

Revised statutes amended.

SECTION 6. Subdivision six of section six hundred and seventy, and section four thousand five hundred and sixty-one, of the revised statutes, and chapter seventy-six of the laws of 1875, and all other acts or laws of this state in conflict with the provisions of this act, be and the same are hereby repealed.

SECTION 7. This act shall take effect and be in force from and after its passage and publication.

Approved March 16, 1880.

[No. 167, S.]

[Published March 24, 1880.]

CHAPTER 322.

AN ACT to consolidate and amend an act entitled an act to incorporate the city of Madison, and the several acts amendatory thereof.

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

CHAPTER I.

CITY OF MADISON—ITS CORPORATE POWERS.

Corporate powers.

SECTION 1. All that district of country in the county of Dane, hereinafter described, from and after the seventh day of March, in the year of our Lord one thousand eight hundred and fifty-six, shall be a city by the name of Madison, and the people now inhabiting and those who shall inhabit said district shall be a municipal corporation, by the name of the city of Madison, and shall have the general powers possessed by municipal corporations at common law, and in addition thereto shall have and possess the powers hereinafter specifically granted, and the authorities thereof shall have perpetual succession and shall be capable of contracting and being contracted with, suing and being sued, pleading and being impleaded, in all courts of law and equity, and shall have a common seal and may change and alter the same at pleasure.

CITY BOUNDARIES.

Boundaries.

SECTION 2. All of section six (6) except the east half of the southeast quarter; all of section seven (7) except the east half of the northeast fractional quarter, in township number seven (7) north, of range number ten (10) east; lots three (3) and four (4) in the southeast quarter of section twelve (12); also the southeast quarter of the southeast quarter of section twelve (12); all of sections thirteen (13) and fourteen (14), twenty-three (23) and twenty-four (24); all of the south fractional half of section

fifteen (15), the east fractional half of section twenty-two (22), the east fractional half of the southwest quarter of section twenty-two (22), and that part of the northwest quarter of section twenty-two (22) that lies north of the Milwaukee and Prairie du Chien railroad; so much of the north part of the west half of the northwest quarter of section twenty-six (26) as is covered by the recorded plat of "Greenbush addition to the village of Madison," and the northeast fractional quarter of section twenty-seven (27), in township number seven (7) north, of range number nine (9) east of the fourth principal meridian, in the state of Wisconsin, together with the entire surface of lakes Mendota and Monona to the shores at high water mark around the same, shall be included in and constitute the limits of the city of Madison.

WARD BOUNDARIES.

SECTION 3. The city of Madison shall be divided into five wards, as follows, to-wit: All that part of said city lying north and west of lines drawn through the center of Wisconsin and Washington avenues, Washington street and the Mineral Point road, as far west as Francis street, shall constitute and be known as the first ward. All that part of said city lying north and east of lines drawn through the center of Wisconsin and Washington avenues and Winnebago road, to the city limits, shall constitute and be known as the second ward. All that part of the city lying south and east of a line drawn through the center of Monona and Washington avenues and Winnebago road, shall constitute and be known as the third ward. All that part of said city lying south and west of a line drawn through the center of Washington and Monona avenues, Washington street and the Mineral Point road, shall constitute and be known as the fourth ward; and all that part of said city lying west of Francis street, bounded north by the fourth lake and south by the Mineral Point road, west to the city limits, shall constitute and be known as the fifth ward.

COMMON COUNCIL.

SECTION 4. The corporate authority of said city shall be vested in one principal officer, styled the mayor, in one board of aldermen, consisting of three members from each ward, who, with the mayor, shall be denominated the common council, together with such other officers as are hereinafter mentioned, or may be created under this act.

CHAPTER II.

ELECTIVE OFFICERS.

Terms of off
cers.

SECTION 1. The elective officers of said city shall be a mayor and a treasurer, for the city at large, and three aldermen and one justice of the peace for each ward, which said officers shall hold their respective offices as follows: The mayor, treasurer and two aldermen in each ward for one year; one alderman in each ward, and justices of the peace for two years. The mayor and treasurer shall be qualified voters and residents of said city, and the ward officers shall be qualified voters and residents of the respective wards for which they are elected. The term of officers shall commence on the third Tuesday of April in each year in which such officers have been elected. Each of said officers shall continue in office for his respective term and until his successor is elected and qualified, and shall have such powers and perform such duties as are prescribed in this act, or as may be prescribed in any ordinance of said city not inconsistent with this act, or which may not be incompatible with the nature of their respective offices.

ANNUAL ELECTIONS — HOW CONDUCTED — WHEN
POLLS SHALL BE OPEN.

Elections.

SECTION 2. The qualified voters of the city of Madison shall hold an election on the first Tuesday of April in each year, for the election of city and ward officers herein designated, and shall be presided over by the inspectors of election appointed under the general laws of this state, who shall see the names of the voters registered, and the ballots safely deposited in the ballot box; shall decide all questions that may arise as to the legality of the votes presented; shall count the ballots at the close of the polls, and shall certify and seal two returns; and the day following the election shall direct and return one of the said returns to the city clerk of the city of Madison, and the other to the county clerk of the county of Dane. The mayor of the city and such members of the common council as shall hold over shall constitute a board of canvassers, who shall, within five days after such election, meet at the common council chamber and canvass such returns; and after the aforesaid returns have been canvassed by said board, the mayor shall notify, by a certificate, the persons elected to the respective offices. The polls shall be kept open in the respective wards from nine o'clock in the forenoon

until five in the afternoon. Said elections shall be conducted in accordance with this act and of the existing laws of the state of Wisconsin, and any frauds or violation of said laws at such elections shall be punishable in the same manner as any violation of the election laws in any part of the state.

VACANCIES — HOW FILLED.

SECTION 3. In the event of a vacancy in the office ^{Vacancies.} of mayor, justice of the peace or alderman, by death, removal or other disability, the common council shall order a new election, and shall give five days notice thereof. Any vacancy in other offices shall be filled by the common council. The person appointed or elected to fill a vacancy, shall hold the office and discharge the duties thereof for the unexpired term with the same rights and subject to the same liabilities as the person whose office he may be elected or appointed to fill.

ELECTION BY BALLOT — TIE VOTE.

SECTION 4. All elections by the people shall be by ballot, and plurality of votes shall constitute an election. ^{Elections; tie vote.} All elections by the counsel shall be viva voce, except as hereinafter provided. When two or more candidates for an elective office shall receive an equal number of votes for the same office, the election shall be determined by the casting of lots in the presence of the council, at such time and in such manner as it may direct.

QUALIFIED ELECTORS.

SECTION 5. All persons who are qualified electors ^{Qualified electors.} of the state of Wisconsin shall be deemed qualified electors of said city and ward.

CHALLENGE OF VOTERS — OATH — PENALTY FOR ILLEGAL VOTING — INSPECTORS TO KEEP LIST.

SECTION 6. If either of the inspectors of election ^{Challenges.} shall suspect that any person offering to vote does not possess the necessary qualifications of an elector, or if such vote be challenged by an elector, the inspector, before receiving any such vote, shall require the voter offering his vote to take the following oath: "You do solemnly swear (or affirm, as the case may be) that you are twenty-one years of age; that you are a citizen of the United States (or have declared your intention to become a citizen conformably to the laws of the United States on the subject of naturalization); that you have resided in the state of Wisconsin one year next preceding this election; and that you are a resident of this

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

Penalty for illegal voting.

Liability of inspectors.

SPECIAL ELECTIONS.

Special elections.

SECTION 7. Special elections to fill vacancies, or for any other purpose, shall be held and conducted by inspectors of election, as provided by this act, and returns thereof shall be made in the same time form and manner as of annual elections.

CLASSIFICATION OF ALDERMEN.

Terms of aldermen.

SECTION 8. The aldermen of each ward who are now in office shall continue in office until the expiration of the terms for which they were respectively elected, and there shall be elected annually, on the first Tuesday in April, one alderman in each ward who shall hold his office for two years, and one alderman who shall hold his office for one year. The alderman in each ward having the highest number of votes shall be the alderman for two years.

WHEN OFFICE DEEMED VACANT.

What to constitute vacancy.

SECTION 9. Any officer removing from the city,

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

CHAPTER III.

OATH OF OFFICE — OFFICIAL BOND.

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

Oath of office.

Bonds.

MAYOR — HIS DUTIES — TO APPOINT POLICE — THEIR COMPENSATION.

SECTION 2. The mayor, when present, shall preside over the meetings of the common council, and shall take care that the laws of the state and the ordinances of the city within the corporation are duly enforced and observed, and that all officers of the city discharge their respective duties. He shall also appoint a chief of police and three policemen, which appointments shall be approved by the common council before they shall enter upon the duties of their office; and the compensation of the chief of police shall not exceed two dollars and fifty cents per day, to be determined by the common council; and the three policemen shall receive the fees allowed to constables for the same services, and in addition shall be paid such compensation per diem, not exceeding one dollar per day, as the common council may determine. The mayor may also appoint as many special or temporary police on election days or other public or unusual occasions, as he may think proper. Such special policemen shall receive for their services the same fees allowed by law to

Power and duties of mayor.

Of the police.

constables for similar services, and no per diem shall be paid to any special police officer of the city, except when a special order or direction of the mayor shall be given for that purpose, and not exceeding one dollar per diem for each officer so ordered to be compensated.

Council may prescribe power, etc., of police.

When any such order or direction shall be given by the mayor, he shall report the fact at the next meeting of the council, with the name or names of the persons so to be compensated for such services, which order or direction, if not countermanded by the mayor shall continue in force until disapproved by a vote of a majority of all the members elect of the council. The common council may by ordinance prescribe the powers and duties of police and other peace officers. The mayor shall communicate in writing to the common council, once a year, such information as he may deem necessary, and at all times give such information as the common council may require.

FIRST MEETING OF THE COUNCIL—TO ELECT PRESIDENT.

Council to elect president.

SECTION 3. At the first meeting of the common 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 inability, from any reason, to discharge the duties of his office, the said president shall exercise all the power and discharge all the duties of mayor. In case the mayor and president shall be absent at any meeting of the common council, it shall proceed to elect a temporary presiding officer, who, for the time being, shall discharge the duties of mayor. The president or temporary presiding officer, while presiding over the council, or performing the duties of mayor, shall be styled acting mayor, and acts performed by them shall have the same force and validity as if performed by the mayor. But the president of the council as acting mayor shall sign no order, warrant or other proceeding whatever, which the mayor has refused to sign and communicated such refusal to the council.

