

the second ward, at the store building of Mary A. Call, on Broadway, in said city. The acting president of the village of De Pere shall, by and with the consent of the board of trustees of said village of De Pere, appoint three inspectors and two clerks for each ward, who shall act as inspectors and clerks of election of the said precincts at all elections, till their successors are appointed, as is provided, and their powers and duties shall be the same as is now provided by law.

Repeal.

SECTION 27. No general law, contravening the provisions of this act, shall be considered as repealing, amending, or modifying the same, unless such purposes be expressly set forth in such law.

Public act.

SECTION 28. This act is hereby declared to be a public act, and shall be liberally and favorably construed in all the courts of this state.

SECTION 29. This act shall take effect and be in force from and after its passage and publication.
Approved March 27, 1883.

[No. 420, A.]

[Published March 29, 1883.]

CHAPTER 175.

AN ACT to incorporate the city of Sparta.

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

CHAPTER I.

CITY AND WARD BOUNDARIES.

Boundaries,
corporate
name, and
manner of
holding
elections.

SECTION 1. All that district of country described as follows: Commencing at the center of the northeast quarter of section number thirteen (13), in township number seventeen (17) north, of range number four (4), west of the fourth (4th) meridian; running thence west on the one-eighth ($\frac{1}{8}$) line to the center of the northwest quarter of section number fourteen (14), in said township; thence south on the one-eighth ($\frac{1}{8}$) line to the center of the southwest quarter of section number twenty-three (23), in said township; thence east on the one-eighth ($\frac{1}{8}$) line to the center of the southeast quarter of section number twenty-four (24), in said town; thence north on the one-eighth ($\frac{1}{8}$) line to the place of beginning, making an area of thirty-six (36) forties, or fourteen hundred and forty (1440) acres, according to government survey, and

being in the town of Sparta, Monroe county, shall hereafter be known and designated as "the city of Sparta," and the inhabitants residing, or who may hereafter reside within the limits of said city, are hereby constituted a body corporate, by the name of "the city of Sparta," and by that name they and their successors forever hereafter shall, and may have perpetual succession, and shall be in law capable of suing and being sued, and pleading and being impleaded, answering and being answered unto, defending and being defended, in their corporate name, in all courts and places, and in all suits whatsoever, with power of purchasing, receiving, holding, occupying and conveying real and personal estate, and shall have a common seal, and may change the same at pleasure; provided, that the question of the adoption of this act as a charter of such city shall be submitted to the electors of such territory before such charter shall become operative. For the purpose of determining such question, the qualified electors residing in such territory shall meet on Monday, the second day of April, 1883, at ten o'clock A. M., of that day, at such place as the inspectors of such election shall appoint, and vote by ballot upon such question. The president and any two trustees of the village of Sparta are hereby appointed inspectors of such election, and the village clerk of Sparta is appointed clerk thereof. Such inspector shall give notice of such election, by publishing notice thereof in one or more papers printed in the village of Sparta, or by posting the same in two or more public places in each ward of the proposed city, at least five days before such election. Such notice shall specify time, place and object of such election, the time of opening and closing the polls. At such meeting the polls shall be opened at 10 o'clock A. M., and kept open until 5 o'clock P. M., when they shall be closed. In case of vacancy in the board of inspectors, the electors present shall choose *viva voce*, from the qualified electors of such territory, inspectors to fill such vacancies. Such inspectors shall preside over and conduct such election, and all the laws of this state applicable to the election of village officers shall apply to all the proceedings thereat, so far as they are consistent with the provisions of this act. Every elector residing in such territory, and qualified to vote for

village officers in said village of Sparta, may vote at such meeting by a ballot having thereon the word "yes," or the word "no," according as he shall be in favor of, or opposed to the incorporation of the city under this act. If the majority of ballots cast at such election have thereon the word "no," this act shall be inoperative and void. If a majority of such ballots have thereon the word "yes," this act shall be of full force and effect. The said inspectors shall make and certify returns of the result of such election, and file duplicates of the same in the office of the county clerk of the county of Monroe, and the town clerk of the town of Sparta, and the village clerk of the village of Sparta, and such returns shall be evidence of the facts therein stated, and the regularity of all proceedings in relation to such election.

Ward boundaries.

SECTION 2. The said city shall be divided into four wards as follows: The portion lying east of the center line of Water street, and north of the center line of Franklin street, continued to the east boundary line of said city, shall constitute the first ward; the portion lying west of the center line of Water street and north of the center line of Main street continued to the west boundary line of said city shall constitute the second ward; the portion lying east of the center line of Water street and south of the center line of Franklin street continued to the east boundary line of said city shall constitute the third ward; the portion lying west of center line of Water street and south of the center line of Main street continued to the west boundary line of said city, shall constitute the fourth ward.

Annual elections, when and how held.

SECTION 3. The annual election for city and ward officers shall be held on the second Tuesday of April in each year, at such place as the common council shall designate and provide, and the polls shall be kept open from nine o'clock A. M., until five o'clock P. M., but an adjournment may be made from twelve o'clock M. to one o'clock P. M., by notice thereof given at the opening of the polls. The city clerk shall give at least six days notice of such election, stating time and place of holding the same, the officers to be elected thereat, and also of any special action to be taken or asked at such meeting, by causing the same to be printed in one or more papers published in said city of Sparta, or by posting copies of such notice

in two or more public places in each ward of said city. If notice be given by newspaper publication as aforesaid, the city clerk shall file a copy of the paper containing such notice in his office; if given by posting notices as aforesaid, the city clerk shall attach to the original notice his certificate, stating the time of posting notices, and number posted in each ward, and the places of posting the same, and file such original notice with such certificate attached in his office.

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 eight members, 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.

Corporate authority, in whom vested.

CHAPTER II.

ELECTIVE OFFICERS, ETC.

SECTION 1. The elective officers of said city shall be a mayor, treasurer, assessor, two justices of the peace, one police justice and one constable for the city at large, and two aldermen for each ward. All other officers necessary for the proper management of the affairs of said city, shall be elected by the common council.

Elective officers.

SECTION 2. All elective officers, except aldermen, justices of the peace and police justice, shall, unless otherwise provided, hold their respective offices for one year, and until their successors are elected and have qualified; said aldermen, justices of the peace and police justice shall hold their respective offices for two years, excepting as hereinafter provided.

Terms of office.

SECTION 3. All elective officers shall be qualified electors of said city, and the mayor, assessor and aldermen shall be freeholders in said city.

Elective officers shall be qualified electors.

SECTION 4. All persons qualified to vote at general elections for state officers, and who shall have been residents of said city for at least ten days next preceding any election, shall be legal voters for any officers required to be elected by this act, and if any person's right to vote be challenged, or if the inspectors of election shall have reason to believe that any person presenting himself to vote does not possess the qualification of an elector

Legal voters, and challenging votes.

under this act, the inspectors shall decide upon the challenge, or upon the qualifications of the person as an elector, in the same manner as is required by law at general elections.

Inspectors of election.

SECTION 5. Any four members of the common council of said city shall preside at and be the judges and inspectors of every election held under this act. The clerk of said city, hereinafter provided for, together with three suitable persons, electors of said city, appointed by the inspectors, shall be the clerks of every such election. In case of the absence of the city clerk, the inspectors may also appoint an elector of said city to act as such clerk at such election. The clerks and inspectors shall take and subscribe an oath in the same form and to the same effect, as near as may be, as the oath required to be taken and subscribed by clerks and inspectors of general election under the laws of this state. The city clerk shall keep a list or lists of the names of persons voting, as hereinafter provided, and all elections under this act shall be conducted in the same manner, as far as may be, in accordance with the provisions of this act, as general elections are conducted under the laws of this state, and the plurality of votes shall in all cases decide the election.

Ballot boxes.

SECTION 6. The common council of said city shall provide four ballot boxes, numbered one, two, three and four, to correspond with the wards aforesaid, to be used at all elections under this act.

Elections shall be by ballot.

SECTION 7. All elections by the people shall be by ballot, on which the names of all persons voted for shall be written or printed, and when any alderman or supervisor to represent the said several wards of said city in the common council, or in the county board of supervisors are to be elected at any election, the ballot shall designate the number of the ward from which such alderman or supervisor is to be elected. At each annual election the inspectors of election shall cause four (4) poll lists to be made, and numbered one, two, three and four, to correspond with the wards hereinbefore provided for, and the inspectors of election, at the opening of the polls, shall designate which of the four (4) clerks of election, hereinbefore provided for, shall have charge of the poll list for each of the said wards respectively. Every person, when he presents his ballot, shall

give his name and the number of the ward in which he resides, and the clerk of election, who has charge of the poll list of the ward in which he resides, shall enter his name on the list, numbered so as to correspond with the number of the ward of which said person is a resident. The ballot of each elector shall be deposited in the box numbered, to correspond with the ward wherein he resides, and no ballot which shall be deposited in a box, other than the one corresponding in number to the ward wherein the person named in such ballot for alderman or supervisor resides, shall be counted. Immediately after the closing of the polls, the ballots in each box shall be counted separately by the inspectors and clerks, and the person named on the ballots in any box, for alderman, and the one named thereon for supervisor, who shall have received a plurality of all the votes cast by the electors of the ward, corresponding in numbers with the box, shall be declared elected alderman and supervisor of such ward, and the persons who shall receive a plurality of all the votes of the electors of said city for the offices of mayor, assessor, police justice, constable and city treasurer, shall be declared elected to such offices [offices] respectively, and the two persons who shall receive a plurality of all the votes of the electors of said city for the office of justice of the peace, shall be declared elected. When two or more candidates of an elective office shall receive the highest and an equal number of votes for the same office, the election shall be determined by the casting of lots, in the presence of the common council, and at such time and in such manner as the common council shall direct.

