highways shall be elected for the town of Koshkonong or any highway tax levied or assessed by said town, within the limits of said city, and the said town shall have no jurisdiction or control over the streets or highways within said city, except for the purpose of building and keeping in repair the bridges therein; and it shall be the duty of said town to build and keep in repair the bridges within the city of Fort Atkinson.

Taxes, on what  
levied.

SECTION 9. All taxes raised and collected in said city of Fort Atkinson, either general or special, for any purpose authorized by this act, shall be levied and assessed upon the same kinds of property, real and personal, within the corporate limits of said city, as taxes for town, county and state purposes are levied and assessed.

Corporation tax

SECTION 10. The common council of said city shall on or before the first Monday of November in each year by resolution, to be entered on the records, determine the amount of corporation tax for all purposes to be levied and assessed on the taxable property within the

corporation limits of said city for that year: *provided, however,* that the total amount of such tax shall not in any one year exceed three mills on the dollar of the assessed valuation of the taxable property in said city as it appears upon the assessment roll for that year, unless a greater sum shall have been authorized to be raised by a vote in favor of such greater sum, of a majority of the qualified electors of said city, had and taken in the manner provided in section four of chapter nine of this act. The clerk of said city shall, on or before the third Monday of the said month of November, in each year, deliver to the town clerk of the town in which said city is situated, a certified copy, under his signature of all resolutions of said common council, determining the amount of taxes, general and special to be levied and assessed in said city for that year, together with a description of the territory included within the corporate limits of said city.

SECTION 11. The town clerk or other proper officer, as the case may be, of the town in which said city is situated, shall assess, apportion and carry out such corporation tax, pro rata, according to the dollar valuation upon all the real and personal property in said city liable therefor, in a separate column, in the tax and assessment roll and warrant of his town next thereafter issued and delivered to the town treasurer of his town for collection, in the same manner as he shall assess, apportion and carry out the town, county and state taxes; and if for any reason such corporation taxes shall not be assessed, apportioned and carried out in the next assessment roll, as herein provided, it shall, or may be, assessed, apportioned, carried out and collected in that of any succeeding year. The said corporation taxes shall be in all respects collected or returned delinquent, in the same manner as town, county and state taxes are collected or returned delinquent by law, and when collected shall be paid over by every officer collecting or receiving the same to the treasurer of said city. Any officer or person who shall neglect or refuse on demand, to pay over to the treasurer of said city, any such corporation taxes, when collected or received by him in any manner, shall be liable to an action therefor, with twenty-five per cent. damages, to be added thereto, to be sued for and recovered by said city in its corporate name, both against such defaulting or other person and his sureties.

SECTION 12. The town assessor of the town in which said city is situated, in assessing the taxable

Tax, how apportioned and collected.

Assessment.



property in his town in each year, shall assess the taxable property, real and personal, within the corporate limits of said city, in one continuous part of his assessment roll, and foot up the valuation of all the items of property owned and valued by him within said limits.

## CHAPTER XI

### LAYING OUT, OPENING, ENLARGEMENT OF STREETS, ETC.

Application for opening of streets.

SECTION 1. The common council shall have the power to lay out, open, widen and enlarge public squares, grounds, streets and alleys, as follows: Whenever ten or more freeholders, residing in said city, shall, by petition, represent to the common council that it is necessary to take certain lands, within said city, for the purpose of laying out any public square, grounds, street or alley, or the enlargement or widening of the same, and shall state, in such petition, the courses and distances, routes and bounds of the land proposed to be taken, together with the names and residences of the owners of such lands, if the same shall be known to the petitioners, the common council shall thereupon cause notice of such application to be given to such owners as well as the occupant or occupants of said lands, if any there be, by causing notice thereof to be published for two weeks, at least once in each week, in a newspaper published in said city.

Action upon application.

SECTION 2. Such notice shall describe, as near as may be, the land proposed to be taken, and shall state that at a time and place therein to be named, not less than ten days from the expiration of the two weeks' publication of such notice, the common council will take action upon such petition. At the time and place fixed in such notice, the common council shall take action upon such petition, and in case the common council shall decide to lay out, open, widen or enlarge any such public square, grounds, street or alley, as requested by such petition, the common council shall pay to the owner or owners of any land or lots taken for such purpose such damages as may be sustained in consequence thereof.