Powers of president limited.

CITY CLERK—HIS DUTIES.

Powers and duties of clerk

SECTION 4. The common council shall elect a city clerk. He shall keep the corporate seal, and all the papers and records of the city. He shall attend the meetings and keep a record of the proceedings of the

common council. The records of the common council kept by him shall be evidence in all legal proceedings, and copies of all papers filed in his office, and transcripts from the records, certified by him under the corporate seal, shall be evidence in all courts, in like manner as if the original were produced. He shall keep a full and accurate account of all certificates of appropriation and orders drawn on the city treasury, in a book provided for that purpose, and shall also keep an accurate account with the treasurer and charge him with all the tax lists delivered to him for collection, and all sums of money paid into the treasury. Whenever the clerk shall be absent from any meeting, the city council may appoint a clerk pro tem. The city clerk shall have power and authority to administer oaths and affirmations.

TREASURER — HIS DUTIES.

SECTION 5. The treasurer shall receive all moneys belonging to the city, and keep an accurate and detailed account thereof, together with an account of all disbursements, in such manner as the common council shall direct. He shall report to the common council as often as required, and annually, at least ten days before the annual election, a full and detailed account of all receipts and expenditures after the date of the last annual report, and also of the state of the treasury, which statement shall be filed with the clerk. The compensation of such treasurer shall not exceed eight hundred dollars annually, and at that rate for parts of a year, such compensation to be fixed and determined by the common council. And all the fees and percentage heretofore charged and collected by such treasurer shall still be charged and collected by him, and when so collected, no part thereof shall belong to such treasurer, but the same shall be paid into the city treasury for the benefit of the city; and the salary of such treasurer, as determined by the common council, shall be paid in full for all his services as such treasurer, and shall be paid at such time or times as the common council may determine.

Duties of treasurer.

CHIEF OF POLICE — POLICEMEN — THEIR DUTIES.

SECTION 6. The chief of police shall perform such duties as shall be prescribed by ordinance for the preservation of the public peace, and the collection of fines and license moneys. He shall possess the power of a constable at common law, or by the laws of this state, and receive like fees. The said policemen of

Chief of police; his duties.

each ward shall be under the control and direction of the mayor and chief of police, and shall have all the powers and perform all the duties of a constable under the laws of the state of Wisconsin: *provided*, that the chief of police and ward policemen shall not go beyond the city limits to make arrests or to serve any process unless the cause for making such arrest or for issuing such process arise within the city.

Of policemen.

MAY REQUIRE OTHER DUTIES.

Further duties may be required.

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

PRINTING TO BE LET TO LOWEST BIDDER.

Printing let to lowest bidder.

SECTION 8. The common council shall annually provide that all printing authorized or required by it to be done for its use or for the city, shall be let by contract to the lowest bidder for the term of one year, but no bid therefor shall be considered unless made by the publisher of a daily newspaper, printed and published in the city of Madison, unless the bids of such publishers shall be higher than the rates of legal advertising as fixed by law, or unless such publishers should fail to bid. All ordinances and other proceedings required by this act, or by the laws or ordinances of the common council, to be published shall be published in the newspaper selected under the provisions of this section. And the printer of said newspaper shall, either in person or by his foreman, file with the clerk of the city his or their affidavits of the length of time said ordinance, by-law or proceeding has been published; and such affidavits shall be prima facie evidence of the publication of such notice, ordinance, proceeding or by-law.

MONEY, BOOKS, ETC., TO BE DELIVERED TO SUCCESSOR — PENALTY.

Penalty for not delivering books, etc., to successor.

SECTION 9. If any person, having been an officer in said city, shall not, within ten days after notification and request, deliver to his successor in office all property, moneys, books, papers and effects of every de-

scription in his possession belonging to said city or pertaining to the office he may have held, he shall forfeit and pay one hundred dollars, besides all damages caused by his neglect or refusal so to deliver; and such successor may recover the possession of such books, papers and effects in the manner prescribed by the laws of this state.

PEACE OFFICERS.

SECTION 10. The mayor, sheriff of Dane county, each and every alderman, justice of the peace, policeman and watchman, shall be officers of the peace, and suppress in a summary manner all rioting and disorderly behavior within the limits of the city; and for such purposes may command the assistance of all bystanders, and if need be of all citizens. If any person or bystander shall refuse to aid in maintaining the peace, when so required, every such person shall forfeit and pay a fine of fifty dollars; and in case the civil power may be required to suppress riot or disorderly behavior, the superior or senior officer present, in the order above mentioned in this section, shall direct the proceedings.

Or peace officers.

MAY ELECT STREET SUPERINTENDENT, SURVEYOR AND BOARD OF EDUCATION.

SECTION 11. On the third Tuesday of April in each year, or within ten days thereafter, the common council may elect one superintendent of streets and a city surveyor, and a city attorney, and at the same time the said council shall elect one of its number to be a member of the board of education, each one of which shall hold his office until the next third Tuesday in April; and the common council shall have power to fill, from time to time, vacancies that may exist in said offices.

Street superintendent, surveyor and board of education may be elected.

SHALL ELECT ASSESSOR.

SECTION 12. The common council shall, on the first Monday of September in each year, or within twenty days thereafter, elect one assessor, who shall hold his office for the term of one year.

Assessor to be elected.

DUTIES OF ASSESSOR.

SECTION 13. The assessor so elected shall assess all the taxable property of the city of Madison as required by law, without regard to wards, and shall complete and return his assessment roll to the common council on the day fixed by the general laws of this state. The assessor shall receive for his services such compensation

Duties and compensation of assessor.

as the common council shall determine, not exceeding the sum of five hundred dollars for the term for which he was elected.

DUTIES OF STREET SUPERINTENDENT.

Duties of street superintendent

SECTION 14. The superintendent of streets shall perform the duties, and under the restrictions and for the compensation prescribed in section seven, of chapter six of this act, and such other duties as may be required of him by this act and the ordinances of said city, not inconsistent with this act.

ALL PLANS, ETC.—CITY PROPERTY.

Duty of surveyor.

SECTION 15. The city surveyor shall be a practical surveyor and engineer. He shall keep his office at some convenient place within said city, and the common council shall prescribe the duties and fix the fee and compensation for any service performed by him. All surveys, profiles, plans and estimates made by him for the city shall be the property of the city, and shall be carefully preserved in the office of the surveyor, open to the inspection of the parties interested, and the same, together with all the books and papers appertaining to said office, shall be delivered over by the surveyor at the expiration of his term of office, to his successor or the common council.

CHAPTER IV.

COMMON COUNCIL.

Common council.

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 Madison do ordain," etc. The common council shall meet at such time and place as it by resolution shall direct. A majority of the aldermen shall constitute a quorum.

STATED AND SPECIAL MEETINGS.

Meeting.

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

GENERAL POWERS OF COUNCIL.

SECTION 3. The common council shall have the control and management of the finances, and of all property of the city, and shall likewise, in addition to the powers herein vested in it, have full power to make, enact, ordain, establish, publish, enforce, alter, modify, amend and repeal all such ordinances, rules and by-laws for the government and good order of the city, for the suppression of vice and immorality, for the prevention of crime, and for the benefit of the trade, commerce and health, as it shall deem expedient, declaring and imposing penalties, and to enforce the same against any person or persons who may violate any of the provisions of such ordinance, rule or by-law; and such ordinances, rules and by-laws are hereby declared to be and have the force of law: *provided*, they are not repugnant to the constitution and laws of the United States or of this state; and for these purposes shall have authority by ordinances, resolutions or by-laws:

Powers of council.

LICENSE SHOWMEN, ETC.

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

Showmen.

PROHIBIT GAMING.

2d. To restrain and prohibit all descriptions of gaming and fraudulent devices and practices, and all playing of cards, dice, and other games of chance, for the purpose of gaming in said city, and to restrain any

Gaming and liquors.

person from vending, giving or dealing in spirituous or vinous liquors, unless duly licensed by the common council.

PREVENT RIOTS, ETC.

Riots, etc. 3d. To prevent any riots, noise, disturbances or disorderly assemblages, suppress and restrain disorderly houses, or groceries, and houses of ill fame, and to authorize the destruction of all instruments used for the purpose of gaming.

CLEANSE NAUSEOUS PLACES.

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

LOCATE SLAUGHTER HOUSES.

Slaughter houses. 5th. To direct the location and management of slaughter houses and markets, and to prevent the erection, use or occupation of the same where the offal or filth thereof shall discharge into the waters of the lakes; and to establish rates for and license vendors of gunpowder, and regulate the storage, keeping and conveying of the same or other explosive materials.

GRADE STREETS.

Repair of streets, etc. 6th. To provide for the making, grading, improving and repairing the streets of the city of Madison, and to provide for the making, constructing and repairing gutters and sidewalks in said city, and to prevent the encumbering of the streets, sidewalks, lanes and alleys with carriages, sleighs, boxes, lumber, fire wood, or other materials or substance whatever.

PREVENT HORSE RACING.

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

RESTRAIN CATTLE.

Restrain cattle. 8th. To restrain the running at large of horses, cattle, swine, sheep, poultry and geese, and to authorize the distraining, impounding and sale of the same.

DOGS.

Dogs. 9th. To prevent the running at large of dogs, and to authorize the destruction of the same in a summary

manner when at large contrary to the ordinances of said city.

PUTRID CARCASSES.

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

Putrid carcasses, etc.

POUNDS.

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

Pounds, water-works, hackmen, etc.

BOARD OF HEALTH.

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

Board of health; burial of dead, etc.

WEIGHT OF BREAD.

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

Weight of bread.

RIDING ON SIDEWALKS.

14th. To prevent all persons riding or driving any horse or mule, cattle and other animals on the sidewalks in said city, or in any way doing damage to such sidewalks.

Prevent damage to sidewalks.

FIREARMS, ETC.

15th. To prevent shooting off fire-arms or crackers, and to prevent the exhibition of fire works in any situation which may be considered by the council dangerous to the city, or any property therein or annoying to the citizens thereof.

Fireworks.

RESTRAIN DRUNKENNESS.

16th. To restrain drunkards, immoderate drinking,

Drunkenness, etc.

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

REGULATE RUNNERS.

Regulate runners.

17th. To restrain and regulate runners and solicitors for boats, vessels, stages, cars, public houses, and other establishments.

POLICE.