SECTION 8. If a person who is not a qualified voter of said city shall wilfully and knowingly vote at any election, or if any person duly qualified shall wilfully and knowingly give his name as belonging to a ward in which he does not reside, and shall willingly and knowingly deposit or cause to be deposited his ballot in a box not corresponding in number to the ward in which he resides, or if any person shall vote more than once at any election, he shall forfeit and pay a sum not exceeding fifty dollars (\$50.00) and not less than twenty-five dollars (\$25.00) to be recovered in the same manner as other fines and penalties are recovered under this act, and shall also

Penalty for
illegal voting.

incur all the pains and penalties provided by any general law of this state for illegal or fraudulent voting. If any inspector shall knowingly and corruptly receive the vote of any person not authorized to vote, or shall make out false returns of an election, or if any clerk shall wilfully omit to write down the names of every voter as he votes, or shall wilfully make untrue or incorrect counts or tallies of votes, such inspector or clerk shall be liable to indictment or punishment by information, and on conviction thereof, shall forfeit and pay a sum not exceeding five hundred dollars (\$500.00) or less than one hundred dollars, (\$100.00).

Canvass of
votes.

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

Election of
aldermen.

SECTION 10. At the first election held under this act, two aldermen shall be elected for each ward, one to serve one year and one to serve two years, to be determined by the words, "for one year" after the name of one alderman voted for, and "for two years" after the name of the other alderman to be voted for; and thereafter at each annual election, one alderman from each ward shall be elected to serve for two years; and the first election under this act shall be held at such place as shall be designated and provided by the president and trustees of the village of Sparta, any four of which shall act as inspectors of such election, appoint clerks thereof, prescribe the manner of conducting such election, and shall canvass and make returns of the result, as provided by this act, and the general laws of this state; and the village clerk of Sparta shall give the

notice thereof, as required by this act; and all duties required by this act of the common council in regard to elections shall be performed so far as may be necessary, by the said president and trustees of the village of Sparta, and the clerks appointed by them in regard to the first election, and the organization of the city government under this act.

SECTION 11. At the first regular meeting of the common council in each year, or as soon thereafter as may be, the mayor-elect shall, by and with the consent of a majority of the aldermen-elect, appoint a suitable person for city clerk and fix his compensation.

First regular meeting of council.

SECTION 12. The common council shall have power, for due cause, to expel any of their number. The mayor shall have power to suspend the marshal or any other police officer or watchman appointed by the council, when complained of, until the council shall take up his case and dispose of it. He shall also have power to fill any vacancy thus created for the time being. All officers appointed by the mayor or common council, may be removed at the pleasure of the council, by a two-thirds vote of the aldermen elect.

Power to expel members, etc.

SECTION 13. Any officer removing from the city, or any ward officer removing from the ward for which he is elected, or any officer who shall neglect or refuse, for ten days after notice of his election or appointment, to enter upon the discharge of the duties of his office, shall be deemed to have vacated his office, and the common council shall proceed to fill such vacancy, as herein provided.

Vacating office.

SECTION 14. Whenever a vacancy shall occur in the office of mayor, police justice or justice of the peace, such vacancy shall be filled by a new election, which shall be ordered by the common council within ten days after such vacancy shall occur. Any vacancy happening in any other office shall be filled by the common council. The person elected or appointed to fill any vacancy, shall hold his office and discharge the duties thereof, for the unexpired term, and with the same right and subject to the same liabilities as the person whose office he may be elected or appointed to fill.

Vacancies to be filled by election.

SECTION 15. Special elections to fill vacancies, or for any other purpose, shall be held and con-

Special election to fill vacancy.

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

Election of supervisors. SECTION 16. A supervisor to represent each ward of said city in the county board of supervisors of Monroe county, shall be annually elected at the time and place of the election of aldermen for said city. Each supervisor so elected, shall hold his office for one year, and shall be, when so elected, a resident of the ward for which he is elected. No supervisor shall receive any compensation from the city for any of his services unless such service be specially authorized by the common council and provision for the payment of same be made by them.

CHAPTER III.

OFFICERS AND THEIR POWERS.

Duties of officers and their powers.

SECTION 1. Every person elected or appointed to any office under this act, except justices of the peace and police justice, shall, before he enters upon the duties of his office, take and subscribe the oath of office prescribed by the constitution, and file the same, duly certified by the officer taking the same, with the city clerk, and the marshal, constables and such other officers as the common council may direct, shall severally, before they enter upon the duties of their respective offices, execute to the city of Sparta a bond with at least two sureties, who shall swear that they are each worth the penalty specified in said bond, over and above all debts, liabilities or exemptions, and said bond shall contain such penal sum and such conditions as the council may deem proper. The treasurer, before entering upon his duties, shall also execute a bond with at least two nor more than ten sureties. The penal sum expressed in such bond shall exceed the amount of the last annual tax roll, and each surety shall swear that he is worth a certain amount, over and above all debts, liabilities or exemptions, and the aggregate of such shall at least exceed the penal sum specified in such bond. The council may, from time to time, require new or additional bonds from the treasurer or other officer of the city, and the council may remove from office, any officer re-

fusing or neglecting to give the same. Justices of the peace and police justice shall qualify in the same manner as in towns, except that their bonds shall be approved by the common council.

SECTION 2. The mayor shall, when present, Duties of mayor or. preside over the meetings of the common council. He shall take care that the laws of the state and the ordinances of the city are duly observed and enforced, and that all other executive officers of the city discharge their respective duties; he shall, from time to time, give the common council such information and recommend such measures as he may deem advantageous to the city. The mayor shall be the chief executive officer and head of the police force of the city; and in case of riot or other disturbance he may appoint as many special or temporary constables as he may deem necessary. He shall have the authority to remove the marshal for inefficiency or neglect of duty, and appoint some one to fill the vacancy, but such removal and appointment shall be subject to the ratification or approval of a majority of the common council. The mayor shall have a vote in the council only in case of a tie.

SECTION 3. At the first meeting of the council Election of president. after their [its] election in each year, it shall proceed to elect, by ballot, one of its members 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 for any reason, to discharge the duties of his office, the said president shall exercise all the powers and discharge all the duties of mayor. In case both the mayor and president shall be absent from any meeting of the common council, it shall proceed to elect one of their [its] number a temporary presiding officer, who for the time being shall discharge all the duties of the mayor. The president or temporary presiding officer, while presiding over the council or performing the duties of mayor, shall be styled acting mayor, and any acts performed by them shall have the same force and validity as if performed by the mayor, but the president of the council or temporary presiding officer as acting mayor, shall sign no warrant or other proceeding whatever, which the mayor theretofore has refused to sign.

Duties of clerk.

SECTION 4. The clerk shall keep the corporate seal, and all papers and records of the city, and keep a full record of the proceedings of the common council, at whose meetings it shall be his duty to attend. Copies of any and all books, papers, instruments or documents filed in his office, and transcripts from the records of the proceedings of the common council, certified by him under the corporate seal of the city, shall be evidence in all courts in like manner as if the originals were produced; he shall draw and countersign all orders on the treasury, in pursuance of any order or resolution of the common council, and keep a full and accurate account thereof, in books provided for that purpose, and perform all necessary acts required of town clerks. Whenever the clerk and his deputy shall be absent from any meeting, the common council may appoint a clerk *pro tem.*, who, for the time being, shall be vested with the powers and duties of the clerk. The city clerk shall have power and authority to administer oaths and affirmations, and may appoint a deputy in writing, under his hand, and file such appointment in his office, and such deputy in case of absence or disability of the clerk, shall act in his place.

Duties of treasurer.

SECTION 5. The treasurer shall perform such duties and exercise such powers, as may be lawfully required of him by the ordinances of said city, or the laws of this state. He shall receive all moneys belonging to the city, and keep an accurate and detailed account thereof, together with an account of all disbursements, in suitable books to be provided for that purpose, and 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 since the date of the last annual report; and also of the state of the treasury, which statement shall be filed with the clerk. The city treasurer shall be collector of taxes in said city, and in addition to the powers and duties already specified, shall have the same powers and duties, and be subject to the same liabilities as treasurers of towns.

Duties of marshal.

SECTION 6. The city marshal shall possess all the powers and authority of constables of towns, and be subject to the same liabilities. It shall be his duty to execute and return all writs and

processes to him directed, and when necessary, in criminal cases, or for the violation of any ordinance of said city or laws of this state, may pursue and serve all writs and processes in any part of the state of Wisconsin. It shall be his duty to suppress all riots, disturbances and breaches of the peace, to apprehend, with or without warrant, any person in the act of committing any offense against any ordinance of said city or laws of this state, and forthwith bring such person before competent authority for examination; and for such service he shall receive such fees as are allowed by law to constables for like service. He shall do and perform all such duties as may lawfully be enjoined on him by the mayor, common council or ordinances of said city. He shall have power to appoint one or more deputies, to be approved by the city council, but for whose official acts he shall be responsible, and of whom he may require a bond for the faithful discharge of their duties. The marshal shall be appointed by the common council as soon as they [it] shall organize, and they [it] may, at the time of his appointment, or afterwards, allow him such further compensation than above described, as they [it] may deem prudent.

SECTION 7. The common council may, at its first meeting, elect a city attorney, to conduct the law business of the corporation, but the council may omit such election, and when necessary, provide or employ such an attorney, or counsel as it may desire. The city attorney if there be one, shall, when required, furnish opinions upon subjects connected with the welfare of the corporation, submitted to him by the common council or any of its committees. He shall keep a docket of all cases to which the city may be a party in any court, in which shall be briefly entered all steps taken in each cause, which docket shall be the property of the city, and shall at all times be open to the inspection of the mayor or any member or committee of the common council. It shall also be the duty of the city attorney, when required by the common council, to draft all ordinances, bonds, contracts, leases, conveyances and other instruments in writing necessary to the business of the city government, and to perform such other duties, as may be prescribed by the charter and ordinances of said city. He shall receive such

Duties of
city attorney.

reasonable compensation as may be agreed upon for services rendered.

Other duties may be required of any officer.

SECTION 8. The common council shall have power from time to time, to require other and further duties to be performed by any officer whose duties are herein prescribed, and to appoint such other officers as may be necessary to carry into effect the provisions of this act, and to prescribe their duties, and to fix the compensation of all officers elected or appointed by them [it] where the compensation is not fixed by the statute or this charter. The council shall, at least ten days before the annual charter election in each year, fix by resolution, the salary which shall be paid to the clerk and assessor for the ensuing year, and such salary shall not be increased or diminished during the term of the officer elected, neither shall extra compensation be granted, except by unanimous vote of the council, approved by the mayor. For the year 1883, such compensation shall be fixed by the common council within ten days after it shall organize, and the notice of the first election held under this charter may be given by the acting village clerk, and the inspectors thereof may be appointed by the persons acting as the board of trustees of the present village of Sparta.

