

certificates of sale distinct from other taxes shall be issued thereon as provided in section 12, of title 6, of this act, but all other special assessments, which are not the property of any contractor, shall be returned and be included in the tax sale with other taxes.

SECTION 20. This act shall take effect and be in force from and after its passage and publication.

Approved March 2, 1885.

[No. 402, A.]

[Published April 7, 1885.]

CHAPTER 227.

AN ACT to incorporate the city of Whitewater.

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

CHAPTER I.

CITY AND WARD BOUNDARIES.

SECTION 1. All that district of country in the county of Walworth hereinafter described, shall be a city by the name of Whitewater, and the people now inhabiting, and those who shall inhabit said district, shall be a municipal corporation by the name of the City of Whitewater, and shall have the general powers possessed by municipal corporations at common law, and in addition thereto, shall have and possess the powers hereinafter granted; and the authorities thereof shall have perpetual succession; shall be capable of contracting and being contracted with, of suing and being sued, pleaded and being impleaded, in all courts of law or equity, and shall have a common seal, and may change and alter the same at pleasure.

Corporate name.

SECTION 2. All that territory and section of country described as follows shall constitute the extent and limits of said city of Whitewater, to wit: Beginning at the northeast corner of the northwest quarter of section three, town four, range fifteen east, and running on the county line west, to the northwest corner of section five,

Boundaries.

thence south on the section line to the southwest corner of the northwest quarter of section eight, thence east to the southeast corner of the northwest quarter of section ten, thence north to the place of beginning.

Ward bound-
aries.

SECTION 3. The city of Whitewater shall be divided into three wards, as follows, to wit: The first ward shall include all that part of said territory lying east of Whitewater creek and east and south of the grist mill pond. The second ward shall include all that part of said territory west of Whitewater creek and west and north of a line running along the center of the following streets: Commencing at the Main street bridge, along Main street to the intersection of Whitewater street, along Whitewater street to the intersection of Center street, along Center street to the intersection of Summit street, along Summit street to the intersection of West Center street, along West Center street to the intersection of Whiton street, along Whiton street to the intersection of Walworth avenue, along Walworth avenue to the western boundary of the city. The third ward shall include all the remaining part of said territory being that part south of said last named line, and west of first ward.

CHAPTER II.

OFFICERS — THEIR ELECTION.

Elective offi-
cers.

SECTION 1. The elective officers of said city shall be a mayor, a treasurer, a superintendent of schools, three justices of the peace, one for each ward, two aldermen, one assessor, two school commissioners, one supervisor and one constable for each ward, which said officers shall hold their respective offices, as follows: The mayor for the term of two years, treasurer, superintendent of schools, assessors and constables, for the term of one year, the justices of the peace for the term of two years, the aldermen in each ward for the term of two years, and the school commissioners in each ward for the term of two years. The term of office of the said city and ward officers shall commence on the first Tuesday of May next after their election. Each of said officers shall continue in office for his respective term and

until his successor is elected or appointed, and has qualified, and shall have such powers and shall perform such duties as are prescribed in this act, or as may be prescribed by any ordinance of said city not incompatible with this act, or which may be incompatible with the nature of their respective offices.

SECTION 2. On the first Tuesday of May, 1885, and annually thereafter on the day fixed by the laws of the state of Wisconsin for holding the annual town meeting of the several towns of this state, the qualified electors of said city shall elect one treasurer and one superintendent of schools, which said officers shall be qualified voters and residents of said city.

Treasurer and
supt. of schools
to be elected
annually.

SECTION 3. At the first municipal election under this act the qualified voters in each ward shall elect one alderman and one school commissioner for the term of two years from the first Tuesday in May, 1885, and one alderman and one school commissioner for the term of one year, from the first Tuesday in May, 1885, and thereafter one alderman and one school commissioner from each ward shall be annually elected for the term of two years.

Election of
alderman.