How damages are to be ascertained.

SECTION 3. Such damages shall be ascertained by six freehold electors of the said city, who shall be summoned by the police justice of the said city, and shall determine the amount of such damages as a jury. They shall be selected as follows: The police justice of said city shall make out a list of the names of eighteen persons known to him to be freeholder electors of said

city, and the mayor or attorney of the said city, and the party claiming damages, shall select such jury from such list so made out by the police justice in the same manner that a jury is selected in civil cases before justices of the peace; and such jury shall be summoned by said police justice in the same manner as a jury is summoned in justice courts, and such jury shall be sworn by such police justice truly to ascertain, upon actual view, the amount of such damages. They shall take into consideration the benefit, if any, as well as the damage, from the laying out, opening, enlarging or widening of such street, alley or public square or grounds to the party claiming damages, and they, or a majority of them, shall make an award in writing, over their signatures, of such damages, if any, within twenty-four hours, and such award shall be binding upon the city and the party claiming such damages, and shall be filed in the office of the city clerk.

SECTION 4. Upon petition in writing of all the owners of lots or land on any street or alley in said village, the common council of said city shall have power to discontinue such street or alley or any part thereof, but not otherwise. Vacation of streets.

SECTION 5. Upon such petition being presented to the common council before the same shall be acted upon, the said common council shall cause a notice to be posted for two weeks, at least, in three public places in said city, or to be published two weeks in some newspaper published in said city, which notice shall state what street or alley or what portion thereof is proposed to be vacated or discontinued, and when the said petition will be acted upon. Notice of petition.

## CHAPTER XII

### CONSTRUCTION, REPAIR AND RECONSTRUCTION OF SIDEWALK.

SECTION 1. The common council shall have the power by vote of two-thirds of all the members of the common council, to order the building, construction, reconstruction or repair of sidewalks in the city of Fort Atkinson, in such manner as they may deem proper: *provided, however*, that when any member of the common council shall offer a resolution for the construction of any sidewalk in said city, the resolution shall be referred to the proper committee and lie over until the next regular meeting. Such resolution shall describe the street or part of street along which, and Sidewalks.

the lot or part of lot and block opposite which it is proposed to construct such sidewalk, and shall give the names of the owners of the lots or parts of lots or land on such street, part of street, or block, so far as they shall be known to the member offering such resolution, and designate the lots, parts of lots, or land, owned by each such owner.

**Order for sidewalk.**

**SECTION 2.** At its next regular meeting after such resolution shall have been so offered and referred, action shall be had by the common council thereon, and if such resolution be adopted by said common council, an order shall be entered among its records requiring a sidewalk to be constructed along such street or part of street, and opposite such lot or part of lot or lands described in said resolution. The common council in such order shall designate and determine the street or part of street along which, and the lot or lots, or parts of lot or lots or lands opposite which such sidewalk shall be so constructed, and the time within which the owner or owners of such lots, parts of lots or lands along such street or part of street, shall construct the same, and shall further declare therein that in case the owner or owners of any such lot or lots, or parts of lots, or of any such lands, shall fail to so construct such sidewalk opposite the lot or lots, or part of lot or lots, or lands so owned by him or them, within the time limited in said order, the city will construct such part thereof as such owner or owners have so failed to construct, and charge the cost thereof to the lot or lots, or part of lot or lots, or lands, opposite which the city shall have so constructed such sidewalks.

**Service of order to construct sidewalks.**

**SECTION 3.** Within three days after said order shall have been entered as aforesaid, the marshal of said city shall serve the same upon all the owners of the lot or lots, or parts of lot or lots, or lands, opposite which such sidewalk is to be constructed, personally or by leaving a true copy thereof at the usual place of abode of such owners in said city. In case any owner or owners of any such lot or lots, or part of lot or lots, or of such lands, shall not reside in said city, or his or their name or names shall be unknown to the marshal, then such order shall be served on such non-resident or unknown owner or owners, by publishing the same in some newspaper published in said city, at least once, and at least ten days before the expiration of the time limited in said order for the construction of such sidewalk. As soon as the marshal shall have completed the service of said

order as herein provided, he shall make and file with the city clerk his return of service, in which he shall state the time, place and manner of service thereof, and in case the said order shall have been published, as hereinbefore provided, he shall attach to his return, and file therewith the affidavit of the publication thereof, in the usual form, subscribed and sworn to by the printer or publisher of the newspaper in which such order shall have been so published.