Penalty for refusal to deliver 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, books, papers and effects of every description in his possession belonging to said city, or pertaining to the office he may have held, he shall forfeit and pay to the use of the city one hundred dollars (\$100), besides all damages caused by his neglect or refusal so to deliver; and such successor may recover possession of such books, papers and effects in the manner prescribed by the laws of this state.

No officer shall be interested in any job or contract.

SECTION 10. No mayor or alderman shall be a party to, or interested in, any job or contract with the city, and any contract in which they, or either of them, may be so interested, shall be null and void, and in case any money shall have been paid on any such contract, the common council may sue for and recover the amount so paid from the parties to such contract, and the mayor or aldermen interested in the same, or either or any of them.

SECTION 11. The mayor or acting mayor, and

each and every alderman, justice of the peace, police justice, marshal, constable and watchman shall be officers of the peace, and may command the peace and suppress in a summary manner, all rioting and disorderly behavior within the limits of the city; and for such purpose, may command the assistance of all bystanders and other citizens; and if any person, bystander or citizen shall refuse to aid in maintaining the peace when so required, every such person shall forfeit and pay a fine of five dollars (\$5); and in cases where the civil power may be required to suppress riotous or disorderly behavior, the superior or senior officer present, in the order above mentioned in this section, shall direct the proceedings.

Officers of the peace enumerated.

SECTION 12. All actions brought to recover any penalty or forfeiture under this chapter, or the ordinances, by-laws, police and health regulations made in pursuance thereof, shall be brought in the corporate name of the city, and may be heard and determined by or before any justice of the peace in the city. All fines and penalties collected by any justice in such cases, shall be paid over to the city treasurer, except those for refusing to pay poll-tax, which shall be paid over on demand to the street commissioner. Each justice of the peace and police justice shall report to the common council on the first Monday in January, April, July and October in each year, a statement of all such fines and penalties collected by him, and at the same time pay over the amount thereof to the city treasurer, except as above mentioned.

Actions to be under corporate name of city.

SECTION 13. Any officer may resign his office by filing his written resignation with the clerk, and such resignation shall take effect, and his office shall be deemed vacant, from the time such resignation shall be accepted by the common council.

Resignations.

SECTION 14. No alderman or other city officer shall be accepted as surety upon any bond, note or obligation made to the city, nor shall any officer, required to give bonds as aforesaid, enter upon the discharge of the duties of his office until such bond shall have been filed or approved, as by this act provided.

No city officer shall be accepted as surety on any bond.

CHAPTER 4.

THE COMMON COUNCIL, ITS POWERS AND DUTIES.

SECTION 1. The mayor and aldermen shall con-

Style of ordi-
nances.

stitute the common council, and the style of all ordinances shall be: "The mayor and common council of the city of Sparta do ordain." The common council shall hold their [its] first annual meeting each year, on the third Monday in April, and thereafter stated meetings upon the first Monday of each and every month, during the year. A majority of the aldermen shall constitute a quorum.

Special meet-
ings, how
called.

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

Council to have
control of
finances.

SECTION 3. The common council shall have the management and control of the finances and of all the property of the city; and shall likewise in addition to the powers herein vested in it, have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify, amend and repeal all such ordinances, rules and by-laws for the government and good order of the city, for the suppression of vice and immorality, for the prevention of crime, and for the benefit of trade, commerce and health thereof, 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 ordinances, rules or by-laws, and such ordinances, rules and by-laws are hereby declared to be and to have the force of law; provided, that they be not repugnant to the constitution and laws of the United States or of this state, and for these purposes shall have authority by ordinance, resolution or by-laws:

To license
shows, saloons,
etc.

1st. To license, regulate, suppress and prohibit the exhibition of common showmen, or shows of any kind, or the exhibition of caravans, circuses or theatrical performances, billiard tables, bowling saloons, and to provide for the abatement and removal of all nuisances, under the ordinances or

at common law, and may grant licenses for and regulate groceries, taverns, victualing houses and all persons vending or dealing in spirituous, vinous or fermented liquors, and may prohibit and suppress the same; provided, that the license for so dealing in, or vending spirituous, vinous or fermented liquors, shall not be less than seventy-five dollars (\$75.00) nor more than three hundred dollars (\$300.00) per annum. Such licenses shall not be granted for a longer term than one year, and shall run from the first day of May and to expire on the first day of May; provided, however, where any such license is applied for after that date, the same be granted to expire on the first day of May next following, on the applicant paying *pro rata* therefor.

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

3d. To prevent any riots, noise, disturbance or disorderly assemblages; to 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. Riots and noise.

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. Unwholesome places.

5th. To direct the location and management of slaughter houses and markets, and to regulate the storage, safe-keeping and conveying or [of] gunpowder or other combustible materials. Slaughter houses and gunpowder.

6th. To prevent the encumbering of streets, sidewalks, lanes, alleys and bridges with carriages, carts, wagons, sleighs, boxes, lumber, firewood, logs or any other material or substance whatever, and to prevent the loading and unloading of lumber, logs, shingle, bolts or other material or substances, of whatever name or kind, upon the bridges in said city. Encumbering of streets.

7th. To prevent horse racing, and immoderate

- Horse racing, swimming, etc. riding or driving in the streets and upon any and all bridges, and to regulate the places of bathing and swimming in the waters within the limits of said city.
- Restrain cattle. 8th. To restrain, regulate or prohibit the running at large of cattle, horses, mules, swine, sheep, goats, poultry and geese, and to authorize the distraining, impounding and sale of the same for the penalty incurred and the costs of the proceedings, and also to impose penalties on the owners of any such animals for a violation of any ordinance in relation thereto.
- 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.
- Unwholesome substances. 10th. To prevent any person from bringing, depositing or having within the limits of said city, any putrid carcass or other unwholesome substance, and to require the removal of the same by the owner thereof, or by the person who shall have upon his premises any such substance, or putrid or unsound beef, pork, fish, hides or skins of any kind, and, on default, to authorize the removal thereof by some competent officer at the expense of such person or persons.
- Omnibuses, hacks, etc. 11th. To regulate, license and suppress omnibuses, hacks, cabs, drays, carts, and to regulate the charges of omnibus drivers, hackmen, cabmen, draymen and cartmen in the city.
- Boards of health. 12th. To establish and regulate boards of health, provide hospitals and cemetery grounds, regulate the burial of the dead, and return the bills of mortality, and to exempt burial grounds set apart for public use from taxation.
- Bread. 13th. To regulate the size and weight of bread, and to provide for the seizure and forfeiture of bread baked contrary thereto.
- Riding and driving on sidewalks. 14th. To prevent all persons from riding or driving any horse, ox, mule, cattle or other animals on the sidewalks in said city, or in any way doing any damage to such sidewalks.
- Fire-arms and crackers. 15th. To prevent the shooting of firearms or crackers, and to prevent the exhibition of any fireworks in any situation which may be considered, by the common council, dangerous to the city or any property therein, or annoying to the citizens thereof.
- Restrain drunkenness. 16th. To restrain drunkards, immoderate drink-

ing 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.

17th. To restrain and regulate runners and solicitors for, stages, public houses, or other establishments, and to make rules and ordinances for the government and regulation of the police of said city. Runners and police.

18th. To establish public markets and to make rules and regulations for the government of the same; to appoint suitable officers for overseeing and regulating such markets, and to restrain all persons from interrupting or interfering with the due observance of such rules and regulations. Public markets.

19th. To license and regulate butchers' stalls, shops and stands for the sale of game, poultry, butchers' meat, butter, fish and other provisions. Provisions,

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

21st. To compel the owners or occupants of buildings or grounds to remove snow, ice, dirt, ashes, or rubbish from the sidewalk, street or alleys opposite thereto, and to compel such owners or occupants to remove from the lots owned or occupied by them, all such substances as the board of health may direct; and on their default, to authorize the removal or destruction thereof by some officer of the city, at the expense of such owners or occupants. Snow and dirt.

22d. To regulate, control and prevent the landing or passing through said city, of persons from cars or stages, who are infected with contagious or infectious diseases or disorders, and to make such disposition of such persons and their property as to preserve the health of said city. Infectious diseases.

23d. To license auctioneers and transient dealers, and to regulate the time, place and manner of holding public auctions or vendues, and to require the payment into the city treasury of a certain percentage of amounts received from sales by auctioneers or transient dealers, or the payment of a license, or both, as the common council shall determine. Auctioneers.

24th. To appoint the city clerk, watchmen and policemen and prescribe their duties. Watchmen and policemen.

SECTION 4. All laws, ordinances, regulations

How ordinances shall be passed.

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 shall be published once a week, for two successive weeks, in the newspaper selected by the council, printed in said city, before the same shall be in force, and within fifteen days thereafter they shall be recorded by the city clerk, in books to be provided for that purpose; but before the said laws, ordinances or regulations shall be recorded, the publication thereof respectively, within the said time, shall be proved by the affidavit of the foreman or publisher of such newspaper, and the said affidavit shall be recorded therewith, and at all times shall be deemed and taken as sufficient evidence of the time and manner of such publication.

When to take effect.

SECTION 5. No ordinance or resolution, requiring the signature of the mayor, shall take effect until seven days after the passage of the same, unless sooner approved in writing by the mayor, or acting mayor for the time being.

Veto power defined.

SECTION 6. The mayor shall have power to veto any ordinance, act or resolution passed by the common council, by notifying the common council of his objections thereto, at any time within seven days after the passage of such ordinance or resolution. In case of no session of the common council on any day after the passage of the same, and before the expiration of the said seven days, such notification shall be made by filing with the clerk a copy of his objections, and the clerk shall thereupon call a special meeting of the council in the manner provided by section 2 of this chapter, to consider such veto and objections; and in case the council shall not, within one week after the receipt of such objection or such filing with the clerk, re-enact such ordinance or pass such resolution by the vote of five of the aldermen elect, the same shall be null and void. If the mayor shall not return any ordinance, act or resolution so presented to him within seven days after the passage thereof, it shall take effect in the same manner as if he signed it.

Rescinding votes.

SECTION 7. No vote of the common council shall be reconsidered or rescinded at a special meeting, unless at such special meeting there be

present as large a number of aldermen as were present when such vote was taken.