Police.

18th. To make rules and ordinances for the government and regulation of the police of the city.

PUBLIC MARKETS.

Public markets.

19th. To establish public markets, and make rules and regulations for the government of the same; to appoint suitable officers for overseeing and regulating such markets, and to punish or restrain all persons for interrupting or interfering with the due observance of such rules and regulations; to license and regulate butchers' stalls, shops and stands for the sale of game, poultry, meats, fish and other provisions.

HAY, WOOD, ETC.

Hay, lime and fuel.

20th. To regulate the place and manner of weighing and selling hay, and measuring and selling fuel, lime, and other gross commodities, and to appoint suitable persons to superintend and conduct the same.

REMOVE SNOW, ETC.

Obstructions of sidewalks.

21st. To compel the owners of buildings or grounds, or the occupants, where the same are occupied, to remove snow, dirt or rubbish from the sidewalks, street or alley opposite thereto, and to compel such owner or occupant to remove from the lot owned or occupied by him, all such substances as the board of health shall direct; and in his default, to authorize the removal or destruction of the objectionable substances by some officer of the city, at the expense of such owner or occupant.

CONTAGIOUS DISEASES.

Contagious diseases.

22d. To regulate, prevent and control the landing of persons from boats, cars and stages, wherein are contagious and infectious diseases or disorders, and to make such disposition of such persons as to preserve the health of the city.

AUCTIONS AND AUCTIONEERS.

Auctions and auctioneers.

23d. To regulate the time and manner of holding public auctions and vendues, and to regulate the sale of goods, wares and merchandise, and other property

at public auction, and to grant licenses for the sale of goods, wares and merchandise and other property at public auction, and to prescribe and fix the amounts to be paid for such licenses: *provided*, it shall not be lawfull to charge less than five dollars nor more than five hundred dollars for any such license for one year: *and provided also*, that nothing in this section shall prohibit, or affect in any manner, sales at auction in cases specified in section one thousand five hundred and eighty-five of the revised statutes.

WATCHMEN.

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

WEIGHTS AND MEASURES.

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

26th. The common council shall have jurisdiction over the entire lakes bordering on the city, and may enact and enforce ordinances or by-laws for the preservation of fish in the waters thereof, or outlets between the same, so as to prohibit, regulate or license the taking or killing of fish in the waters thereof at any time; and may also, by ordinance or resolution, prevent any deterioration of the said waters, or any nuisance being cast therein by which the health of the inhabitants of the city or the purity of the water shall be impaired, as it shall deem expedient. Council to have jurisdiction of the lakes.

TREES.

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

28th. The common council shall have power to grant permission for the construction of drains to empty into either of the lakes adjoining the city: *provided*, that all such drains shall be constructed of metal or cement pipe, and shall empty into the water where it is at least six feet in depth. Drains.

APPROPRIATIONS — DEBT — VETO — ORDINANCES TO BE PUBLISHED.

SECTION 4. No appropriation shall be made, nor shall any debt be created or liability incurred against Council may make appropriations, etc.

Ordinances,
how enacted.

the city, except by a vote of a majority of all the members of the council; and all laws, ordinances, rules and resolutions shall be passed by an affirmative vote of a majority of all the members of the common council; and all ordinances before the same shall be in force, shall be signed by the mayor; and all resolutions or measures for the appropriation of money whereby a debt shall be created against or a liability incurred by the city, shall be approved by the mayor before the same be in force; and all ordinances shall be published in a public newspaper printed at the city of Madison, to be selected by the common council, before the same shall be in force; and within fifteen days after publication, such publication being duly proved by the affidavit of the printer or foreman of the printers of such newspaper, the city clerk shall record such ordinance and affidavit in a book provided for that purpose, and such affidavit shall be prima facie evidence of such publication.

COMMON NUISANCES.

Nuisances de-
fined.

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

AUDIT ACCOUNTS — MAY REQUIRE EXHIBITION OF BOOKS AND VOUCHERS.

Council to ex-
amine and
audit accounts.

SECTION 6. The common council shall examine, audit and adjust the accounts of the clerk, treasurer, chief of police, street superintendent, and all other officers or agents of the city, at such time as it deems proper, and also, at the end of each year, and before the time for which the officers of said city are elected or appointed shall have expired. And the common council shall require each and every such officer or agent to exhibit his books, accounts and vouchers for such examination and settlement, and if any such officer or agent shall refuse to comply with the orders of the council in the discharge of their said duties, in pursuance of this section, or shall neglect or refuse to render his accounts or present his books and vouchers

Penalty for
failure to pro-
duce books,
vouchers, etc.

to said council, it shall be the duty of the common council to declare the office of such person vacant; and the common council shall order suits and proceedings at law against any officer or agent of said city who may be delinquent or defaulting in his accounts, or in the discharge of his official duties, and shall make a full record of all such settlements; and the common council shall have power by an affirmative vote of two-thirds of its members, upon reasonable notice, for cause, to remove from office any officer of the city, elected by the common council, or whose appointment shall have been confirmed by it.

Removals for cause.

CHAPTER V.

OPENING STREETS, ETC., BY PETITION.

SECTION 1. The common council shall have power to lay out public squares, grounds, streets and alleys, and to widen the same, as follows: Whenever ten or more freeholders, residing in any one ward, shall, by petition, represent to the common council that it is necessary to take certain lands within the ward where such petitioners reside, for the public use, for the purpose of laying out public squares, grounds, streets or alleys, or the enlarging or widening of the same, the courses and distances, metes and bounds of the lands proposed to be taken, together with the names and residences of the owners of such premises, if the same shall be known to the petitioners, to be set forth in such petition, the common council may then, by resolution, resolve to grant the prayer of said petitioners; and it shall forthwith cause an accurate survey and plat of all lands necessary for said purposes, to be made and filed with the city clerk, and it may purchase or take by donation such grounds as shall be needed, by agreement with the owner, and take from them conveyances thereof to the city for such use or in fee; but otherwise it shall by resolution declare its purpose to take the same and therein describe by metes and bounds the location of the proposed improvement, and the land proposed to be taken therefor, defining separately each parcel and the amount thereof owned by a distinct owner, mentioning the names of the owners or occupants so far as known, and therein fix a day, time and place, when and where it will apply to the county judge of Dane county for a jury to condemn and appraise the same.

Power to lay out streets and alleys.

SECTION 2. It shall thereupon cause to be made by the city clerk a notice of the adoption of said resolution.

Notice of application.

tion, embracing a copy thereof, and notifying all parties interested that the common council will, at the time and place named, apply to the county judge, for the appointment of a jury to condemn and appraise such lands. A copy of such notice shall be served by the street superintendent or any policeman of said city, on the owner of such parcel of land to be taken, if known and resident within the county, such service to be made in the manner prescribed for serving a summons in an action in the circuit court, and the return of the officer shall be conclusive evidence of the facts stated therein. If the notice cannot be so given as to all of the parcels, then the same shall be also published once in each week, for three consecutive weeks, in a newspaper published in said city; and the affidavit of the printer or foreman of such newspaper shall be conclusive evidence of such publication. Such notice shall be served and such publication made for three weeks, complete at least one week before the time fixed therein for such application. If any person so served with notice be a minor or of unsound mind, the county judge shall before proceeding on the day fixed for hearing such application, appoint for him a guardian for the purposes of such proceeding, who shall give security to the satisfaction of the county judge, and act for such ward.

Appointment of jurors.

SECTION 3. At the time and place fixed for such hearing, the application, accompanied by a copy of such resolution and such survey, and by proof of the service of the notice as provided in the last section, shall be filed with the county judge who shall thereupon make a list of twenty-four competent jurors, residents of said city, but not residents of said ward nor interested in said application. He shall hear and decide any challenges for cause or favor made to any one, and if sustained, shall replace his name with an unobjectionable juror, until the list shall be perfected. Thereupon, under direction of said county judge, each party, the common council by the city attorney of said city on the one side, and the owners of land or their agents present, or if none be present, or if they disagree, a disinterested person appointed by the county judge on the other, shall challenge six names, one at a time, alternately, the common council beginning. To the twelve jurors remaining, the county judge shall issue a precept, requiring them at an hour, on a day named, not more than ten, nor less than three days thereafter, to appear before him to be sworn and

serve as a jury to view lands and appraise damages, in the said proceeding, and at the same time shall publicly adjourn the proceedings to the time and place so named; such precept shall be served by the street superintendent or any policeman of said city, at least one day before such appointed time, by reading the same to each such juror, or by leaving a copy at his usual place of abode, in presence of a member of his family.

Service of precept.

SECTION 4. The jurors summoned shall appear at the time and place named; and if any be excused by the county judge, or fail to attend he shall direct other qualified disinterested persons to be forthwith summoned in their stead, until twelve be obtained. The county judge shall then administer to them an oath, that they shall well and truly inquire into and determine the necessity for taking the lands mentioned in the resolution, and if found necessary, the damages occasioned thereby, and faithfully discharge their duties as jurors according to law.

Oath of jurors.

SECTION 5. Under the direction of said county judge the jury shall view the lands to be taken, and shall then sit before him to hear such competent evidence as shall be produced by any party; and for such purpose, such county judge shall possess the same powers as a court in session, with a jury, and if there be necessity, may adjourn the sitting from day to day. The jury shall render a separate, unanimous verdict, in writing, signed by it, in which it shall find whether it be necessary to take such lands or any part thereof, for such purpose, describing such as it finds necessary to be taken; and if any be found necessary to be taken, then a verdict or appraisal of damages, specifying therein the damages to each owner, and separately the value of the land taken from each, and the damage otherwise sustained by each, by reason of the taking thereof; in estimating which it shall deduct therefrom any special benefit, if any, to be enjoyed by each from such improvement; and a majority of such jury may render such verdict or appraisal of damages, and shall sign the same. Any technical error in such verdict may be immediately corrected, with the consent of the jury, and shall be thereupon discharged, and its verdict filed by the county judge. In case the jury shall fail to find a verdict, another jury shall be then and there selected, and shall be summoned and sworn, and shall proceed in the same manner.

Viewing of premises.

Report of jurors.