SECTION 4. At any time after said order shall have been so entered by the common council as hereinbefore provided, and within the time therein limited therefor, the owner or owners of the lots or parts of lots or lands opposite which such sidewalk is to be constructed may, at their own expense and in the manner, and of the width and material designated in such order, construct such sidewalk opposite the said lot or lots or part of lot or lots or lands, owned by them respectively.

Owner may construct sidewalk.

SECTION 5. Within three days after the expiration of the time limited in such order for constructing such sidewalk, the street commissioner of said city shall examine the street, part of street or side of block, along which such sidewalk shall have been ordered to be so constructed, and within said three days shall make and file with the city clerk a report in writing signed by him, as to the construction of the same. He shall state in such report what part of said sidewalk, if any, has been, and what part, if any, has not been, constructed in conformity with such order, and shall describe the lots or parts of lots or lands, if any, opposite which the sidewalk has been so constructed, as well as the lots, parts of lots or lands, if any, along which it has not been so constructed.

Report by street commissioner.

SECTION 6. If it shall appear by such report of the street commissioner that any part of such sidewalk has not been constructed in conformity with the order aforesaid, the common council shall, at its next regular or special meeting after such report shall have been made and filed, direct the street commissioner to proceed at once to construct, in conformity with said order, such part of said sidewalk as said report shows has not been so constructed, and the said street commissioner shall thereupon proceed at once so to construct such part of such sidewalk.

Should owner fail to construct

SECTION 7. Immediately upon completing his work, the street commissioner shall make and file with the city clerk a statement in writing, subscribed and sworn

Statement of cost.

to by him, in which he shall state the total expense actually incurred by him in so constructing that part of said sidewalk so constructed by him; and also the actual expense incurred by him in so constructing that part of such sidewalk in front of each lot, or part of lot, or land, opposite which it appears by his report, the owner or owners of such lot or part of lot, or land, had failed as aforesaid to construct such sidewalk.

**Special tax levy** SECTION 8. At its next regular or special meeting after such statement shall have been so filed, the common council shall by resolution levy and assess upon each lot or part of lot, or lands, opposite which any sidewalk or part of sidewalk shall have been so constructed by said street commissioner, as appears by his said statement, a special tax sufficient to pay the actual expense incurred in so constructing the same as appears by said statement; and said resolution shall describe each of such lots, or parts of lots or lands, state the names of the owners thereof, when known, and give the amount of such tax so levied and assessed upon each such lot, or parts of lots or lands.

**Special tax resolution.** SECTION 9. On the third Monday in November of each year the clerk of said city shall make and deliver to the town clerk of the town in which said city shall be situated a copy, under his hand and the corporate seal of said city, of every resolution levying any such special tax which shall have been passed by the common council during the year immediately preceding that day.

**Special tax to be placed in tax roll.** SECTION 10. The town clerk of said town shall insert in a separate column in the tax list of his town next thereafter to be delivered to the town treasurer of his town for collection, and opposite to the description therein of each of said lots or parts of lots, or lands, the amount of such special tax properly chargeable thereto as appears by the copy of such resolution or resolutions so delivered to him as aforesaid; and the said special taxes shall be collected or returned delinquent in the same manner as town, county and state taxes are collected or returned delinquent by law; and the lots, or parts of lots or lands upon which such special taxes may be so levied and assessed may be sold and conveyed for the nonpayment thereof, in the same manner and with the same effect as if said special tax had been a general town, county or state tax.

**Repair of sidewalks.** SECTION 11. Whenever it shall be necessary in the opinion of the common council to repair or reconstruct any sidewalk, the common council may cause such

sidewalk to be repaired or reconstructed at the expense of the owners of the lots or lands abutting on such sidewalk, in the same manner as it is authorized to construct new sidewalks: *provided, however,* that when any sidewalk shall be in an immediately dangerous condition, and the cost of repairing the same opposite any lot or piece of land shall not exceed three dollars, the street commissioner shall forthwith notify the owner of the lot or land abutting on such dangerous sidewalk, if a resident of said city, to repair such sidewalk, and if such owner shall not at once proceed to repair the same, the street commissioner shall at once repair such dangerous sidewalk, and the costs of such repairs shall be levied upon and collected from the lots or lands abutting on such dangerous sidewalk, in the same manner as the cost of constructing new walks are levied and collected from the lots and lands abutting thereon.