SECTION 8. 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, or houses of ill-fame, are hereby declared and shall be deemed a public or common nuisance.

Shall not bar or hinder suits.

SECTION 9. The common council shall examine, audit and adjust the accounts of the clerk, treasurer, street commissioner, marshal, and all other officers and agents of the city, at such time as it may deem proper, also at the end of each year, and before the term 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 and agent to exhibit his books, accounts, moneys 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 his duties, in pursuance of this section, or shall wilfully neglect or refuse to render his accounts, or present his moneys, books and vouchers to said council, it shall be the duty of the common council to declare the office of such person vacant; and the common council may 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 adjustments.

Council shall audit accounts.

SECTION 10. The mayor, at the first regular meeting of the common council in each year, shall appoint standing committees as follows: On streets and sidewalks, on bridges, on accounts, on finances and taxation, on ordinances, on fire department and public buildings and grounds, from the common council; and also a board of health and fire wardens from the members of the common council or otherwise, and such other committees as the ordinances of said city or common council may determine.

Appointment of standing committees.

SECTION 11. No compensation or salary shall be paid to the mayor or any alderman of said city, except for services as inspectors of election.

No compensation.

SECTION 12. All contracts for work ordered by the common council of said city, in which the

Contracts to be let to lowest bidder.

amount thereof shall exceed the sum of one hundred dollars (\$100), shall be let to the lowest reasonable and responsible bidder who shall have complied with the requirements hereinafter set forth. All bids and proposals shall be sealed and directed to the common council, and shall be accompanied with a bond to the city of Sparta in the penal sum equal to the amount of the bid which bond shall be signed by the bidder and by a responsible surety or sureties, who shall justify that he is worth the sum mentioned in such bond, over and above all his debts, liabilities and exemptions; such bond shall be conditioned that such bidder will execute a contract at such time as the common council shall require, with satisfactory sureties, to perform the work specified; and in case of failure said bond may be prosecuted in the name of the city, and judgment recovered thereon for the full amount of the penalty thereof, as liquidated damages, in any court having jurisdiction of the action.

CHAPTER 5.

OPENING OF STREETS, ALLEYS, ETC.

Opening streets
and alleys.

SECTION 1. The common council shall have power to lay out public squares, grounds, streets and alleys, and to enlarge or extend the same, and to use the land in said city for the purpose of constructing and repairing sewers and drains, as follows: Whenever ten or more freeholders residing in the city shall, by petition, represent to the common council that it is necessary to take certain lands within the city for public use, for the purpose of laying out public squares, grounds, streets or alleys, or enlarging or widening the same, or to use certain lands within the city for the purpose of constructing and repairing sewers and drains, giving the course and distances, metes and bounds of the lands proposed to be taken or used as aforesaid, together with the names and residences of the owners of such premises, if the same shall be known to the petitioner, the common council shall, if it deem it necessary to take and use such lands for the purpose specified in such petition, cause notice of such application to be given to the owner or owners of such land, in case such owner or owners, shall reside in the county of Monroe, and to the occupant or occupants

of such land, if any there be, which notice may be served personally or by leaving the same at the place of business or at the residence of such owner or owners, occupant or occupants; or if a portion of said lands shall not be in the actual occupation of any person, then the common council shall cause such notice, describing as near as may be the premises proposed to be taken, to be published in a public newspaper printed in the city of Sparta, for four successive weeks, at least once in each week.

SECTION 2. Such notice shall state that on a day therein to be named, not less than ten days from the service of such notice, or the expiration of such publication, as the case may be, application will be made to the county judge of the county of Monroe, or a court commissioner in and for said county, and if the latter, stating his name and residence, for the appointment of six jurors to view said premises, and to determine whether it will be necessary to take or use the same for the purposes specified in said petition, and if so, to assess damages; but the officer to whom such application is made must not be an owner or otherwise interested in any of the lands proposed to be taken or used.

What notice shall contain

Appointer of jurors.

SECTION 3. Upon presentation of such application, and upon proof of the publication or service of the notice hereinbefore required, the said judge or court commissioner, as the case may be, shall thereupon appoint as jurors six reputable freeholders, residents of the city, and not interested in the result of such application. The said judge or court commissioner shall thereupon issue his precept, directed to said jurors, requiring them within thirty days from the date thereof, to view such premises, to be specified in said precept, and to make return under their hands to the common council, whether in their judgment it is necessary to take or use said premises for the purpose specified in such application.

Jurors shall view premises.

SECTION 4. If any juror so appointed, shall be disqualified from acting, or shall refuse to act, at any time before the completion of their final award, the judge or court commissioner shall appoint others in their place, and a memorandum of such substitution shall be indorsed on the precept.

In case any juror is disqualified.

SECTION 5. The said jurors, having first taken the oath hereinafter provided for, shall, at such

Jurors shall view premises in a body.

times as they may agree, proceed in a body to view the premises in question, and shall hear such testimony as may be offered by any party interested, which testimony shall be reduced to writing by one of the jurors; and either of the jurors shall be authorized to administer the necessary oaths to witnesses.

Jurors shall make a report.

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

Council shall enter an order confirming report.

SECTION 7. Should the jurors report that it is necessary to take such premises, the common council shall, if it approves such report, enter an order among its proceedings confirming said report, and directing the same jurors, within one month thereafter, or such further time as may be necessary, to again view said premises for the purpose of ascertaining and determining the amount of damages to be paid to the owner or owners of the property proposed to be taken, and to assess and return within the time limited, such damages to the common council; and after the jurors shall have made their report, as to the taking or use of any lands or premises under this act, and the same have been confirmed, the common council shall have power to appoint new jurors in the place of any who shall neglect or refuse to serve, in ascertaining the amount of compensation as above.

In case there is a building on premises.

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

Ten days notice to be given.

SECTION 9. At least ten days personal notice of such determination shall be given to the owner or his agent, if known, and a resident of the city, or left at his usual place of abode. If not known, or a non-resident, notice to all persons interested

shall be given by publication in a newspaper published in said city for three successive weeks; such notice shall specify the building and the award of jurors. It shall also require the parties interested to appear by a day to be therein named, or give notice of their election to the common council, either to accept the award of the jurors and allow such building to be taken, with the land appropriated, or of their intention to remove such building at the value set thereon by the jurors to remove. If the owner shall agree to remove such building, he shall have such time for that purpose as the common council may allow.

SECTION 10. If the owner refuse to take the building at the value to remove, or fails to give notice of his election as aforesaid, within the time prescribed, the common council shall have power to direct the sale of such building at public auction for cash, giving ten days notice of such sale. The proceeds shall be paid to the city treasurer, for the use of the owner, and shall thereafter be paid over to the owner on his application therefor; provided, it shall be necessary to remove such buildings for the proper use of the lands so taken or used.

In case owner refuses to take building at value.

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

Jurors shall examine premises proposed to be taken.

SECTION 12. The jurors shall assess the dam-

Jurors shall assess damages separately.

ages to every person separately, so that their return shall show how much is to be paid for each, and the amount shall be placed opposite their respective names.

If the land or buildings belong to different persons.

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

Award of jurors shall be signed.

SECTION 14. The award of the jurors shall be signed by them and returned, together with the testimony taken, to the common council within the time limited in their order of appointment, and shall be final unless appealed from in the manner hereinafter provided, and the damages allowed by such award shall be a legal charge against the city.

Land shall not be appropriated until damages are tendered.

SECTION 15. The land required to be taken or used for the purposes mentioned in this act, shall not be appropriated until the damages awarded to the owner thereof, shall be paid or tendered to the owner or his agent, or, in case said owner or agent cannot be found or is unknown, deposited to his or their credit, in some safe place of deposit, to be determined by the common council; and then, and not before, such lands may be taken or used and appropriated for the purposes required, and the lands shall thereafter be subject to all the laws and ordinances of the city, in the same manner as streets, alleys and public grounds heretofore opened or laid out, except in cases where the lands are only used for the purpose of sewers and drains, and then, in that case, the said city shall have the power to go upon said premises at any and all times for the purpose of examining and repairing said sewers and drains.

Covenants shall cease on land taken.

SECTION 16. When the whole of any lot or tract of land or other premises under lease or other contract or incumbrance, shall be taken or used by virtue of this act, all the covenants, contracts, engagements or liabilities relating to the same or any part thereof, shall, after the expiration of the time for appealing as hereinafter provided, respectively cease and be absolutely discharged.

SECTION 17. When only part of the lot or tract

of land, or other premises so under lease, or other contract or incumbrance, shall be taken or used for the purpose aforesaid, such covenants, contracts or incumbrance shall be absolutely discharged as to the part thereof so taken, or used, but shall remain valid as to the residue thereof; and the rents, considerations, liens and payments reserved, payable and to be paid for, in respect to the same, shall be so proportioned that the part thereof, justly and equitably payable for such residue thereof, and no more, shall be paid or recoverable for, or in respect to the same.

SECTION 18. The damages assessed on each separate lot or tract shall be paid, tendered, or deposited as herein required, within one year from the confirmation of such assessments and report, and if not so paid, tendered or deposited, all the proceedings in any such case as to any lot or tract on which they are so unpaid, shall be void.

Damages shall be tendered.

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

In case of minor.

SECTION 20. The jurors mentioned in this act shall, before entering on the discharge of their duties, severally take an oath, before some competent officer, that they are freeholders of said city, and not interested in the premises proposed to be taken or used, and that they will faithfully and impartially discharge the trust reposed in them. If any juror shall neglect or refuse to serve after the return of the precept above mentioned, the county judge or court commissioner shall have power to appoint new jurors in place of those who shall so neglect or refuse to serve.

Jurors shall take an oath.

SECTION 21. The city council, or any party interested may, within twenty days from the return of the jurors to the common council of the benefits and damages so assessed, appeal to the circuit court of Monroe county from the decision of said jurors so far as it affects the interests of said appellants. Notice of such appeal shall be filed by

Either party may appeal.

the appellant, with the clerk of said court, within twenty days above mentioned, and the issue on such appeal shall be made up and tried in said court in such manner as said court shall direct. If any party, other than the common council, shall file such notice of appeal, they shall, before the trial thereof, give a bond in such sum and with such sureties as shall be approved by said court, conditional to pay all costs of said appeal, if the appellant shall fail to obtain a more favorable judgment than the award appealed from.