SECTION 6. Within ten days after such verdict, Owner may appeal.

any land owner whose land has been found necessary to be taken, may appeal from the award of damages to him in such verdict to the circuit court, by filing with such county judge a motion of appeal, specifying whether the appeal is from the whole award to him or a part, and if a part, what part, and therewith an undertaking with two sufficient sureties to be approved by the county judge, to pay all costs that may be awarded against such appellant on appeal, and paying said county judge for his return thereof. The city may likewise appeal from the award of damages to any owner, by filing with such county judge a notice of appeal, specifying whether the appeal is from the whole award to such owner, or a part, and if a part, what part, and paying said county judge for his return on said appeal. Any party not so appealing shall be forever concluded by such verdict. Upon an appeal being taken, the county judge shall transmit to the clerk of the circuit court within ten days the notice of appeal and undertaking, and thereto annex a copy of all the papers and proceedings before him, with his certificate thereof. He shall, after the time for appealing has expired, file with the city clerk, annexed together, all the original papers, including the verdict, with a certificate by him thereof, and that no appeal has been taken from such verdict, except as the facts are, which he shall briefly specify; and the city clerk shall record all such proceedings.

In case of no appeal.

Transcripts to be filed with clerk.

How appeal to be tried.

SECTION 7. Upon filing such transcript in the circuit court, the appeal shall be considered an action pending in such court, and be so entered, the land owner as plaintiff, the city as defendant, and be subject to a change of place of trial, and appeal to the supreme court. The appeal shall be tried by a jury, unless waived; and costs shall be awarded against the appellant, if a more favorable verdict be not obtained than the one appealed from; otherwise, against the respondent. Upon entry of judgment, the clerk of the circuit court shall transmit a certified copy thereof to the city clerk.

Condemning of land.

SECTION 8. If the verdict of the jury shall determine that it is necessary to take such land, or any part thereof, the common council may, upon return thereof to the clerk, enact an ordinance according thereto, for laying out or widening any such street, public square, grounds or alleys, but shall not enter upon any such land therefor until the owner be paid in full the damages awarded him by such verdict or appraisalment, or

such damages be set apart for him in the hands of the city treasurer, there permanently to remain subject to his order. At any time before causing any such land to be actually taken, or put to public use, and before the rendition of a judgment in the circuit court for damages, the common council may discontinue all proceedings theretofore taken, and the city shall in such event be liable for the costs only. All the costs of every such proceeding shall be paid by the city, except when it recovers costs in the circuit court or supreme court. All jurors and witnesses in proceedings under this chapter shall receive the same fees as jurors and witnesses in the circuit court.

SECTION 9. For the payment of the expenses, including all damages and costs incurred for the taking of private property, and of making any improvement mentioned in this chapter, the common council of said city may, by resolution, levy and assess the whole or any part not less than one-half of such expenses as a tax upon such property, as it shall determine is specially benefited thereby, making therein a list thereof, in which shall be described every lot or parcel of land so assessed, with the name of the owner thereof, if known, and the amount levied thereon set opposite. Such resolution, signed by the mayor and city clerk, shall be published once in each week for two weeks in a newspaper published in said city, and a notice therewith that, at a certain time therein stated, the said common council will meet at its usual places of meeting and hear all objections which may be made to said assessment, or to any part thereof. At the time so fixed the said common council shall meet and hear all such objections, and for that purpose may adjourn from day to day, and at the conclusion of such hearing may modify said assessment in whole or in part, and shall adopt a resolution which shall be published in the same manner as ordinances of said city, levying said assessment as the same shall have been finally determined by said common council. The sums so assessed shall be a lien upon said lands upon which they are assessed from the date of the passage of said resolution, and the said several amounts shall be entered against said lot or lots in the tax roll, in addition to and as a part of all other city taxes therein levied on such land, to be collected therewith.

Payment of expenses, etc.

CHAPTER VI.

OF ORDINANCES, ETC., FOR REPAIRING OR IMPROVING
STREETS.

Of ordinances
for repair of
streets.

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

MAY ESTABLISH GRADES.

Grades may be
established.

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

DUTY OF SUPERINTENDENT.

Street superin-
tendent.

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

SIDEWALKS—HOW CONSTRUCTED AND REPAIRED—
LET TO LOWEST BIDDER.

How sidewalks

SECTION 4. Sidewalks shall be constructed, recon-

constructed or repaired upon the proper established grade of any street in said city, of such width, in such manner, of such materials, and in such time as the common council, by ordinance, resolution, or order, shall direct, by the owner or owners of any lot or piece of ground in front of which such sidewalk shall be ordered. If the owner or owners of any such lot or piece of ground shall not construct such sidewalk as aforesaid, the common council may cause the same to be constructed at the expense of such owner or owners. The contract for the construction of any such sidewalk shall be let to the lowest reasonable responsible bidder, and notice shall be given by publication in the official paper of the city, for at least three days, of the time, place and manner of receiving such bids. The common council shall levy a special tax upon each lot or piece of ground in front of which any sidewalk shall be constructed by contract, sufficient to pay the cost of constructing the same: *provided*, that no such contract shall be let until thirty days after notice shall have been given to such owner or owners of the ordinance, resolution or order requiring the construction of such sidewalk, by the publication of the same at least ten days in the official paper of the city.

to be constructed and repaired.

COUNCIL MAY ORDER BUILDING OF SIDEWALKS BY TWO-THIRDS VOTE.

SECTION 5. The common council shall have power, by a vote of two-thirds of all the members of the council, to order the building, construction, reconstruction or repair of sidewalks in the city of Madison, in such manner as it may deem proper. The city clerk shall receive all proposals for constructing and repairing sidewalks, and shall open them in presence of the council, which shall award the contract to the lowest responsible bidder: *provided*, such bid is a reasonable one, subject to such provisions, in case of violation of contract, and to such other particular provisions as the council may prescribe. The proceedings for ordering the repair of sidewalks, and levying and collecting special taxes on the respective lots to pay for the same, shall be the same as herein provided as in case of constructing a new sidewalk, except as otherwise provided in this section. No contractor for building or repairing sidewalks shall receive any pay therefor from the city, under any circumstances, until the tax levied for that purpose shall have been paid to the city or county. Whenever a sidewalk shall be out of repair, and shall so remain for the space of twenty-four hours, which, in

Council may order building, repair, etc., of sidewalks.

Work to be paid by tax levied for that purpose.

the opinion of the superintendent of streets, will not cost to exceed the amount of five dollars, in front of any one lot, to repair the same, he shall be authorized, and it is hereby made his duty, to cause the same to be immediately repaired; and when the same is completed, he shall make out an itemized bill of the cost of such repairs, specifying the lot and block, or piece or parcel of land, in front of which said work was done, verified by his oath, and shall deliver the same to the clerk, and the clerk shall forthwith present the same to the owner of such lot or piece or parcel of land, if a resident of the city of Madison for payment; and if the owner of such lot, piece or parcel of land, shall refuse or neglect to pay the same for ten days, then the clerk shall report the fact to the council, and the council shall thereupon levy a special tax upon said lot, piece or parcel of land to pay the same, in the same manner as special taxes are levied for the construction of sidewalks. In case the owner of such lot, piece or parcel of land does not reside in the city of Madison, the said superintendent shall return said account to the common council with his certificate stating that fact, and the council shall thereupon levy a special tax to pay the same, in the manner in this section provided; no order for the original construction of any sidewalk shall be held valid unless the owner of the property to be taxed therefor, if a resident of the city, shall have two weeks' previous notice, in writing, of the proposed action of the council before such action is taken, and whereby such resident owner may be heard by the council, if objecting thereto, and such notice to be served by some officer of the city to be designated by the council.

POLL TAX — HOW COLLECTED AND EXPENDED.

Poll tax.

SECTION 6. Every male inhabitant in the city of Madison over twenty-one years of age, and under fifty, except active members of the fire department, shall pay into the city treasury annually the sum of one dollar each as a poll tax. The assessor shall, at the time of assessing the annual taxes in each year, make out duplicate lists of persons liable to pay such tax, and deliver one of said lists to the city clerk and one to the city treasurer at the time he returns to the city clerk his assessment roll of real and personal property of the city of Madison. The said assessor, in making such lists, shall designate the ward in which each person on said list resides; and the city treasurer shall collect the same at the time of collecting the annual taxes, and all

Collection of
poll tax.

such taxes shall be paid to the city treasurer on or before the first day of February next after the delivery of said lists to him; and all persons liable to pay said tax who shall not have paid the same within five days after demand, either personally or by written notice left at their usual place of abode, shall be liable to and shall pay a penalty of two dollars together with the costs of prosecution, to be prosecuted for by said treasurer in the name of the city of Madison. The process in such case shall be by warrant, and in case judgment shall be rendered against the defendant in such action, and he shall refuse or neglect to pay such judgment, he shall be imprisoned in the county jail not to exceed ten days. The treasurer shall credit each ward of the city with the amount collected from the inhabitants of such ward. The moneys collected as above shall be kept as a distinct fund, and shall be expended under the direction of the senior alderman of each ward, and at his request, under the supervision of the superintendent of streets, on the repair and improvement of streets of their several wards, and to be drawn out upon itemized account certified to by the said senior alderman, and audited by the common council. The mayor, city clerk and treasurer shall constitute a board to determine the liability of persons to pay such tax; and all persons claiming to be exempt from such tax must apply to said board within twenty days from the time when said lists shall be delivered to the treasurer as aforesaid. The city treasurer shall receive the same fees for collecting said tax as he does for collecting taxes assessed upon real and personal property: *provided*, that if any person shall desire to, he shall be permitted to perform one day's work upon the streets of the city in the ward in which he resides, and the certificate of the superintendent of streets that such person has performed one full day's labor shall be received by the city treasurer in full discharge of such tax.

Expenditure of
poll tax.

SUPERINTENDENT OF STREETS TO GIVE BOND—
DUTIES—PER DIEM TO RECEIVE.

SECTION 7. The superintendent of streets shall, before entering upon the duties of his office, execute to the city a bond in the penal sum of one thousand dollars, with two sufficient sureties, to be approved by the council conditioned for the faithful performance of the duties of his office and for such other duties as may be required of him by the council, and for the proper expenditure of the money which may be col-

Bond, duties
and compensa-
tion of street
superintendent

lected or come into his hands by virtue of his office. He shall have a general supervision of all streets; he shall expend the money realized from the poll tax in each ward at such place in each ward as shall be designated by the senior alderman thereof; he shall, on the first day of September in each year, report to the council, in writing, under oath, a true and correct statement of all moneys received by him by virtue of this act, and from whom received, and how and when expended; and the said superintendent of streets shall be held strictly responsible for the full and complete execution of this act so far as the same relates to streets, according to the terms thereof, and the council may at any time remove him from office for neglect of duty, and appoint a competent man in his place. The street superintendent shall receive for his services not more than three dollars for each day actually and necessarily occupied by him in the discharge of his duties. The chief of police shall be street superintendent in any year when the common council shall so determine, and shall receive for his services as such superintendent such sum per day as the council shall determine, not more than one dollar per day.