## CHAPTER XIII.

### JUDICIAL.

SECTION 1. There is hereby created and established **Police Justice.** a municipal court in the said city of Fort Atkinson, to be styled the police court of the city of Fort Atkinson. The person elected police justice of or in said city, shall hold and preside over said court, and shall have power to administer oaths and affirmations, and to take and certify acknowledgments and proofs of the execution of deeds and other instruments in writing relating to real estate, or other matters required to be acknowledged or recorded, or both. As a judicial officer and court, the said police court and justice thereof, shall have and possess, within the corporate limits of said city, all the authority, jurisdiction, power and rights of justices and justices' courts of this state, and the powers of said police justice, within said corporate limits, shall be co-equal and co-ordinate over and of all civil and criminal actions under the laws of this state, with that of the several justices of the peace of Jefferson county, and he shall have exclusive jurisdiction of all actions and causes for the violation of any ordinance, by-laws, rule, resolution or regulation of said city under this act, and he shall receive the same fees as a justice of the peace under the laws of this state receives for his services, but the said city shall not be liable for his fees, except such as shall accrue in prosecutions or actions brought for the violation of the provisions of

this act, or of the ordinances, by-laws, rules, or regulations of said city. Appeals and writs of *certiorari* may be taken from the decisions or judgments of the said police justice, in the same manner and with the same effectual force as from judgments of justices of the peace under the laws of this state.

**Term of office.**

**SECTION 2.** The first police justice under the provisions of this act shall be elected on the second Tuesday of April, 1878, and shall hold his office for two years, and until his successor shall be elected and qualified. In case of the sickness, absence or other temporary inability of the police justice to discharge the duties of his office, the mayor of said city may, in writing, designate any justice of the peace of the town of Koshkonong to act as such police justice, and the justice so designated shall, while such inability continues, possess all the powers, rights and authority of the police justice, and while so acting as such police justice, shall be styled acting police justice of the city of Fort Atkinson.

CHAPTER XIV.

ACTIONS TO RECOVER PENALTIES, ETC.

**May sue in corporate name.**

**SECTION 1.** The city of Fort Atkinson, in its corporate name, may sue for and recover any and all fines, penalties and forfeitures under this act, or under the ordinances, by-laws, or police or health regulations made in pursuance thereof, or now in force, and not inconsistent with this act, and such action shall be commenced by complaint substantially in the following form:

**Form of complaint.**

FORM OF COMPLAINT.

— Court—Jefferson county—City of Fort Atkinson.

\_\_\_\_\_ }  
 against \_\_\_\_\_ }

Before \_\_\_\_\_

State of Wisconsin, }  
 County of Jefferson, } ss.

\_\_\_\_\_, being duly sworn, complains on oath to \_\_\_\_\_, says that he, this complainant, knows or has good reason to believe, that \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, A. D. 187—, at said city, did violate section \_\_\_\_\_ of chapter \_\_\_\_\_ of a general ordinance of the city of Fort Atkinson, entitled “an ordinance—,” which said ordinance is now in force, and was then and there guilty of \_\_\_\_\_, as the complainant verily believes, and prays that \_\_\_\_\_ may be arrested and held to answer therefor.

Subscribed and sworn to before me, this \_\_\_\_\_ day  
of \_\_\_\_\_, A. D. 187—.

It shall be sufficient to give the number of the section or sections, and the title of the ordinance, by-law or resolution violated, in the complaint, and such complaint may be sworn to before any officer authorized to administer oaths in this state. Upon the filing of such complaint in the office of the police justice within and for the city of Fort Atkinson, such police justice shall issue a warrant thereon substantially as follows, to-wit:

Designation of  
law violated.

FORM OF WARRANT.

Form of war-  
rant.