In case the amount of damages is changed.

SECTION 22. In case the amount of damages awarded by the jurors shall be increased or diminished, upon the final determination of the appeal, the city clerk shall attach to said award a copy of the final judgment therein, and such award shall be considered (as to such difference) amended thereby.

Survey of streets to be made when laid out.

SECTION 23. Whenever any streets, alleys or public grounds shall be laid out or extended, or sewers or drains constructed under the provisions above, the common council shall cause an accurate survey and profile thereof to be made and filed in the office of the city clerk.

Vacating alleys

SECTION 24. No street or alley, or part thereof, shall be vacated, except upon the petition of the owners of three-fourths of the front upon such street or alley in the block, in, or along which, such street or alley runs; but the boundaries of streets may be changed upon petition to the council by the parties interested.

Apply to unplatted lands only.

SECTION 25. The foregoing provisions shall not apply to unplatted lands. Roads or streets may be laid out by the common council through unplatted lands, in the same manner as roads are laid out by supervisors in towns.

Only directory.

SECTION 26. All the foregoing directions given in this chapter shall be deemed only directory, and no errors, irregularity or informality in any of the proceedings under the provisions of this chapter of this act, not affecting substantial justice, shall in any way affect the validity of the proceedings.

CHAPTER VI.

POLL. TAX.

Poll tax.

SECTION 1. The common council of said city shall have, and it is hereby granted power to tax annually each male inhabitant within the corporate lim-

its of said city, between the ages of twenty-one and fifty years, a sum not to exceed one dollar and fifty cents (\$1.50), to be denominated a poll tax, and to be appropriated to the improvement of streets, roads, alleys and cross walks in said city.

SECTION 2. On or before the 20th day of May Poll tax list. in each year, the city clerk shall make out a list of the names of all male persons over the age of twenty-one, and under the age of fifty years, liable to pay such poll tax, with the amount thereof set opposite to each person's name, and submit the same to the common council for correction. When such list is correctly made out, and on or before the 1st day of June in each year, the board shall by order (to be signed by the mayor and clerk and annexed thereto) direct the same to be delivered forthwith to the treasurer for collection. The treasurer shall forthwith proceed to the collection of such tax, and shall demand the same once of each person named in the list, and if any person neglects to pay the same for two days thereafter, then such treasurer shall, in the name of the city, sue for and collect such tax with fifty per centum damages on the same, with costs of suit, before a justice of the peace of such city, or police justice, and in default of payment of such judgment, execution shall issue against the defendant as in cases of tort, and the first process in such action shall be by civil warrant; provided, the council may, by resolution, cause the said poll list to be placed in the hands of the street commissioner to be collected, and the said street commissioner shall have the same authority to collect and receipt for such tax as the treasurer, and shall account for such taxes by him collected in the same manner as for other moneys coming into his hands by virtue of his office. And the treasurer or street commissioner, while said list is in his hands for collection, may put upon the same the names of all such persons liable to such tax as may have been omitted therefrom, who shall then be liable, the same as if their names were originally placed in such list.

SECTION 3. The common council shall, at their first meeting for organization in each year, choose by ballot a street commissioner who shall, in addition to the collection of the poll tax, as above provided, under the direction of the common council, expend the same on the streets, bridges, cross-
Street commissioner and his duties.

walks and highways in said city, and the common council may, by resolution, direct the expenditure of not to exceed one-third of the poll tax upon the highways leading into said city outside of the corporate limits.

Shall give bond. SECTION 4. Every street commissioner hereafter appointed by the common council, shall, before entering on the duties of his office, give a bond to the city of Sparta, with one or more sufficient sureties, to be approved by the council, in the penal sum of not less than fifteen hundred dollars (\$1500), conditioned to render an account to the common council, whenever required by law or the ordinances of said city, or by vote of said council, to safely keep and account for, and deliver over when lawfully required, all property of said city that may come into his hands; to use, disburse or pay over, as required by law, or the ordinance of said city, all moneys that may come into his possession as such officer, and to faithfully discharge the duties of said office.

Term of street commissioner. SECTION 5. Every street commissioner shall hold his office for the term of one year from the third Tuesday in April of the year in which he is appointed, and shall, on or before the first Monday in November, render an account under oath to the common council, showing the amount of money collected by him as such commissioner, and from whom it was collected, and showing the amount that has been expended, specifying the work for which it has been expended. Such an account shall be rendered as often as the common council shall require.

Compensation of street commissioner. SECTION 6. The street commissioner shall receive such compensation as the common council shall fix upon for his services, which may be by a per diem or per centage upon the tax collected and expended, as the common council shall determine, and his compensation shall be decided upon at the time of his appointment, and shall not thereafter be changed except in the manner heretofore prescribed for changing compensation of other officers.

Removal of street commissioner. SECTION 7. The street commissioner shall hold his office for the term as stated in section 5, unless sooner removed by the common council for causes which may by a two-thirds vote of the aldermen, declare his office vacant, after giving him due notice and an opportunity to be heard, and appoint

his successor, who shall thereafter be entitled to all the emoluments, writs, records, books, papers, property and effects of every description in the hands of the person so removed.

SECTION 8. The street commissioner shall return all unpaid taxes in the manner and form prescribed for such return by the overseer of highways in towns.

Return of unpaid taxes.

SECTION 9. The common council may, at any time, cause a new and accurate survey to be made of the lines and boundaries of all streets, alleys, sidewalks, public grounds and blocks, and may cause to be established such permanent landmarks as it may deem necessary, and to cause an accurate plat or plats thereof to be made and certified to by the surveyor, which shall be filed in the office of the city clerk, and recorded in the office of the register of deeds of the county of Monroe.

Survey to be made.

SECTION 10. The surveys and landmarks so made and established shall be *prima facie* evidence of the lines and boundaries of all streets, alleys, sidewalks, public grounds and blocks, in all cases in which they shall be drawn into controversy in all courts in this state.

Surveys to be prima facie evidence.

SECTION 11. The common council may, at such time as it may deem proper, establish the grades of all streets, alleys and sidewalks of said city, or any or either of them, and shall cause accurate profiles thereof to be made, one of which shall be filed in the office of the register of deeds of Monroe county, and should the grade so established, be at any time thereafter altered, all damages, costs and charges therefor shall be paid by the city to the owner of any lot or parcel of land, or tenement, which may be affected or injured in consequence of the alteration of such grade; provided, however, that nothing in this section contained shall be so construed as to prevent the street commissioner of the said city from ordering or causing to be done, the grading of any street to a temporary grade, to be established by such commissioner.

Grades of all streets to be established.

SECTION 12. The common council may cause any street, or any part of any street, not less than sixteen rods in length, to be graded, paved, macadamized, or otherwise improved, or any sidewalk or gutter to be built, upon a petition therefor in writing, signed by at least a majority of all the owners of real estate bounding both sides, and of

Grading of streets.

the owners of at least one-half the frontage of such street, or part of street to be improved, or order any sidewalk or gutter on one side of a street to be built, on the petition of a majority of such owners, and if [of] the owners of at least one-half of the frontage on such side; and may order any sidewalk or gutter previously built, to be put in repair, or build, when necessary, without petition.

Tax to be levied for repair of streets, etc.

SECTION 13. For the purpose of so improving any street or building, or repairing any sidewalk or gutter, the common council may levy and cause to be collected upon the lots, tracts or parcels of ground on such street or part of street improved, or on the side thereof where only such sidewalk or gutter is to be built, and upon the owners thereof a tax sufficient to pay the expense of constructing such improvement as ordered, opposite such property to the center of the street, or such proportion thereof, not less than half, as they shall deem justly assessable to such property, if they shall think the whole ought not to be so assessed; in which case the remainder of such expense shall be paid from the city treasury. Every such tax for repair shall be for the entire cost of repairs in front of the property so assessed. If any tax levied under this section shall prove insufficient to pay the cost or proportion thereof assessed to such property, the common council may levy an additional tax thereon to make good such deficiency.

List to be delivered to street commissioner for collection.

SECTION 14. Whenever the common council shall levy any such tax as specified in the preceding section, it shall make out and deliver to the street commissioner of such city, a list of the persons and a description of the property taxed, together with a warrant, signed by the mayor and clerk, for the collection and expenditure of such tax, and thereupon the street commissioner shall notify the persons named in such tax list, by publishing a notice two weeks in some newspaper published in said city, and shall specify in such notice a time or times, not less than twenty days, nor more than forty days from the date thereof, when the persons charged with taxes in such list may pay their taxes in labor, materials or money; and the persons charged with such tax may, at such time and place as may be required by the said street commissioner, pay their taxes in labor

or materials; provided, the labor and materials offered in payment of such taxes are such as may be required by the said street commissioner, and done and furnished to his satisfaction.

SECTION 15. The street commissioner shall be provided with a book by the city clerk, in which he shall keep an accurate account of all moneys coming into his hands by virtue of his office, the amount received and disbursed by him, the name of every person from whom money or labor is due, the amount received and disbursed by him, the amount paid in money or labor, and a correct account of all expenditures by him made as street commissioner. The book containing the account so kept shall at all times, when required, be furnished for the inspection of the mayor or common council, and ten days before the expiration of his term of office shall be handed to the city clerk, to be filed in his office for the inspection of the tax payers of said city.

Street commissioner to be provided with a book.

SECTION 16. At the expiration of forty days from the date of said notice given by said street commissioner, he shall make out and deliver to the city clerk a certified list of the lots, pieces or parcels of land in said city upon which any such tax remains unpaid, with the amount of such delinquent tax upon each of such lots or parcels of land, and the said clerk shall add the said delinquent taxes to the next tax roll, opposite to the description of the proper lots, pieces or parcels of land therein; and such delinquent taxes shall be collected with and in the same manner as other taxes in said city.

Certified list of unpaid taxes to be delivered to clerk.

SECTION 17. Whenever any lot, parcel or tract of land shall be returned delinquent for any such tax as hereinbefore provided, the common council may cause the work to be done at the expense of the city, to be reimbursed by such tax when collected.

Work on delinquent lots to be at expense of city.