SECTION 4. There shall be elected at the charter election in 1885, and every two years thereafter, one justice of the peace in each ward who shall be residents and qualified electors of said ward, and shall each hold his office for two years.

Election of
justice.

SECTION 5. There shall be elected at the annual charter election in 1885, and annually thereafter one assessor, one supervisor, and one constable in each ward, who shall hold their respective offices for the term of one year, and shall be residents and qualified electors of said ward.

Election of
assessor.

SECTION 6. There shall be elected at the annual charter election in 1885, and every two years thereafter, one mayor, who shall hold his office for the term of two years. All of said elective officers above named, except the superintendent of schools, shall be freeholders in said city, and the mayor, aldermen and assessors shall have been at the time of their election residents of said city for the term of three years.

Election of
mayor.

SECTION 7. In the event of a vacancy in the office of mayor or alderman by death, removal or other disability, the common council shall order a

In case of va-
cancy, how
filled.

new election, and shall give not less than five days' notice thereof; any vacancy in other offices shall be filled by the common council. The persons appointed or elected to fill a vacancy shall hold their offices and discharge the duties thereof for the unexpired term, with the same rights and subject to the same liabilities as the persons whose offices they may be elected or appointed to fill.

CHAPTER III.

ELECTIONS.

Annual election
when held.

SECTION 1. The annual election for city and ward officers shall be held on the first Tuesday of April of each year after the first year at such places as the aldermen of the respective wards may designate. The polls shall be kept open from nine o'clock in the forenoon until four o'clock on the same day, and there shall be given ten days' previous notice, that of the first election by the board of trustees of the village of White-water, and that of all subsequent elections by the clerk of said city, by publication in the papers of the city of the time and places of holding such election, and the city and ward officers to be elected. Also by posting at least five notices in each ward.

Elections to be
by ballot.

SECTION 2. All elections by the people shall be by ballot, and a plurality of votes shall constitute an election. All elections by the common council may be *viva voce*, and a majority of the votes cast shall constitute an election. When two or more candidates for an elective office shall receive an equal number of votes for the same office, the election shall be determined by the casting of lots in the presence of the common council, at such time and in such manner as they may direct.

Elections how
presided over
and carried on.

SECTION 3. All elections shall be presided over by the aldermen in the respective wards, and the voters present at the hour of opening the polls shall elect by *viva voce* a sufficient number of inspectors to make three with the alderman or aldermen present, and in case of the absence of both aldermen shall elect three inspectors, who shall be sworn in accordance with the laws of the

state. They shall appoint and swear one clerk, and shall see the names of voters registered, and the ballots safely deposited in the ballot-boxes; shall decide all questions that may arise as to the legality of the votes presented, and shall count the ballots at the close of the polls, and shall certify and seal two returns and on the day of the election, shall direct and return one of the said returns to the clerk of the common council, the other to the county clerk of the county of Walworth. The mayor of the city and such members of the common council as shall hold over shall constitute a board of canvassers, who shall, within five days after election, meet at the common council chamber and canvass such returns, and after the aforesaid returns have been canvassed by said board, the mayor shall notify by certificate the persons elected to the respective offices. The polls shall be kept open in the respective wards from nine o'clock in the forenoon until four in the afternoon.

SECTION 4. All persons entitled to vote for county and state officers, and who shall have been a resident within the ward where they offer to vote for three days next preceding the time of holding said election, shall be entitled to vote for any officer elected under this act; a residence shall be construed to mean the place where such elector lodges, and if required shall take the following oath: "I swear (or affirm) that I am of the age of twenty-one years; that I am a citizen of the United States (or have declared my intention to become a citizen conformably to the laws of the United States on the subject of naturalization); and have been a resident of this state for one year immediately preceding this election, and a resident of this ward for three days immediately preceding this election; and I do further swear (or affirm) that I have made no bet or wager, or become directly or indirectly interested in any bet or wager depending upon the result of this election." All persons illegally voting, and all fraud, deceit or corruption at any election under this act, shall be punished according to the laws of this state, made and provided, for the punishment of illegal voting, fraud, deceit or corruption at any general election.