COUNTY OF JEFFERSON, }  
City of Fort Atkinson, } ss:

The state of Wisconsin, to the sheriff or any constable of said county, or public officer of the city of Fort Atkinson:

WHEREAS, \_\_\_\_\_ has this day complained to me in writing, on oath, that \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 187—, at said city, did violate section \_\_\_\_\_ of chapter \_\_\_\_\_ of a general ordinance of the city of Fort Atkinson, entitled "an ordinance \_\_\_\_\_," which said ordinance is now in force, and was then and there guilty of \_\_\_\_\_, as the complainant verily believes \_\_\_\_\_.

Therefore, in the name of the state of Wisconsin, you are commanded to arrest the said \_\_\_\_\_, and bring \_\_\_\_\_ before me to answer to the city of Fort Atkinson, on the complaint aforesaid.

Given under my hand at Fort Atkinson, this \_\_\_\_\_ day of \_\_\_\_\_, 18—.

Upon the return of the warrant the court may proceed summarily with the case, unless it be continued by consent or for cause, or by order of the court. If the case be adjourned, the defendant, if required by the court so to do, shall recognize, with sufficient surety for his 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 committed to the common jail of Jefferson county, or to such other place of confinement as may be provided by the common council. The complaint made as aforesaid shall stand in lieu of a declaration, and the plea of "not guilty" shall put at issue all subject matter of the complaint.

Duty of justice.

SECTION 2. A printed copy of an ordinance, by-law or regulation passed by the common council and pub- Evidence.



lished in an official 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 the courts of this state.

Witnesses shall attend before police justice without tender of fees.

SECTION 3. Witnesses shall attend before the police justices in and for the city of Fort Atkinson, in all actions for the violation of any ordinance, by-law or regulation of said city, without the payment of fees in advance or a tender thereof, upon process duly served, and in default thereof, their attendance may be compelled by attachment.

Jury.

SECTION 4. In city prosecutions for the violation of any ordinance, by-law or regulation of said city, a jury shall be allowed either party, as in civil actions in justices courts, and the finding of the court or jury shall be "guilty" or "not guilty;" if "guilty," the court shall render judgment thereon against the defendant, and adjudge that the defendant pay the fine, penalty or forfeiture contained in the ordinance, by-law, resolution or regulation for the violation of which the defendant shall have been found guilty, and for the costs of the suit upon such conviction, and in default of payment of such judgment, fine, penalty or forfeiture, and the costs, the court shall adjudge and determine and enter upon the docket that such defendant be imprisoned in the county jail within and for the county of Jefferson, or such other place as the common council of said city shall by ordinance designate, for a term which in no case shall exceed fifty days, in the discretion of the court rendering judgment, and such court shall further adjudge, determine and sentence such defendant to be kept at hard labor during the term of his or her commitment, either within or without said jail or place of imprisonment, and the said court shall thereupon issue a commitment, inserting therein such time of imprisonment, and every person so convicted and committed shall be kept at hard labor in the common jail of the county of Jefferson, or at such place as the city of Fort Atkinson may provide, for the benefit of said city, under the watch, guard and supervision of whom the mayor and common council shall appoint, for the period of time for which such person shall have been committed, unless said judgment, fine, penalty or forfeiture and costs are sooner paid. The commitment may be substantially in the following words:

COUNTY OF JEFFERSON, }  
 City of Fort Atkinson, } ss.

Form of com-  
 mitment.

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

Whereas, at \_\_\_\_\_ court in and for the county of Jefferson, held at my office in said city, for the trial of \_\_\_\_\_ for the offense hereinafter stated, the said \_\_\_\_\_, so \_\_\_\_\_ convicted of having on the \_\_\_\_\_ day of \_\_\_\_\_, A. D., 187—, at said city, in said county, violated section \_\_\_\_\_ of chapter \_\_\_\_\_ of a general ordinance of the city of Fort Atkinson, entitled "an ordinance \_\_\_\_\_," which said ordinance was then in force, and upon conviction the said court did adjudge and determine that the said \_\_\_\_\_ pay a fine \_\_\_\_\_ of \_\_\_\_\_ dollars, together with \_\_\_\_\_ dollars costs; that in default of payment of said fine and costs, to be imprisoned in the county jail of said county for the term of \_\_\_\_\_ at hard labor for the benefit of the city of Fort Atkinson.