SECTION 18. Whenever a sidewalk or gutter shall be out of repair, and so remain for the space of twenty-four hours, which, in the opinion of the street committee, will not cost to exceed the amount of five dollars (\$5.00), in front of any one lot to repair the same, it 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 costs of such repair, specifying the lot and

Immediate repairs.

block, or piece or parcel of land in front of which said work was done, verified by his oath, and shall deliver the same to the city clerk, and said clerk shall forthwith present the same to the owner of such lot, piece or parcel of land, if a resident of the city of Sparta 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 common 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 and gutters. In case the owner of such lot, piece or parcel of land does not reside in the city of Sparta, the said commissioner 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.

Ornamental
trees.

SECTION 19. The common council shall have power to require the owner of any lot or parcel of ground in the city, to set out ornamental trees on the street or streets fronting on the same, and on default thereof to cause the same to be done, and to levy a special tax upon such lot or parcel of ground to pay the expense of the same.

CHAPTER VII.

FIRE DEPARTMENT.

Fire limits.

SECTION 1. The common council, for the purpose of guarding against the calamities of fire, shall have power to prescribe the limits within which wooden buildings or buildings of other material, that shall not be considered fire proof, shall be erected, repaired or moved, and to direct that all and any buildings within the limits prescribed, shall be made and constructed of such fire proof material, and in such a manner as they may ordain, and to prohibit the removal of buildings into such fire limits, or the removal of any building or buildings situated or located within such fire limits, 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 value thereof, and to prescribe the manner of ascertaining such damage.

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 times as they shall prescribe, and to regulate the use of them in time of fire; to regulate and prevent the carrying on of any manufactories dangerous in causing and promoting fires; to compel the owners and occupants of buildings to have scuttles in the roofs, and stairs or ladders leading to the same; to authorize the mayor, aldermen, fire wardens and other officers of the city to keep away from the vicinity of 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 regulation for the prevention and extinguishment of fires as the common council may deem expedient, and enforce the provisions of this chapter, and the ordinances under it, by suitable penalties.

Building and construction of buildings, chimneys, 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 company to be disbanded, and to prohibit their meetings as such when disbanded. Each company shall be officered and governed by their own by-laws; provided such by-laws be not inconsistent with the laws of this state, or with the ordinances and regulations of the city. Each active member of any company in said city shall be exempt from serving on juries, and from poll tax and military duty, except in case of war, invasion or insurrection, and whenever a member of a fire, hook and ladder, bucket and hose company shall have served therein for five years, he shall be entitled to a discharge, signed by the mayor, and shall thereafter be exempt as aforesaid.

Purchase fire engines.

SECTION 4. The common council shall have power to raise a tax each year, not exceeding two mills on the dollar of the taxable property within

Tax for fire purposes.

said city, for fire purposes, the same to be assessed and collected in the same manner as the general tax of said city, and the moneys arising therefrom shall be expended under the direction of the common council of said city for fire purposes.

CHAPTER VIII.

SCHOOLS.

Regarding the public schools.

SECTION 1. The joint school district number one of the towns of Sparta and Angelo, now embracing the village of Sparta, and a part of the towns of Sparta and Angelo, shall not be affected by this act, and the management of school matters shall remain the same as heretofore.

CHAPTER IX.

MISCELLANEOUS PROVISIONS.

Division of town property.

SECTION 1. It is hereby made the duty of the common council of said city, and the board of supervisors of said town of Sparta, to meet together at some convenient place, on before the first Monday of May, 1883, upon notice given by either body, and if possible, agree upon some just, fair and equitable settlement or adjustment and division of the property, money, credits, duties, liabilities, obligations and every other matter or thing, made necessary by the organization of said city out of the territorial limits of the town of Sparta; and said common council of said city and said board of supervisors of the town of Sparta, shall meet annually, on the first Monday of May in each and every year, and make a just, equitable and fair division of the amount of bonded indebtedness then due or to become due, for the then existing year, whether of principal or of interest, and shall allot and set off to said city the amount of such proportionate amount of principal and interest, as should in justice and in equity be paid by said city; and shall also set off and allot to said town of Sparta, such proportionate share and amount of such principal and interest, as should in justice and in equity be paid by said town. In determining such proportion so as to be paid by said town and city, the said supervisors and the said common council shall take the last preceding respective assessment rolls of the said city, and of the said town, and allot to said

city and town respectively, the amount of bonded indebtedness due or to become due that year, to be paid by each in proportion as the assessed valuation of such city bears to the entire value of said city and town.

SECTION 2. If the common council of said city and board of supervisors of said town, shall be unable to agree upon an honorable, just and fair settlement or adjustment and division, as provided in the preceding section, then it is hereby made the duty of the circuit judge of the circuit court, in and for the county of Monroe, upon application made to him by either of said bodies, five days' notice having been previously given to the other body, to appoint three commissioners, one to be a resident of said city, one of said town, and one to reside outside of both city and town, who shall have power, and it is made their duty, as soon as may be after their appointment, and filing with the clerk of the circuit court in and for said county of their oaths, to faithfully and fairly adjust and settle all matters of dispute between said city and town, as hereinbefore mentioned, to examine into and fairly, equitably and justly make a division of all property, moneys, credits and property owned by said city or any part thereof, in common with said town; make a full and complete settlement or adjustment of all matters between said city and town, arising or growing out of the formation of said city out of the territorial limits of said town, and especially of the indebtedness of said town, any portion of which said city ought to pay, and in order to make such a settlement, adjustment and division as herein contemplated, the said commissioners shall make use of, and shall use as a basis of such settlement and adjustment, and shall be therein governed by the assessment roll of said town of Sparta for the year 1882. The said commissioners shall, as soon as possible, make their award in writing, and file the same in the clerk of the court's office of said county, which shall be final and conclusive between the parties.

In case the council and board are unable to agree.

SECTION 3. Any and all amounts found as aforesaid to be owing by said city to any portion of the territory, outside of the city which comprises a part of the town of Sparta, from which said city was formed, shall be paid by said city to the proper officers authorized to receive and re-

Adjustments of amounts.

ceipt for the same. But if it shall be found upon such settlement that there is any amount due said city from any portion of territory, outside of said city limits, which was an organization from which said city was formed, that portion of said territory so owing said part of said city, shall pay the amount to the city treasurer, and in case any portion of the territory so indebted shall fail, neglect or refuse to pay the amount thereof so found to be due, the city treasurer of said city shall proceed to collect the same in the manner as is now provided by the laws of this state, for the collection of debts against towns, cities and villages.

Connection between city and town to cease.

SECTION 4. The connection between the town of Sparta, and that part of said town included within the city limits for all town purposes, is dissolved. The duties now and hereafter imposed upon supervisors and other town officers, so far as they relate to the city of Sparta, shall be performed by the aldermen, mayor and other officers of said city, except as herein otherwise provided.

Use of county jail.

SECTION 5. The use of the jail of Monroe county, until otherwise provided, shall be granted to said city for the confinement of persons or 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.

Electors of town may hold meetings in city

SECTION 6. The electors of the town of Sparta shall have the privilege to hold all town meetings, and all general and special elections at such place in the city of Sparta as they may determine, and the officers of said town of Sparta may transact all the town business, and keep all town records in said city, and with like effect as if held or done or kept in the town of Sparta.

Paupers.

SECTION 7. The paupers of said city shall be removed to the poor house of the county of Monroe, by the county poor superintendents, in like manner as they are removed from the several towns in said county, and the present system for the care and control of the poor in said county, shall in no wise be interfered with or affected by this act.

Appropriation.

SECTION 8. The common council shall have power to appropriate a sum not exceeding five hundred dollars (\$500.00) to any public purpose that may be deemed proper, but no such appro-

priation shall be made unless ordered by a two-thirds vote of all the aldermen elect.

SECTION 9. The plats of the village of Sparta, and the additions thereto, are hereby adopted as the plats of the city of Sparta, and additions thereto, and the real estate included in said plats may be hereafter described by lots and blocks as they appear on said plats as "the original plat of the village, now city of Sparta," or "the plat of Bard's addition to the village, now city of Sparta," and in like manner with plats of other additions, or in any other manner so as to describe the land with reasonable certainty.

Village plats adopted by city.

SECTION 10. If any election by the people or common council shall, for any cause, not be held at the time or in the manner prescribed, or if the council shall fail to organize as provided, it shall not be considered reason for arresting, suspending or abolishing said corporation, but such election or organization may be had at any subsequent day by order of the mayor, and if any of the duties enjoined by this act, or the ordinances, by-laws or regulations of said city, to be done by any officer at any specified time, and the same are not then done and performed, the common council may appoint another time at which said act may be done and performed.

Failure to hold election shall not abolish corporation.

SECTION 11. The police justice shall have sole and exclusive jurisdiction of all offenses against the provisions of this charter, and the ordinances, by-laws and police regulations of the common council of the city, and in cases of contempt the police justice shall have the same powers and authority as justices of the peace. He may administer oaths and take acknowledgments the same as justices of the peace. The police justice shall be entitled to receive for his services the same compensation in fees, as is allowed by law to justices of the peace for similar services, and such further compensation as the common council may allow and prescribe. In case of the absence, inability or sickness of the police justice, the mayor, by warrant, may authorize any justice of the peace within the city to perform the duties of police justice. Appeals and writs of *certiorari* may be taken from the police justice in the same manner as from justices of the peace.

Jurisdiction of police justice.

SECTION 12. The police justice, by reason of his office, is not thereby disqualified for holding the

Police justice may hold office of justice of the peace.

office of justice of the peace. The jurisdiction of the justices of the peace of the city of Sparta shall be co-extensive with the county of Monroe.

Employment
of prisoners
sanctioned.

SECTION 13 If the mayor of the city shall, at any time, deem it for the interest of the city, he may employ and work the prisoners so committed outside of the jail or yard at labor on the public grounds, streets or alleys of said city, and may cause them to be secured in such a manner as, in his judgment, will prevent their escape, and the keeper or custodian of the common jail of said county, shall, upon the order of the mayor of said city, deliver the prisoner or prisoners in such order named and described, to the keeping and custody of such person or persons in said order directed, and receive and securely confine such prisoner or prisoners, when returned by such person or persons as aforesaid, and said order shall remain good and be in force until revoked by the mayor or common council of said city.

CHAPTER X.

AUDITING ACCOUNTS.

All accounts
must be audited
before paid.