MAY ADVERTISE AND LET TO LOWEST BIDDER.

Work to be let
to lowest bidder

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

MAY CONTRACT FOR GRADING, ETC., OF STREETS.

Grading of
streets, etc.

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

COST OF SURVEY CHARGEABLE TO CITY—OF GRADING, ETC., CHARGEABLE TO LOTS.

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

Cost of surveying and grading streets chargeable to lots.

SHALL CAUSE ESTIMATES TO BE MADE—MAY AUTHORIZE LETTING BY CONTRACT—MAY ORDER STREET SUPERINTENDENT TO DO WORK.

SECTION 11. Whenever the council shall determine to make any public improvement, as authorized by this chapter, it shall cause to be made an estimate of the whole expense thereof, and of the amount thereof to be assessed and charged to each lot and parcel of land, and in case of grading, of the number of cubic yards to be filled in or excavated in front of each lot, and the proportion thereof across each street, alley or public ground as aforesaid; and such estimate shall be filed in the office of the city clerk for the inspection of parties interested, before such work shall be ordered to be done. The common council may authorize the letting of such work by contract to the lowest bidder, at the expense of the lots upon which such work is chargeable, in whole or in part, as aforesaid, all bids for doing the same to be approved by the coun-

Estimates to be made.

Of contracts.

cil; and the said council shall have power to reject any and all bids, and may require such contractors to perform such contract within such time and under such conditions, and to give such security for the performance of such work as it shall direct; such contract, when approved by the council, to be executed on the part of the city by the mayor, and countersigned by the city clerk; notice of the time and place of receiving such bids to be published for ten days in the official paper of said city.

IN CASE OF DEEP CUTTING AND EXTRAORDINARY FILLING.

Deep cutting
and filling.

SECTION 12. Whenever the general interests of the city require deep cutting or extraordinary filling in any street, and the owners of the lots or lands fronting on such deep cutting or filling shall deem themselves aggrieved thereby, and shall represent to the council in writing that the expenses of such excavation or filling will exceed the proportion that should be justly and equitably charged upon the property assessed therefor, the council shall require the chief of police to summon five freeholders, not residents of the ward, not interested in said lots or lands, who, after being sworn faithfully and impartially to discharge the trust reposed in them, shall examine the premises, and, if in their opinion, the cost of such work will exceed the amount that should be justly and equitably chargeable upon said premises, it shall be their duty to determine what portion of such work shall be chargeable to such lots or parcels of land respectively, and what lots or parcels of land on the street so to be improved will be benefited by such deep cutting or filling, and how much or what portion shall be chargeable to them, and to make a report thereof in writing, as soon as practicable, to the common council; and such proportion as shall be reported as properly chargeable to the lots or parcels first mentioned, shall be assessed upon and collected from the same, in the same manner as herein provided in case such owners shall not do such work, and the remainder shall be assessed upon the lots benefited by such improvement, in proportion to their respective benefit as determined by said jury. The sum so assessed shall become a lien upon the premises assessed, and shall be collected therefrom as a special assessment, in the same manner as other special assessments for improvements are collected: *provided*, that should said jury find that said petitioners were not entitled to any division of the

expense so assessed upon their lots or parcels of land, then the expense of all proceedings under this section shall be paid by said petitioners, and the common council may require a bond for the payment of the same on the filing of the petition: *provided, also*, that the petition of no owner feeling himself aggrieved shall be received, unless the same shall be presented within twenty days after the publication of the notice requiring the same to be done: *and provided further*, that when it shall appear to the council that any such lands belong to non-residents, infants, or persons laboring under legal disability, who shall not be represented by any agent or guardian, or not be benefited by the making of streets in front of such lots or lands to the amount of the costs and expenses thereof, it shall then be the duty of said council to cause to be summoned a jury, as herein provided.

WHO TO SUPERVISE WORK.

SECTION 13. All work provided for in this chapter shall be done under the supervision of the mayor, superintendent of streets and city surveyor, and shall be approved by them before it shall be accepted by the council. Who to supervise work.

WHEN WORK APPROVED, CONTRACTOR ENTITLED TO CERTIFICATE.

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

the expense of any lot or parcel of land shall the city be held responsible for, or on account thereof, or for any proceedings for the collection or the pay therefor.

CHAPTER VII

WHO CONTROL FUNDS.

Council to control funds.

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

DEBT — HOW CONTRACTED.

Contracting debts.

SECTION 2. The common council shall have no power or authority, and it is hereby prohibited from borrowing any money or from authorizing any city officer to borrow money for the use of the city, nor shall it have power or authority to contract or create any debt for any purpose whatever, unless there is money in the city treasury for the payment of the same, except for such work on the streets as shall be paid for by special tax or assessment on the property benefited thereby; nor shall any certificate of indebtedness be drawn upon the city treasury, unless the same shall be authorized by a majority of all the members of the common council, and the vote authorizing the same shall be entered by ayes and noes upon the journal of the council, and no money shall be appropriated for any purpose whatever, except such as is expressly authorized by this act.

PENALTIES, ETC., PAID INTO GENERAL FUND.

Penalties paid into the general fund.

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

PROPERTY SUBJECT TO TAXATION.

Property subject to taxation.

SECTION 4. All property, real or personal, within the city, except such as may be exempt by the laws of the state, shall be subject to annual taxation for the support of the city government and the payment of its debts and liabilities, and the same shall be assessed in the manner hereinafter provided. The assessors elected

under this act shall have and possess the same powers that are or may hereafter be conferred upon township assessors, except so far as they may be altered by this act: *provided, however,* that the common council may prescribe the form of assessment rolls, and more fully define the duties of assessors, and make such rules and regulations in relation to revising, altering or perfecting such rolls as it may from time to time deem advisable.

HOW FUNDS APPLIED.

SECTION 5. All funds coming into the city treasury shall be appropriated and used exclusively for the purposes for which said funds were raised, and for no other purpose whatever, and any conversion or appropriation of any of the funds of the city to persons, or for purposes not authorized by the city charter, by the common council, shall be deemed a misdemeanor on the part of each and every member of the common council voting for the same, and each and every member thereof so voting may be prosecuted and punished as provided in section twelve of chapter eleven of the city charter for similar offenses. It shall not be lawful for the city treasurer to pay out any funds in his hands that were raised for any particular or specified purpose, on appropriations or orders made by the common council, for any other purpose than that for which such funds were raised; and any violation of this act shall be deemed a misdemeanor, and, upon conviction thereof, such treasurer shall be fined in a sum not less than ten nor more than one hundred dollars and costs of suit, and shall also be liable on his official bond for the repayment of all such sums of money; and the city or any person or persons having claims against the fund so misapplied may sue for and recover the same.

Application of funds.

FISCAL YEAR—TAXATION FOR GENERAL PURPOSES.

SECTION 6. The fiscal year of the city of Madison, shall commence on the first day of September, on which day or as soon thereafter as the certificate of the county clerk, stating the amount of state and county taxes apportioned to the city of Madison, shall be received, the city clerk shall notify the mayor, who shall call a special meeting of the council as soon as practicable, at which meeting or within five days thereafter, the council shall by resolution determine what amount of money, including the estimated revenues of the city not derived from direct taxation, for the current fiscal year, will be required for all city purposes during that year; and the council shall thereupon, by resolution, levy a tax

Taxation for general purposes.

which, together with the tax required to be levied for state, county and county school purposes, and for delinquent taxes of the preceding year, shall not exceed in amount one and seven-tenths per cent. of the assessed value of the real and personal property of the city for that year. Of the amount so levied, a sum equal to three-tenths of one per cent. of the assessed valuation of the real and personal property of the city shall be set apart and used for the payment of interest and principal on the bonded debt of the city, so long as any such debt shall remain unpaid; and a further sum, equal to four-tenths of one per cent. of the assessed valuation of the real and personal property of the city, or such less sum as the board of education may, by resolution, determine to be sufficient, shall be set apart and used for the payment of the current and contingent expenses of the city schools, and for no other purpose whatever. And such sum as shall be included in the estimates made in pursuance of this section for Forest Hill cemetery, shall be set apart and used for the payment of the expenses of maintenance of said cemetery and for no other purpose. And the remainder of the tax levied under the provisions of this section shall constitute the general fund of the city. All resolutions for the purpose of levying taxes shall require for their passage an affirmative vote of two-thirds of all members of the common council.

TAXES TO BE A LIEN UPON PROPERTY.

Taxes to be a lien upon property.

SECTION 7. All taxes or assessments, general or special, levied under this act, shall be and remain a lien upon the lands and tenements upon which they may be assessed, and upon all personal property of any person or body politic, assessed for personal taxes, from the date of the warrant for the collection thereof until such taxes shall be paid, and no sale or transfer of such real or personal property shall affect such lien. Any personal property belonging to the person taxed may be taken and sold for the payment of taxes upon personal property.

ASSESSMENT ROLL TO BE TRANSMITTED TO CLERK OF BOARD.

Assessment roll to be transmitted to clerk of town board.

SECTION 8. Before the annual meeting of the board of supervisors of the county of Dane, and by the time required by the laws of the state for the return of assessments from the several towns, the city clerk shall transmit a copy of the assessment roll to the county clerk of said county, who shall lay the same before said board at its annual meeting.

EQUALIZATION.

SECTION 9. The board of supervisors shall have ^{Equalization.} the right to regard the city of Madison as a town in equalizing the assessment rolls of the several towns in said county, as provided by law, but in such equalization, shall consider the assessment roll of said city as an entire roll, and shall not change the relative valuation of the different wards.

HOW BOARD OF SUPERVISORS PROCEEDS.

SECTION 10. The board of supervisors may levy a ^{How board: proceed.} tax or taxes, as now is or may hereafter be provided by law in relation to towns, but shall proceed therein without regard to the division of the city into wards, and shall cause the amount of taxes so levied to be certified to the city or city clerk, in the manner provided by law in relation to towns or town clerks; and in all transactions of the board of supervisors of said county, said city shall be regarded as a town, except as herein otherwise provided.

ASSESSMENT ROLL.