Therefore, in the name of the state of Wisconsin, you are commanded forthwith to take the said \_\_\_\_\_ and \_\_\_\_\_ convey and deliver to the keeper of the common jail in and for Jefferson county; and the said keeper is hereby commanded in the name of said state to receive and keep in custody in said jail the said \_\_\_\_\_ for the term of \_\_\_\_\_, at hard labor for the benefit of said city, unless the said fine, together with all costs and jail fees, are sooner paid, or \_\_\_\_\_ be discharged by due course of law.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, A. D. 187—.

\_\_\_\_\_,  
 \_\_\_\_\_,

SECTION 5. If the mayor of the city shall at any time deem it for the interest of the city he may employ and work the prisoners so committed outside of the jail or yard, or other place provided by said city, at labor on the public grounds, streets or alleys of said city, and may cause them to be secured in such a manner as in his judgment will prevent their escape, and the keeper or custodian of the common jail of said county shall, upon the order of the mayor of said city, deliver the prisoner or prisoners in such order named and described into the keeping and custody of such person or persons in said order directed, and receive and securely confine such prisoner or prisoners when returned

Prisoners may  
 be required to  
 labor.

by such person or persons as aforesaid, and said order shall remain good and be in force until revoked by the mayor or common council of said city.

**Appeal.**

SECTION 6. In all cases where the fine or judgment is more than five dollars, exclusive of costs, the defendant may appeal from such judgment to the circuit court of the county of Jefferson: *provided*, such defendant within twenty-four hours, make and file with said police justice an affidavit that the appeal is made in good faith, and not for the purpose of delay, and enter into a recognizance with one or more sufficient sureties to be approved by the police justice, from whose judgment the appeal is taken, conditioned to appear before the circuit court for the county of Jefferson at the next general term thereof, and from term to term thereafter, and abide the judgment of said court therein. The police 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 warrant and return, affidavit or complaint upon which the same was issued, together with the proceedings and copy of the entries on his docket in the action, together with the recognizance, to be filed in the office of the clerk of said court, and the city may appeal from any such judgment as in other cases before justices of the peace.

**Trial by jury.**

SECTION 7. Said appeal shall stand for trial by jury, unless a jury be waived in a manner provided by law in said circuit court at the next term thereof, after the day the judgment of the police justice shall be rendered; and no notice of trial shall be required to be given to or by either party.

**Proceedings on conclusion of trial.**

SECTION 8. If the judgment of the court appealed from shall be affirmed, or if upon the trial the defendant shall be convicted, the court shall inflict the fine, penalty or forfeiture provided by this act or the ordinances, by-laws, resolutions or regulations under which he or they are prosecuted, and enter judgment against him or them for such fine, penalty or forfeiture, together with the costs of both courts, and in default of payment of such fine, penalty or forfeiture and costs, to be committed, as provided in section five of this chapter.

**Fines, etc., may be recovered of sureties.**

SECTION 9. In case of the breach of the condition of the recognizance hereinbefore mentioned by the escape or non-appearance of the defendant at the circuit court as hereinbefore provided, the same shall be prosecuted in the name of the city of Fort Atkinson, as plaintiff in the circuit court for Jefferson county, and

the measurement of recovery shall be the amount of the fine, penalty or forfeiture imposed, together with the costs and fees that accrued in the case, and all moneys recovered shall be paid into the city treasury, less the fees of officers and jailor, which shall be paid to them, and such judgment shall be enforced by execution as in actions of tort.

SECTION 10. No person shall be an incompetent judge, justice, juror or witness by reason of his being an inhabitant of said city, in any action or proceedings in which said city is a party in interest. Competency of citizens.

SECTION 11. All ordinances, by-laws, resolutions and regulations now in force in the village of Fort Atkinson 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 and shall have the force of law. Village laws continued in force.

SECTION 12. All rights, actions and penalties, fines and forfeitures, in suits or otherwise, which have arisen or accumulated under the several acts consolidated herein, shall be vested in and prosecuted by the corporation hereby created. Vested rights.

SECTION 13. When any suit or action shall be commenced against said city, the service thereof may 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 proceedings as by ordinance or resolution of said council may be in such cases provided. Service of process.

SECTION 14. All fines, 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. Fines, etc.—to whom paid.