SECTION 1. No account or demand against the city, shall be paid, until it has been audited and allowed, and an order drawn on the treasury therefor. Every such account shall be made out by items, and verified by affidavit, indorsed or annexed, that the same is just, true and correct, and no part thereof paid (or, if paid in part, except as therein stated), and that said account has not been presented before. When an account shall have been audited, the clerk shall indorse on each account the word "allowed" or "disallowed" as the fact is, adding the amount allowed, if any, and specifying the items or parts of items disallowed, if disallowed in part only. The minutes of the proceedings of the council, shall show to whom, and for what purpose every such account was allowed, and the amount. Every such account allowed in whole or in part, shall, with the affidavit thereto, be filed with the clerk, and those of each year consecutively numbered, and have indorsed the number of the order issued in payment therefor; and the clerk shall take receipts for such orders.

SECTION 2. Neither the common council, nor any officer of the city, shall issue, any time, or

negotiable order, or borrow any money except in the manner and for the purpose expressly declared by statute or this act; but the common council may, in temporary necessity, by unanimous vote of the council, and not otherwise, borrow money in anticipation of the tax to be levied for the current year, not exceeding one per centum of the assessed valuation of the property in said city, according to the last assessment, and may give orders on the treasury, payable at a future date, therefor, with or without interest; but no such order shall be made payable at a later date than the first day of March following the date of issue of such order, and for the payment of any such order, the city tax for the same year, or a sufficient amount thereof, shall stand irrevocably pledged.

Manner in which money may be borrowed.

SECTION 3. No real or personal property of the city, or any of its inhabitants, or of any individual or corporation therein, shall be levied on or sold by virtue of any execution, issued to satisfy any judgment against said city.

Property of citizens not to be levied on to satisfy city judgments.

SECTION 4. Neither the said city, nor any officer within said city, shall be liable for any damage that may happen by reason of any defect or insufficiency in any sidewalk, street, highway or bridge in said city, unless the street commissioner or common council shall have first had actual notice of such defect or insufficiency, and reasonable time thereafter to repair the same or place the same in good order.

Damages by defective sidewalk.

SECTION 5. No action in tort shall lie or be maintained against the city of Sparta, unless a statement in writing, signed by the person injured, or claiming to be injured, of the wrong and time, place and circumstances thereof, and amount of damages claimed shall be presented to the common council within thirty days after the occurring or happening of the tort alleged.

Actions against city cannot be maintained unless claim has been presented.

SECTION 6. Action in tort for injury to the person shall not lie or be maintained against said city, unless through notice and permission by the person claiming injury, the mayor or common council has been enabled by a physician of his or their appointment, to make personal examination of the alleged injury within thirty days, after the time of its infliction, and until the amount of damages is adjusted, such examination may be

Actions in tort.

repeated as often as required by the mayor or common council.

The same.

SECTION 7. No action shall hereafter be maintained by any person against the city of Sparta, upon any claim or demand other than a city bond or order, unless such person shall first have presented his claim or demand to the common council of said city.

Right of appeal granted.

SECTION 8. When the 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 such council, to the circuit court of Monroe county, by causing a written notice of such appeal, to be served on the clerk of said city, within thirty (30) days after the making of such decision, and executing a bond to such city, with sufficient surety, to be approved by said clerk, county judge, or court commissioner, conditioned for the faithful prosecution of such appeal, and the payment of all costs that shall be adjudged against the appellant by the court.

Duty of clerk in case of appeal.

SECTION 9. The city clerk, upon such appeal being taken, shall immediately give notice thereof to the mayor and common council, or shall take such measures as by the ordinance or resolutions of said common council, he may be required to do, and shall make out a brief return of the proceedings in the case before said council, with its decisions thereon, and shall file the same, together with the bond, and all papers in the case in his possession, with the clerk of the circuit court for the county of Monroe, and such appeal shall be entered, tried and determined in the same manner as appeals from justices of the peace, and costs shall thereupon be awarded in like manner; provided, however, that whenever an appeal is taken from the allowance made by said common council upon any claim, and the recovery upon such appeal shall not exceed the amount allowed by said council, exclusive of interest upon such allowance, the appellant shall pay the costs, which shall be deducted from the amount of the recovery; and when the amount of costs exceeds the sum recovered, judgment shall be rendered against the appellant for the amount of such excess.

Determination of council shall be final.

SECTION 10. 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, unless an appeal be taken as hereinbefore provided, or the common council shall consent to the institution and maintenance of the action; provided, however, that when the council shall refuse or neglect to act upon a claim to it, this duly presented chapter shall not be construed as to prevent the institution and maintenance of an action by said claimant against said city.

CHAPTER XI.

FINANCES AND TAXATION.

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 upon the order of the mayor, countersigned by the clerk, duly authorized by a vote of the common council, and in no other manner; and all orders drawn upon the treasury shall specify the purpose for which they are drawn, and shall be payable, generally, out of any funds in the treasury belonging to the city. All orders shall be payable to the person in whose favor they may be drawn, or to the bearer thereof.

Funds shall be under control of council.

SECTION 2. No debt shall be contracted against the city, or order be drawn on the city treasury, unless the same shall be authorized by a majority of the common council, and the vote authorizing the same shall be entered by ayes and naves upon the journal of the council, whenever the same shall be asked for by any one member, and no money shall be appropriated for any purpose whatever, except such as is expressly authorized by this act, and for the payment of indebtedness now existing. The common council shall have power to, and shall levy, annually, to defray the current expenses of said city, a sum sufficient for that purpose; provided, that the amount to be raised in any one year, for the general city purposes, other than state, county and school taxes, and interest on bonded indebtedness of said city, as authorized by law, exceed three per centum of the taxable property in said city, as shown by the last assessment.

How debts contracted.

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 a

Penalties to be paid into city treasury.

part of the general fund, except as otherwise provided by this act. No penalty or judgment recovered in favor of the city, shall be remitted or discharged except by a vote of six of the aldermen elect.

All 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 assessor elected under this act shall have and possess the same powers and perform the same duties, as 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.

Laws governing assessors.

SECTION 5. The assessor elected by virtue of this act shall, in all things pertaining to his office, so far as practicable, be governed by the same laws as assessors in towns.

Board of review.

SECTION 6. The mayor, clerk and assessor shall constitute the board of review, and shall meet at the chambers of the common council on the first Monday in August, in each year, and shall proceed in all respects as town boards are by law required to proceed.

City regarded as a town for equalizing purposes.

SECTION 7. The county board of supervisors shall have the right and shall regard the city of Sparta as a town, in equalizing the assessment rolls of the several cities and towns in Monroe 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.

Instructions in regard to levying taxes.

SECTION 8. The said board of supervisors may levy a tax or taxes, as now is or may hereafter be provided by law, in relation to towns, but shall proceed therein without regard to the division of the city into wards, and shall cause the amount of taxes so levied to be certified to the city or city clerk, in the manner provided by law, in relation to town 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.

SECTION 9. Upon receiving the statement of

the amount of taxes so levied, the city clerk shall make out upon the assessment roll, in columns left for that purpose, or upon a copy thereof, a complete statement of the several taxes levied for 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 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 called "the tax list of the city of Sparta," and 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.

City clerk shall make out tax roll.

SECTION 10. The tax list made out and preserved as aforesaid, shall be *prima facie* evidence in every court of record in this state, that every act or thing required by law to be done, relating to assessing or levying of taxes, from the election of officers to the completion of the tax list inclusive, has been done regularly, correctly, and as required by law.

Tax list to be evidence.

SECTION 11. 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 first day of December of the same year, or as soon thereafter as practicable, deliver the same to the city treasurer for collection, and make a record of such delivery on the tax list preserved in his office.

Duplicate copies to be made.

SECTION 12. 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 receive one per cent. fees upon all taxes paid to him before the tenth day of January, and three per cent. fees upon all taxes collected after that time, to be added to the amount of taxes and collected with the same, which shall

Respecting the collection of taxes.

be in full for all services performed by said treasurer, under this act or the ordinances of this city.

List of delinquent taxes.

SECTION 13. 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 Monroe county, a list of all lands, lots and personal property upon which taxes have not been paid; and shall also settle with and pay 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 chapter 49 of the revised statutes of 1878, and acts amendatory thereof, shall extend to, and may be enforced to collect any delinquent personal property tax.

County treasurer to sell delinquent lands.

SECTION 14. The county treasurer shall sell all delinquent lands and lots, returned from the city of Sparta, at the same time and in the same manner as other delinquent lands are sold in the county.

Only directory.

SECTION 15. All the directions hereby given, except in section nine (9) of this chapter, for the assessing of lands and the levying, collecting and return of taxes and assessments, and the sale thereof, shall be deemed only directory, and no error or informality in the proceedings of any of the officers entrusted with the same, not affecting the substantial justice of the tax itself, shall vitiate or in any wise affect the validity of the tax or assessment.

Special taxes.

SECTION 16. In addition to the amount herein limited for taxes for general city purposes, special taxes may be levied for the purchase of fire engines, cemetery grounds, public squares, gas purposes, and other objects of public utility; but no such tax shall be levied unless the same shall first be recommended by the common council, and afterwards submitted to a vote of the people and approved by them. Whenever the council shall recommend such a tax, it shall specify the amount to be raised, and the object thereof, and cause notice thereof, and of the time and place of voting thereon, to be published in the same manner as in case of the annual city election.

In case there is no money in treasury.

SECTION 17. When the treasurer shall be unable to pay any order drawn on the treasury, it shall be his duty to report the fact to the first regular meeting of the council; thereupon the council shall direct its finance committee to examine the

accounts of the treasurer, and if all funds in his hands have been paid out, then the council shall take such action as will enable the city to preserve its credit.

SECTION 18. Out of the taxes collected by the city treasurer, the state tax shall first be paid; then all school taxes; then county taxes; then judgments; then all special taxes in the order in which they were levied. Delinquent returns shall be received by the county treasurer in payment of county taxes in the manner provided by law.

State tax shall first be paid.

SECTION 19. The common council shall meet on Monday evening, two weeks previous to the holding of the charter election, for the purpose of disposing of the unfinished business, and shall not thereafter, during its term of office, allow any bills against the city, but may anticipate and provide for the payment of salaries of officers for the balance of its term.

Meeting to dispose of unfinished business.