SECTION 11. Upon receiving the statement of the ^{Of assessment roll.} amount of taxes so levied, the city clerk shall make out upon the assessment roll, in a column left for that purpose, or upon a copy thereof, a complete statement of the several amounts of taxes levied for the state, county, city or other purposes, and all delinquent taxes, if any, of previous years, and all special taxes levied by the common council since the making out of the last annual tax list, in such separate columns as may be necessary, with the total footing carried out opposite each tract or lot of land or person named therein; which statement shall be preserved by said clerk as a record in his office, and shall have the same legal force and effect as the records of the common council. The said city clerk may calculate the state, county, school and city taxes together, and carry the amount thereof into one column; but in such case he shall specify the per centum upon one dollar of valuation of state tax, county tax, school tax and city tax, separately, in his warrant to the treasurer for the collection of such taxes.

TAX LIST TO BE EVIDENCE OF REGULARITY.

SECTION 12. The tax list made out and preserved ^{Tax list to be evidence.} shall be prima facie evidence in every court of record of this state, that every act or thing required by law to be done, relating to assessing or

levying taxes, from the election of the officers to the completion of the tax list inclusive, has been done regularly, correctly, and as required by law.

DUPLICATE COPY FOR TREASURER.

Duplicate copy
for treasurer.

SECTION 13. Immediately after making out the tax list aforesaid, the clerk shall make out a duplicate copy thereof, to which shall be appended a warrant signed by the mayor and clerk, and sealed with the corporate seal of said city, directed to the treasurer, requiring and commanding him to collect the taxes and assessments specified in said duplicate copy of the tax list, in the manner provided by law; and the said clerk shall, on or before the second Monday of December of the said year, or as soon thereafter as practicable deliver the same to the city treasurer for collection, and make a record of said delivery on the tax list preserved in his office.

TREASURER TO COLLECT—HIS FEES.

Treasurer to
collect.

SECTION 14. The city treasurer, upon the receipt of such duplicate copy of the tax list, shall proceed to collect the same in like manner, and shall have like powers, and be subject to like requirements, liabilities and restrictions, as town treasurers, except as otherwise provided in this act. The city treasurer shall charge and collect no fee whatever on any tax paid on or before the tenth day of January in each year, and upon all taxes paid after that day, he shall charge and collect two per cent. fees, to be added to the amount of taxes, and collected with the same; and all fees so collected by him shall be paid into the general fund of the city.

Fees.

WHEN SHALL MAKE DELINQUENT LIST.

Delinquent tax
list.

SECTION 15. On or before the fifteenth day of February of each year, unless the time be extended as provided by law, the city treasurer shall make out and return to the treasurer of Dane county, a list of all lands, lots and personal property upon which taxes have not been paid, and shall add to said taxes remaining unpaid five per cent. upon all delinquent lands or lots so returned by the city treasurer to the treasurer of Dane county, and shall make return of said taxes with said five per cent. added, and shall also settle with and pay over all moneys properly payable to said county treasurer in like manner as now is or may hereafter be required of town treasurers; and all the provisions of the general laws of this state shall

extend to and may be enforced to collect any delinquent personal property tax, of whatever year, now due to said city.

WHO TO SELL DELINQUENT LANDS.

SECTION 16. The county treasurer shall sell all delinquent lands and lots returned from the city of Madison, at the same time and in the same manner as other delinquent lands are sold in said county. Delinquent lands to be sold.

NO PROPERTY EXEMPT FROM SPECIAL TAXES.

SECTION 17. All real estate exempt from taxation by the laws of this state, shall be subject to all special taxes for the building of sidewalks and improvement of streets in front of the same. No property exempt from special tax.

OF ERRORS.

SECTION 18. No error or informality in the proceedings of any of the officers in assessing property, levying or collecting taxes, or making return of unpaid taxes, not affecting the substantial justice of the tax itself, shall invalidate, or vitiate or otherwise affect the validity of the assessment or tax: *provided*, that this section shall not be so construed as to dispense with the requisite two-thirds vote of all the members of the council in the levying a tax. Errors.

CERTIFICATES NOT RECEIVABLE FOR INDEBTEDNESS.

SECTION 19. The city treasurer shall not receive from the treasurer of the county of Dane, tax certificates in payment of any indebtedness which may become due from said county to said city. The city shall contract no debt, and the common council shall make no appropriation during any fiscal year for city purposes greater than the amount determined upon, as provided in the foregoing section five of this chapter, for such purpose, together with the amount of money which may at any time be in the city treasury, derived from other sources than taxation. Tax certificates receivable for indebtedness.

NO SCRIP OR OTHER EVIDENCE OF DEBT TO BE ISSUED.

SECTION 20. No scrip, certificate, treasury order, nor other evidence of debt shall hereafter be issued or authorized by the common council of the city of Madison; but whenever the common council shall lawfully appropriate money to any party, to be paid out of the city treasury, the mayor and city clerk shall certify the fact directly to the city treasurer, in the order in which such appropriations are made, specifying in said certificate also the purpose for which said appropriation was No evidence of debt to be issued.

made; and said treasurer shall pay the amounts so appropriated and certified, in the order in which they are so certified, out of any funds in his hands belonging to the city, taking proper receipts therefor and filing them in his office, and the city funds shall be paid out of the treasury in no other manner whatsoever.

MAY LEVY TAXES TO PAY JUDGMENTS.

Council may
levy taxes.

SECTION 21. The common council shall have power, by a two-thirds vote of all the members thereof, to levy a tax or taxes to pay any or all judgments against the city.

TREASURER MAY BE REMOVED.

Treasurer may
be removed.

SECTION 22. In case the city treasurer shall at any time refuse or neglect to perform his duties in enforcing the payment of taxes as provided by this act, and as authorized and required by the laws of this state, the common council shall forthwith remove such treasurer from office, and appoint a suitable person to fill the vacancy.

ACCOUNTS TO BE VERIFIED.

Accounts to be
verified.

SECTION 23. All accounts or demands against the city, before the same shall be allowed, shall be verified by affidavit, except salaries and amounts previously fixed or determined by law; and any person who shall falsely swear to any such account or demand, shall be deemed guilty of perjury.

APPROPRIATIONS MUST BE AUTHORIZED BY COUNCIL—NO INTEREST ON ORDERS.

Appropriations
to be authorized
by council.

SECTION 24. No money shall be appropriated or drawn out of the city treasury, except in payment of account: or demands allowed by the common council, and no interest shall be allowed or paid on any city order or certificate whatever: *provided, however,* that when the city, being duly authorized thereto, shall borrow money, certificates of appropriations therefor may be issued, payable at such time or times as the council may determine, and such certificates may be drawn to bear interest at a rate not exceeding ten per centum per annum, and when so drawn and signed by the mayor and clerk, interest shall be paid thereon as therein expressed.

Of interest on
orders.

WHEN ACTION MAINTAINED.

When action
maintained.

SECTION 25. No action shall be maintained by any person against the city of Madison upon any claim or demand until such person shall first have presented

his claim or demand to the common council for allowance.

DISALLOWANCE OF ACCOUNT TO BE FINAL

SECTION 26. The determination of the common council disallowing in whole or in part any claim of any person shall be final and conclusive and a perpetual bar to any action in any court founded on such claim, except that such person may appeal to the circuit court, as provided in section twenty-eight of this chapter. Disallowance of claims.

SECTION 27. In case any person shall present his claim or demand to the common council, and the said council shall disallow the said claim in whole or in part, the said council shall not thereafter entertain such claim again, and such claimant, if he desires, may prosecute his said claim by appeal to the circuit court, and not otherwise.

CLAIMANT MAY APPEAL TO CIRCUIT COURT.

SECTION 28. When any claim of any person against the city shall be disallowed in whole or in part by the common council, such person may appeal from the decision of the council disallowing such claim to the circuit court of the county of Dane, by causing a written notice of such appeal to be served on the clerk of said city within twenty days after the making of such decision, and executing a bond to the said city with sufficient surety, to be approved by the said clerk, conditioned for the faithful prosecution of such appeal and the payment of all costs that shall be adjudged against the applicant by the court. The clerk, in case such appeal is taken, shall make a brief statement of the proceedings had in the case before the council, with its decision thereon, and shall transmit the same, together with the bond and all the papers in the case, to the clerk of the circuit court of Dane county. Claimant may appeal.

NOTICE OF APPEAL.

SECTION 29. The clerk, upon such appeal being taken, shall forthwith give notice thereof to the mayor, and shall also report the same to the council at its first meeting thereafter. Notice of appeal.

CHAPTER VIII.

FIRE DEPARTMENT — FIRE LIMITS.

SECTION 1. The common council, for the purpose of guarding against the calamity of fire shall have the power to prescribe the limits within which wooden Fire limits.

buildings, or buildings of other materials that shall not be considered fire-proof, shall not be erected or repaired, and to direct that all and any buildings within the limits prescribed shall be made and constructed of fire-proof materials, and to prohibit the repairing of wooden buildings within the fire limits, when the same shall have been damaged to the extent of fifty per cent. of the value thereof, and to prescribe the manner of ascertaining such damages.

MAY REGULATE BUILDING OF CHIMNEYS, ETC.

Construction of chimneys, etc.

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

Fire buckets.

Preservation against fire.

MAY PURCHASE ENGINES AND AUTHORIZE FIRE COMPANIES.

Purchase of fire engines, etc.

SECTION 3. The common council shall have power to purchase fire engines and other fire apparatus, and to authorize the formation of fire engine, hook and ladder and hose companies, and to provide for the due and proper support and regulation of the same, and to order such companies to be disbanded, and their meetings to be prohibited, and their apparatus to be delivered up. Each company shall not exceed seventy able bodied men, between the ages of fifteen and fifty, and may elect its own officers and form its own by-laws, not inconsistent with the laws of this state or the ordinances and regulations of said city, and shall be formed only by voluntary enlistment. Every member

Fire companies.

of each company hereby authorized to be formed shall be exempt from highway work, poll tax, from serving on juries, and from military duty, during the continuance of such membership.

ENGINEERS — FIRE WARDENS.

SECTION 4. The common council, at its regular meeting in March in each year, shall elect one chief engineer and two assistant engineers of the fire department, and one fire warden for each ward, who shall perform such duties as the common council shall prescribe, and who may at any time enter into or open any house, store-house or other building or inclosure, for the purpose of inspecting the same and with a view to guard against fire.