SECTION 15. All fire engines, hose carts, hooks and ladders and wagons therefor, and all other apparatus and implements used to extinguish fires, and all houses or buildings owned or occupied by said city or such engines, hose, hose carts, hooks and ladders or other apparatus or implements, shall be exempt from attachment or execution issued in any action or on any judgment wherein the said city shall be a party. Property exempt from execution.

SECTION 16. No real or personal property of any inhabitant of said city, or any individual or corporation, shall be levied on or sold by virtue of any attachment or execution issued to collect or satisfy any contract, debt or obligation of said city, or on any judgment against said city. Individual property not liable.

## CHAPTER XV.

## MISCELLANEOUS PROVISIONS.

**Does not repeal** SECTION 1. No general law contravening the provisions of this act shall be considered as repealing, amending or modifying the same, unless such purpose be expressly set forth in such law.

**Work to be done by contract.** SECTION 2. All work for the said city exceeding fifty dollars shall be let by contract to the lowest responsible bidder, and notice shall be given of the time and place of letting such contract, and every contract so made shall be in writing, and clearly state the conditions thereof: *provided*, that the common council shall have power to reject all unreasonable bids.

**Town and city treasurers.** SECTION 3. The town treasurer shall pay over to the city treasurer all sums collected by him for said city, within twenty days after he shall have collected the same. The city treasurer shall have one per centum of all moneys received, and one per centum of all moneys paid out by him on orders.

**Election precinct.** SECTION 4. The said city shall constitute an election precinct only and solely for the purposes set forth in this act, and at all elections other than those provided for by this act, the inhabitants of said city shall be entitled to vote at the election poll in the town of Koshkonong the same as the inhabitants of the village of Fort Atkinson have heretofore been entitled to vote at such poll, and the said city shall continue and be considered a part of the town of Koshkonong, except as otherwise provided in this act, to the same extent as the village of Fort Atkinson has heretofore constituted a part of said town.

**Board of registry.** SECTION 5. The persons authorized by law to act as inspectors of election in the town of Koshkonong shall constitute the board of registry for said city and election precinct, and shall cause to be made such registrations of the voters of said city or precinct as shall or may be required by law.

**City surveys.** SECTION 6. The plats of the village of Fort Atkinson and the additions thereto are hereby adopted as the plats of the city of Fort Atkinson and of the additions thereto, and the real estate included in said plats may hereafter be described by giving the number of the lots and blocks as they appear on said plats, or by metes and bounds, and by describing the plats as "the original plat of the village, and city of Fort Atkinson," or "the plat of Foster's addition to the village, now city, of Fort Atkinson," and in like manner with the plats

of other additions, or in any other manner that shall designate said real estate with reasonable certainty.

SECTION 7. If any officer or other person fails to do or perform any of the duties which this act or any ordinance, by-law, rule, regulation or resolution requires him to do at a time specified, the common council may designate another time when such officer or person may do or perform such duties, and when done or performed at the time so designated by the common council, it shall be taken, held and considered the same as if such duties had been done or performed at the time specified in this act, or in the ordinance, by-law, rule, regulation or resolution of said city.

Failure of officials to act, not to invalidate the law.

SECTION 8. All acts and parts of acts inconsistent and conflicting with the provisions of this act are hereby repealed, but the repeal of said acts or parts of acts shall not in any manner affect, injure or invalidate any contracts, acts, or suits, claims, penalties or demands that may have been entered into, performed, commenced, or that may exist under or by virtue of in pursuance of the said acts, or any former acts incorporating said city or any of them; but the same shall exist and be enforced and carried out and be completed as fully and effectually to all intents and purposes as if this act had not been passed.

Repealed.

SECTION 9. This act shall be published in the in Jefferson County Union, a newspaper published at Fort Atkinson, Jefferson county, Wisconsin, and shall take effect and be in force from and after its passage and publication.

Approved March 17, 1878.

[No. 67, S.]

[Published March 27, 1878.]

## CHAPTER 248.

AN ACT relating to the publication of the Legislative Manual, and amendatory of chapter seventy-two of the laws of Wisconsin of 1873.

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

SECTION 1. It shall be the duty of the secretary of state to cause to be prepared and printed, by the state printer, annually hereafter, for the use of the senate and assembly, a book to be denominated a "Manual," which shall contain Jefferson's Manual, the rules and

Printing of Legislative Manual authorized.