SECTION 20. The council shall have power to direct that all surplus funds belonging to the city, not needed for immediate use, may be invested as the council may direct, or borrowed for the temporary use of the other funds of the city, and all interest and profits arising from such investment, shall belong to the city, and shall be accounted for in the same manner as other funds are accounted for; provided, however, that the provisions of this section shall in no manner apply to the school fund, which shall be held by the treasurer as a separate fund, and paid out only to the school district treasurer.

Investment of surplus funds.

SECTION 21. The common council may also, when occasion shall require, levy a special tax, not to exceed three mills on the dollar of the taxable property of said city, for the purpose of building or repairing bridges; such tax to be levied in the same manner, and collected in the same way, and at the same time as the general city taxes for that year.

Bridge taxes.

CHAPTER XII.

ACTION TO RECOVER PENALTIES, ETC.

SECTION 1. All actions brought to recover any penalty or forfeiture under this act, or the ordinances, by-laws or police or health regulations made in pursuance thereof, shall be brought in the corporate name of the city. It shall be law-

Penalties.

ful to declare generally in debt for such penalty or forfeiture, stating the chapter and section of this act, or the section of the ordinances, by-law or regulation under which the penalty or forfeiture is claimed, and to give the special matter in evidence under it.

How to begin actions.

SECTION 2. In all prosecutions for any violation of the provisions of this act, or any by-law, ordinance or regulation, the first process shall be a summons, unless oath be made for a warrant, as in criminal cases, before justices of the peace under the general statutes of the state for the time being.

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

Form of summons.

COUNTY OF MONROE, }
City of Sparta. } ss.

The state of Wisconsin, to the sheriff or any constable of said county, or to the marshal of the city of Sparta.

You are hereby commanded to summon A. B., if he shall be found within your county, to appear before the undersigned, a justice of the peace in and for said city, at my office in said city, on the --- day of ---, A. D., 18---, at --- o'clock in the --- noon, to answer the city of Sparta, to the damage of said city, two hundred dollars (\$200) or under.

(Given under my hand, this --- day of --- 18---. C. D. (title of officer.)

When returnable.

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

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

Form of complaint.

The city of Sparta against A. B., in justice court, before C. D., justice of the peace.

The plaintiff complains against defendant, for that the defendant, on the --- day of 188---, at

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

SECTION 6. In all cases where oath is made for a warrant, the complaint shall be made on oath, and no other affidavit shall be necessary, which last mentioned complaint may be substantially in the following form:

City of Sparta against A. B., before C. D., justice of the peace, ——— county of Monroe—ss. Complaint for warrant.
 E. F. being duly sworn, on oath, complains to C. D., justice of the peace in and for the city of Sparta, in said county, that A. B., on the ——— day of ———, 18—, at said city, did violate, (section ——— of chapter ——— of this act, or section ——— of an ordinance, or by-law, or regulation of said city, describing it by its title), which said ——— is now in force, as this complainant verily believes, and prays that A. B. may be arrested and held to answer to said city of Sparta therefor.

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

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

COUNTY OF MONROE,)
 City of Sparta. } ss.

Form for warrant.

The state of Wisconsin, to the sheriff or any constable of said county, and to the marshal or any policeman of the city of Sparta, greeting:

Whereas, ——— has this day complained to me in writing, on oath, that A. B., on the ——— day of, ———, 18—, at said city, did violate (section

— of chapter —, of this act, or section — of an ordinance or by-law or regulation of said city, describing it by its title,) which said — is now in full force, as the complainant believes; therefore, you are commanded to arrest the body of said A. B., and bring him before me forthwith, to answer to the city of Sparta, on the complaint aforesaid.

C. D., Justice of the Peace.

Action of justice defined.

Upon the return of the warrant the justice shall proceed summarily with the case, unless it be adjourned by consent or for cause. If the case be adjourned, the defendant, if required by the court so to do, shall recognize with security to be approved by the court for his, her or their appearance, in such sum as the court shall direct; or in default thereof, may be put in charge of the officer who made the arrest, or be committed to the lock-up in such city, or to the common jail of Monroe county, and shall be received and kept therein the same as in criminal actions, except as modified by this act or the ordinances of said city. The complaint made as aforesaid, shall be the only complaint required; and the plea of not guilty shall put in issue all subject matter embraced in the action.

Printed copy to be evidence.

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

Witnesses and jurors shall attend without prepayment of fees.

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

Trial by jury granted.

SECTION 9. In city prosecutions, both plaintiff and defendant shall enjoy the right of trial by jury as in civil actions in justices' courts, and the findings of the court shall be, guilty or not guilty. If guilty, the court shall render judgment thereon against the defendant for the fine, penalty or forfeiture prescribed in this act, or in the ordinance, by-law or regulation, for the violation of which the person or persons shall have been adjudged guilty, and for costs of suit; but if not guilty, the

costs of suit shall be taxed against the city. Upon the rendition of judgment against the defendant, and the non-payment thereof, the justice shall forthwith issue execution, as in cases of tort; in case the action was commenced by summons, and a commitment in case it was commenced by warrant, and shall in either case determine and enter upon his docket of the length of time the defendant shall be imprisoned for non-payment, which in no case shall exceed six months, and also insert such time in the execution or commitment. Such execution shall be in the following form:

COUNTY OF MONROE,)
 City of Sparta.) ss.

Form of
 execution.

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

Whereas, the said city of Sparta, on the _____ day of _____, 18—, recovered a judgment before the undersigned justice of the peace in and for said city, against _____, for the sum of _____ dollars, together with _____ dollars and _____ cents, costs of suit, for the violation of (section _____ of chapter _____ of this act, or section _____ of an ordinance or by-law or regulation of said city, describing it by its title). You are hereby commanded to levy distress of the goods and chattels of said _____ (excepting such as the law exempts), and make sale thereof according to law to the amount of said sums, together with your fees, twenty-five (25) cents for this writ, and the same return to me within thirty days; and for want of such goods and chattels whereon to levy, to take the body of said _____ and him convey and deliver to the keeper of the common jail of Monroe county; and said keeper is thereby commanded to receive and keep in custody, in said jail the said _____, for the term of _____, unless the said judgment together with all the costs and fees, are sooner paid, or he be discharged by due course of law.

Given under my hand this _____ day of _____, 18—. C. D., (title of officer.)

The form of the commitment shall be substantially the same as that of the execution, omitting commitment.

all that relates to the levy and sale and return of writ.

Right of appeal granted.

SECTION 10. Any defendant, feeling aggrieved by the judgment of a justice of the peace in an action commenced under the provisions of this act, may appeal from such judgment in the manner provided by the general laws of this state. Such defendant shall, within twenty-four hours, enter into a recognizance, with one or more sufficient sureties, to be approved by such justice, conditioned to appear before said court and abide the judgment of the court therein. The justice from whose judgment an appeal shall be taken, shall make a special return of the proceedings had before him, and shall forthwith cause the summons or warrant and return, together with the proceedings and a copy of the entries in his docket in action, together with the recognizance, to be filed in the office of the clerk of said court; and the city may appeal from any such judgment as in other cases before justices of the peace.

Appeal to stand for trial.

SECTION 11. Said appeal shall stand for trial by jury, unless a jury be waived, in the manner provided by law, in said circuit court, and the next term thereof, after the day the judgment of the justice shall be rendered, and no notice of trial shall be required to be given to or by either party.

Final judgment

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

Shall not work incompetency.

SECTION 13. 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.

Village ordinances to remain in force.

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

Village actions to be assumed by city.

SECTION 15. All actions, rights and penalties, fines and forfeitures, in suits or otherwise, which have arisen or accumulated under the several or-

dinances or acts incorporating the village of Sparta, shall be vested in and prosecuted by the corporation hereby created.

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

How to serve process against city.

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

Penalties etc., to be paid into treasury.

SECTION 18. The general laws for the preservation of bridges, and the punishment provided by such laws for wilful and malicious injuries done thereto, are hereby extended to and shall include all of the bridges in said city, and shall apply to any wilful or malicious damage which may be done to them by any person or persons whatever; and the common council of said city may, from time to time, make such by-laws or ordinances as they may deem necessary for the preservation of such bridges, and enforce the same by adequate penalties.

General bridge and other laws to be in force.

SECTION 19. All moneys, property, effects and credits belonging to the present village of Sparta, shall belong to the city of Sparta, and shall be transferred to the proper officers of said city by the person in charge of the same, as soon as such officers shall be elected and qualified.

Village property to be transferred to city.

SECTION 20. Any lawful debt, claim, demand or right of action against the present village of Sparta shall be, and become a lawful debt, claim, demand or right of action against the city of Sparta.

Village lawful debts to remain.

SECTION 21. All duties herein required of the mayor, aldermen, common council or clerk in regard to elections shall be performed, so far as may be necessary, by the present president, trustees, board of trustees and clerk of the village of Sparta, in regard to the first election and the organization of the city government under this act.

Official duties.

SECTION 22. No general law contravening the provisions of this act, shall be considered as

Not repealing.

repealing, amending or modifying the same, unless such purpose be expressly set forth in such law.

Public act.

SECTION 23. This act is hereby declared to be a public act, and shall be liberally and favorably construed in all the courts of this state, and shall take effect and be in force from and after its passage and publication.

Approved March 27, 1883.

[No. 183, S.]

[Published April 12, 1883.]

CHAPTER 176.

AN ACT to amend section 50, of chapter 86, of the laws of 1883, entitled, "an act to incorporate the city of Edgerton."

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

Amendment.

SECTION 1. Section 50, of chapter 86, of the laws of 1883, entitled, "an act to incorporate the city of Edgerton," is hereby amended so as to read as follows: "Section 50. If there should be any building, in whole or in part upon said lands to be taken, the jurors shall first estimate the value of such building to the owner, aside from the value of the land, and the injury to him in having such building taken from him; and secondly, the value of such building to him to remove."

SECTION 2. This act shall take effect and be in force from and after its passage and publication.
Approved March 30, 1883.

[No. 211, S.]

[Published March 31, 1883.]

CHAPTER 177.

AN ACT to incorporate the city of Mauston.

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

Corporate name.

SECTION 1. All that district of country in the county of Juneau, hereinafter described from and after the adoption of this act as hereinafter provided, shall be a city by the name of Mauston, and the people now inhabiting, and those who shall hereafter inhabit, the said district hereinafter described, shall be a municipal corporation by the