Eng.neers; fire wardens.

ARREST FOR DISOBEDIENCE OF ORDERS.

SECTION 5. When any person shall refuse to obey any lawful order of any engineer, fire warden, mayor or alderman at any fire, it shall be lawful for the officer giving such order to arrest, or direct orally the chief of police, policeman, watchman, or any citizen, to arrest such person, and to confine him temporarily in any safe place, until such fire shall be extinguished; and in the same manner such officer or any of them may arrest or direct the arrest and confinement of every person at such fire, who shall be intoxicated or disorderly; and any person who shall refuse to obey any such lawful order or who shall refuse to arrest or aid in arresting any person so refusing, shall be liable to such penalty as the common council may prescribe, not exceeding fifteen dollars.

Arrest and penalty for disobedience of orders.

MAY ORGANIZE SACK COMPANY — THEIR POWERS — SHALL TAKE OATH.

SECTION 6. The common council shall have power to organize a sack company, which shall be known as sack company number one, to consist of not more than twenty members. Such company shall constitute a part of the fire department, and at fires shall be subject to the control of the chief engineer. The members of said company, either collectively or individually, are hereby authorized and empowered to act as a special police in and for the city of Madison, and are hereby vested with all the power and authority which now is or may be hereafter vested in any police officer of said city, and shall be entitled to all the rights and immunities of members of the fire department. At fires they shall take charge of all property which may be exposed or endangered, and shall, so far as may be in

sack company.

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

CHAPTER IX.

MUNICIPAL COURT—JURISDICTION.

Jurisdiction of
municipal court

SECTION 1. In addition to the powers and jurisdiction heretofore conferred by law in criminal matters upon the municipal court, the said municipal court of Dane county, and the judge thereof, shall be vested with exclusive jurisdiction to hear, try and determine all complaints, and conduct all examinations in criminal cases instituted or arising within the city, and with exclusive jurisdiction to hear, try and determine all complaints or prosecutions for offenses against the charter or any of the by-laws or ordinances of the city of Madison, and with all criminal jurisdiction heretofore conferred by law upon the police court of the city of Madison or the municipal court of Dane county, and with exclusive jurisdiction to hear, try and determine all civil actions, to which the city shall be a party, and which would otherwise be cognizable before justices of peace, and no justice of the peace in said city shall exercise any jurisdiction conferred upon the municipal court by this act.

COMPENSATION OF JUDGE—EXPENSES OF HOLDING COURT, ETC.

Salary of judge

SECTION 2. The city of Madison shall quarter yearly, on the first day of August, November, February and May in each year, pay to the judge of said court the portion of his salary to be paid by said city as provided by chapter twenty-seven of the general laws of A. D. 1880, and shall provide the necessary record books, blanks, stationery, lights and fuel for

said court as provided in section two thousand five hundred and nineteen of the revised statutes, for one-half of which expense the said city shall be reimbursed by the county of Dane as is provided in section two thousand five hundred and twenty of the revised statutes.

Expenses of holding court, etc.

CHAPTER X.

COUPONS ON BONDS RECEIVABLE FOR TAXES.

SECTION 1. The interest coupons on any of the outstanding bonds of the city of Madison, shall be receivable for city taxes. And it is hereby made the duty of the city treasurer to deliver to the common council at its first regular meeting in the month of March in each year, all coupons received by him for taxes, and he thereupon shall be credited with the amount of coupons so as aforesaid received by him for taxes, and said coupons shall be cancelled in the presence of the common council, and deposited in the city clerk's office, and the common council shall at said meeting appropriate sufficient money from the portion of the tax raised for the payment of the interest and principal of the bonded indebtedness of the city, to pay all coupons falling due on the first day of April thereafter, and cause the same to be placed where said bonds and coupons are made payable, before the first day of April in each year; and if at the said meeting it shall be ascertained that sufficient money has not been collected from said tax to pay all the coupons maturing on the first day of April next thereafter, the common council shall appropriate sufficient to pay such deficiency from the general fund; and all money collected after such appropriation upon such special tax, shall be placed in the general fund belonging to said city, until the general fund is reimbursed for the amount so paid for interest.

Coupons on bonds to be received for taxes

CHAPTER XI.

MISCELLANEOUS PROVISIONS — PROPERTY AND RIGHTS OF VILLAGE MERGED IN CITY.

SECTION 1. The city of Madison shall be and is hereby invested as the lawful owner and successor of all real and personal property, and all the rights and privileges belonging to the corporation of the village of Madison, together with all the funds, revenues, debts and demands due and owing to the said village of Madison, as a corporate body, which, by or under former acts, ordinances, grants, donations, gifts or purchases, have been acquired, vested, or in any manner

City to be owner of village rights and property.

belonging to said corporation, and the same are hereby transferred to the corporate body created by this act, and all suits, judgments, rights, claims and demands against the said village or city of Madison, may be continued, prosecuted, defended and completed in the same manner as if this act had not passed.

BOARD OF EDUCATION—MODERN LANGUAGES.

Board of education.

SECTION 2. The common schools of the city of Madison shall be under the supervision and control of the board of education, as provided by chapter two hundred and ninety-five of the general laws of 1861, and the acts amendatory thereof: *provided*, that said board of education of said city is hereby authorized, if it deems it advisable, to direct one or more of the teachers in the common schools in said city to instruct such of their pupils as wish it, in one or more of the modern languages, besides the English, but in such a manner that none of said scholars shall devote more than one-fourth of their time in school to any other than English language and studies.

Modern languages.

ALL WORK TO BE LET TO LOWEST BIDDER.

All work to be let to lowest bidder.

SECTION 3. All work for the city or either ward thereof, shall be let by contract to the lowest reasonable responsible bidder, and due notice shall be given of the time and place of letting such contract: *provided*, that the council, by a vote of two-thirds of all the members thereof, may otherwise provide for work.

ACTIONS TO RECOVER PENALTIES.

Actions to recover penalties.

SECTION 4. All actions brought to recover any penalty or forfeiture under the ordinances, by-laws, police or health regulations, made in pursuance thereof, shall be brought in the corporate name of the city. It shall be lawful to declare generally for such penalty or forfeiture, stating the clause of this act, or by laws or ordinances under which the penalty or forfeiture is claimed, and to give the special matter in evidence under it. All prosecutions may be commenced by summons or by warrant, as the exigency of the case may require. In all cases where an action might be brought by the city of Madison against any person, company or corporation, such action may be commenced and prosecuted, in the name of the city, by any elector of said city: *provided*, that before any person, other than the proper officers of said city, shall prosecute any such action, the person or persons so commencing shall enter into bonds with sufficient surety to the opposite

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

JUDGMENT TO BE ENTERED ON CONVICTION.

SECTION 5. In all cases of conviction in actions brought or prosecuted to recover a penalty under any of the provisions of this act, or to recover a penalty or forfeiture for the violation of any city ordinance or regulation, the court shall render judgment against the defendant for the fine and costs of prosecution, and if the defendant shall refuse or neglect to pay such fine and costs, the court shall enter a judgment that the defendant be imprisoned in the county jail of Dane county for a term not exceeding three months, and shall forthwith commit the defendant for the term fixed by said judgment, and in all cases where the judgment shall be that the defendant shall be imprisoned in the county jail, the court may in its discretion enter a further judgment that the defendant pay the costs of prosecution, and that he be held in imprisonment in the said jail until such costs be paid, or he be otherwise discharged by due course of law. .Of judgments.

NOT TO WORK INCOMPETENCY.

SECTION 6. No person shall be an incompetent judge, justice, witness or juror, by reason of his being an inhabitant of said city, in any proceeding or action in which the city shall be a party in interest. Not incompet.

FAILURE OF ELECTION NOT TO SUSPEND CORPORATION.

SECTION 7. If any election by the people, or common council shall not for any cause be held at the time or in the manner herein prescribed, it shall not be con- Failure of election not to suspend corporation.

sidered reason for arresting, suspending or abolishing said corporation, but such election may be held on any subsequent day, by order of the mayor; and if any of the duties enjoined by this act, or the ordinances or by-laws of the city to be done by any officer, at any time specified, and the same are not done and performed, the common council may appoint another time, at which said acts may be done or performed.

HOW PROCESS SERVED AGAINST CITY.

Service of process against city.

SECTION 8. Whenever any suit or action shall be commenced against said city, the service thereof may be made by leaving a copy of the process with the mayor and city clerk, and it shall be the duty of the mayor forthwith to inform the common council thereof, or take such other proceedings as the ordinance and resolutions of said council may provide.

CITY MAY HOLD PROPERTY.

City may hold property.

SECTION 9. Said city may lease, purchase or hold real or personal property sufficient for the convenience of the inhabitants thereof, and may sell and convey the same, and the same shall be free from taxation.

GENERAL LAWS NOT TO MODIFY THIS ACT.

General laws not to modify this act.

SECTION 10. No general law contravening the provisions of this act shall be considered as repealing, amending or modifying the same, unless such purpose is expressly set forth in such law.

TRANSFER OF DUTIES.

Transfer of duties.

SECTION 11. From and after the second Monday of March, A. D. 1856, the connection between the town of Madison and that part of said town included within the city limits for all town purposes shall be dissolved. The duties now and hereafter imposed upon supervisors and other town officers, so far as they relate to the city of Madison, shall be performed by the aldermen of the wards and other officers of said city.

MISDEMEANORS OF CITY OFFICERS AND THEIR PUNISHMENT.

Punishment of misdemeanors of officers.

SECTION 12. Every member of the common council of the city of Madison, who shall directly or indirectly vote to himself, or knowingly to any other person, any sum of money for any other purpose whatever, in violation of the city charter or any amendment thereto, or shall ask or receive any compensation for doing any official act, except as inspector of elections,

member of the board of registry, and as member of the board of equalization; any member of the common council or other city officer who shall be directly or indirectly interested in any contract made with or in behalf of the city, and any member of said council, or other city officer, who shall directly or indirectly purchase, or be interested in the purchase of any city order or city indebtedness for less than the full amount thereof, shall be deemed guilty of a misdemeanor in office, and may be prosecuted either by indictment or complaint before the municipal court, and upon conviction thereof shall be punished by fine not exceeding one hundred dollars nor less than twenty dollars, or by imprisonment in the county jail not more than thirty days nor less than ten days, or both, at the discretion of the court.

PAUPERS — HOW PROVIDED FOR.

SECTION 13. The paupers of said city shall be removed to the poor house of the county of Dane by order of the mayor or aldermen, in like manner as they are removed from the several towns in said county: *provided*, that if, by reason of contagious or infectious disease, or for any other reason, such pauper cannot be so removed to the county poor house without danger to the public health or the health of such pauper, the city of Madison shall care for such pauper until such time as he may be so removed, and the expense of such care so incurred shall be chargeable to and paid from the poor fund of Dane county.

To provide for paupers.

LICENSES — HOW ISSUED.

SECTION 14. Every license issued by the authority of this act, or the ordinances of the city, shall be signed by the mayor and city clerk, and sealed with the corporate seal, but no such license shall be issued by said mayor and clerk, until the person applying for the same shall have deposited with said clerk the receipt of the city treasurer for the amount required to be paid therefor; nor shall any license be issued for dealing in, selling or vending spirituous, vinous or malt liquors, until the applicant shall have filed his receipt as aforesaid, together with a bond, as required by the laws of this state, which bond shall be approved by the mayor, and a sum not less than the minimum sum nor greater than the maximum sum fixed by the laws of this state to be paid by such license, shall be paid to the city treasurer in money. It shall be the duty of the mayor and city clerk to report to the council at each regular

How licenses issued.

meeting thereof, the license theretofore issued by them and not before reported, and the council shall by vote approve or disapprove of the same. If the council disapprove thereof, it shall be the duty of the city clerk forthwith to notify the person holding such license that the same has been revoked by action of the common council, and such license shall thereafter be void, and the council shall refund the license money paid therefor, except a fair proportion thereof for the time said license was in force.

DUTIES OF TREASURER IN RELATION TO DELINQUENT LANDS.

Redemption of lands sold for non-payment of taxes. SECTION 15. The treasurer of the city of Madison shall perform all the duties and do all the acts required by law to be done by the treasurer of the village of Madison, in relation to the redemption and deeding of lands heretofore sold for the nonpayment of taxes in said village, and every certificate of redemption or tax deed made out and executed by the said city treasurer, shall have the same force and legal effect as if this act had not been passed and such certificate or deed had been made out and executed by said village treasurer. And the treasurer of the city of Madison is hereby authorized in making any deed for lots or lands, heretofore sold by the treasurer of the village of Madison, for the nonpayment of taxes in said village, to make the same in the name of the city of Madison; and every deed so made and executed by the city treasurer shall be received in all courts of this state as *prima facie* evidence that all the proceedings relating to or affecting the tax for which such lots or lands were sold, from the assessment to the making of such deed inclusive, were regular, correct, and performed according to law; and no other act shall be required of said city treasurer in relation to lots so sold, except the making and acknowledging such deed as aforesaid, except issuing certificates of redemption from such lots as may be redeemed.

WHERE OFFENDERS TO BE IMPRISONED.

Offenders to be imprisoned in the jail of Dane county. SECTION 16. The use of the jail of Dane county, until otherwise provided, shall be granted to said city for the confinement of offenders, and every such offender shall be delivered to the sheriff of said county, for whose custody, safe keeping and delivery, the said sheriff shall be responsible as in other cases; but said county shall not incur or pay any liability or expense on account of any person committed to said jail for a violation of any ordinance, by-law, rule or regulation

of said city, but such expenses shall be paid by the city.

PRIVATE PROPERTY NOT TO BE TAKEN FOR CITY DEBT.

SECTION 17. No real or personal property of any inhabitant of said city or town, or individual or corporation, shall be levied upon or sold by virtue of any execution issued to satisfy or collect any debt, obligation or contract of said city.

Private property not liable for city debt.

HOW EXECUTION AGAINST CITY TO BE ISSUED.

SECTION 18. When a judgment shall be recovered against said city or any ward thereof, or against an officer of said city in any action prosecuted by or against him, in his name of office, where the same should be paid by the city or any ward thereof, no execution shall be issued or awarded upon such judgment, except as hereinafter provided; but the same, unless reversed, shall be levied and collected as other city or ward charges, and when so collected, shall be paid by the city treasurer to the person to whom the same shall be adjudged, upon the delivery of a proper voucher therefor; but if payment thereof be not made within sixty days after the city treasurer is required to make his return of city or ward taxes, next after the rendition of such judgment, execution may be issued thereon, upon the order of the court authorized to issue such execution, on special application therefor.

Executions against city.

NOT TO ISSUE CITY BONDS.

SECTION 19. The common council of the city of Madison shall have no power hereafter to issue, sell or dispose of any city bonds of said city whatever.

No city bonds to be issued.

APPLICATION OF THIS ACT TO CITY OFFICERS, ETC.

SECTION 20. No member of the common council shall be elected or appointed to any office, agency or place of public trust or profit by the council, except as provided by this act; neither shall the common council sell or authorize the sale of any city order or certificate of indebtedness for the purpose of raising money for the payment of any debt for less than the amount expressed upon the face thereof.

Application of this act.

OF PARDON—OF FINES.

SECTION 21. The mayor shall have power to grant pardons or commutations, after conviction, for all offenses against the ordinances of the city, upon such conditions as he may deem proper; he shall communicate any such action to the council at its next meeting,

Pardons.

Fines. with the reasons therefor. All fines imposed by the municipal court of Dane county, for violation of this act, or ordinances, by-laws or regulations, made in pursuance thereof, shall be paid by the officer collecting the same into the city treasury, and a separate account made thereof; and in the months of March and September, in each year, the city clerk shall report to the council the amount so received during the preceding six months, and also the expenses attending such prosecutions in the city during the same period.

REMOVAL FROM OFFICE.

Removals. SECTION 22. The common council shall have power, and it shall be its duty, to remove from office any policeman for incompetency, misconduct, or neglect in the discharge of his official duties, or for refusing or neglecting to perform such acts as are required of him by law.

PUNISHMENT FOR DRUNKENNESS, ETC.

Punishment for drunkenness. SECTION 23. Any person who shall be guilty of drunkenness, or of immoderate drinking, improper reveling, obscenity, or noisy, boisterous and disorderly conduct in the streets or public places of the city of Madison, shall be deemed guilty of a misdemeanor, and on conviction thereof before the municipal court of Dane county, shall be punished by a fine of not less than one nor more than one hundred dollars, or by imprisonment in the county jail of Dane county for a term of not less than two days nor more than three months.

OF COMPLAINTS FOR OFFENCES.

Of complaints. SECTION 24. Whenever any complaint is made to the municipal court of Dane county by any police officer, sheriff, policeman or other person, that any offense has been committed within the said city, against the provisions of the charter of said city, or of the by-laws or ordinances passed in pursuance thereof, whether such offense is made punishable under such charter or ordinances by fine, penalty, or imprisonment, the said municipal judge, or the clerk of said municipal court, shall examine the complainant on oath, and reduce the complaint to writing, and cause the same to be subscribed by the complainant; and if it shall appear that any such offense has been committed, the said police justice shall issue his warrant, reciting the substance of the complaint, requiring the officer forthwith to arrest the accused and bring him before such municipal court to be dealt with according to law

All the laws of this state relating to the manner of conducting criminal actions before justices' courts, shall be applicable to all trials before the municipal court under this act, so far as the same do not conflict with the provisions of this act.

BOARD OF EDUCATION.

SECTION 25. The mayor shall ex officio be a member of the board of education of the city of Madison, and as such shall have the same rights and privileges as other members of said board of education. The board of education shall annually, on the first day of September, and oftener if required, report in writing to the common council a full and detailed statement of the financial affairs and transactions of the board, for the year preceding, and of its wants and requirements for the ensuing year. The common council shall have power to levy a special tax to pay all outstanding valid claims against the board of education or such part thereof as it may deem proper, and the money arising from such tax shall be applied to no other purpose whatever. Money shall be paid from the treasury of the board, on future appropriations only on certificate of its president and clerk, and no order on the treasury, nor other evidence of debt, shall hereafter be issued upon the allowance of claims.

Duties of the board of education.

OF SALARIES.

SECTION 26. No compensation or salary shall be paid the mayor or any alderman of said city, except as provided in section twelve of this chapter.

Salaries.

OF LICENSES.

SECTION 27. No assignee of any license shall be permitted to pursue the occupation or business licensed, except upon the same premises where the business was conducted by the original holder of said license.

Licenses.

REPEALED.

SECTION 28. An act entitled "an act to consolidate and amend an act to incorporate the city of Madison, and the several acts amendatory thereof," approved March 6, 1868, being chapter five hundred of the private and local laws of A. D. 1868, and the several acts amendatory thereof, and all acts relating to the corporation of the city of Madison, not retained in this act, are hereby repealed.

Repealed.

PUBLIC ACT.

SECTION 29. This act is hereby declared a public act, and shall be liberally construed in all courts of this state.

Public act.

SECTION 30. This act shall take effect and be in force from and after its passage and publication.
Approved March 16, 1880.

[No. 184, A.]

[Published March 31, 1880.]

CHAPTER 323.

AN ACT to revise, consolidate and amend the city charter of the city of Wausau.

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

TITLE I.

CITY AND WARD BOUNDARIES.

City bound-
aries.

SECTION 1. All that district of country included in the north half of section one, in township number twenty-eight north, of range seven east, and sections number twenty-five, twenty-six, thirty-five, thirty-six and that portion of sections number twenty-three and twenty-four, situated east of the Wisconsin river, all in township number twenty-nine north, of range seven east, of the fourth principal meridian, in the county of Marathon, and state of Wisconsin, shall be known and designated as the city of Wausau.

Ward bound-
aries.

SECTION 2. The said city of Wausau shall be and is hereby divided into five wards, as follows, to-wit: All that territory within said city lying west of Main street, and west of the northern extension thereof, known as the Wausau and Jenny road, and west of the east bank of the Wisconsin river, shall constitute the first ward. All that territory within said city lying east of Main street, and between Washington and Forest streets, and between lines extending easterly, drawn parallel with said Washington and Forest streets, and extending the same to the east line of said city, shall constitute the second ward. All that territory within said city lying east of Main street, and between Washington and McClellan streets, and between lines extending easterly, drawn parallel with said Washington and McClellan streets, and extending the same to the east line of said city, shall constitute the third ward. All that territory within said city lying east of Main street, and east of the east bank of the Wisconsin river, and south of Forest street, and south of a line extending easterly, drawn parallel with said Forest street, and extending the same to the east line of said city, shall constitute the fourth ward. And all that territory within said city lying east of Main street, and