Who are entitled to vote

SECTION 5. No person shall be eligible to hold

Eligibility to office.

any office mentioned in this act unless he shall be at the time a resident elector of the city, nor shall any person be eligible to any ward office unless he shall be at the time, a resident elector in the ward in which such office exists.

In case of fraud, how detected and guarded against.

SECTION 6. If either of the inspectors of elections, or aldermen, shall suspect that any person offering to vote does not possess the necessary qualifications of an elector, or if such vote be challenged by an elector, the inspector or aldermen, before receiving any such vote, shall require the voter offering to vote to take the oaths and affirmations which are provided by the laws of this state, and all the provisions of the laws of this state applicable to such cases shall be followed herein, except as is otherwise herein provided. And if the person offering to vote shall take such oath, his vote shall be received; and if such person shall take such oath falsely, he shall be deemed guilty of willful and corrupt perjury, and upon conviction thereof, upon indictment or information, shall suffer the penalty provided by law for persons guilty of perjury. If any person who is not a qualified voter shall vote at any election, or if any person duly qualified shall vote in any other ward than the one in which he resides, or shall vote more than once at any one election, he shall be liable to indictment or information, and on conviction thereof shall forfeit and pay a sum not exceeding one hundred dollars nor less than twenty-five dollars. It shall be the duty of the inspectors to keep a list of the names of all persons whose votes may be challenged as aforesaid, and shall swear in their votes. And if any inspector or alderman shall knowingly or corruptly receive the vote of any person not authorized to vote, or shall make out false returns of any election, or any clerk shall not write down the name of every voter as he votes, or shall wilfully make untrue and incorrect count and tallies of votes, each and every such inspector or clerk shall be liable to indictment or information, and on conviction thereof shall severally forfeit and pay a sum not exceeding five hundred dollars, nor less than one hundred dollars; all such indictments or information shall be tried in the circuit court of the county of Walworth.

SECTION 7. Special elections to fill vacancies, or

For any other purposes, shall be held and conducted by the aldermen of each ward, or inspectors, as provided by this act, and returns thereof shall be made in the same time, form and manner as the general or annual elections.

Special elections how conducted.

SECTION 8. Any officer removing from the city, and any ward officer removing from the ward for which he was elected, and any city or ward officer who shall neglect or refuse to qualify on or before the first Tuesday of May following his election, shall be deemed to have vacated his office, and the common council shall proceed to fill such vacancy as herein provided by this charter; provided, that all the officers of said city shall hold their respective offices until their successors shall be elected, appointed and qualified, according to law. All officers appointed or elected to fill any vacancy shall enter upon the duties of such office immediately after receiving notice of such election or appointment.

Penalty for refusal to qualify.

SECTION 9. All the officers of the village of Whitewater now in office, shall hold their respective offices until their successors shall be elected, or appointed and qualified under this act; and the term of every officer elected under this act shall commence on the first Tuesday of May of the year for which he was elected, and shall, unless herein otherwise provided, continue for one year, and until his successor is elected, or appointed and qualified. Should there be a failure by the people to elect any officer herein required to be elected on the day designated, the common council may order a new election to be held, four days' notice of the time and place of holding the election being first given.

Village officers to hold until their successors are elected.

SECTION 10. The first election of officers under the provisions of this act shall be held on the first Tuesday in May, 1885.

First election, when held.

SECTION 11. The city of Whitewater shall be represented in the board of supervisors of the county of Walworth by one supervisor from each ward to be elected as in this act provided.

How city shall be represented.

CHAPTER IV.

OFFICERS — THEIR POWERS AND DUTIES.

Oath of office to be administered to officers.

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

Duties of mayor defined.

SECTION 2. The mayor, when present shall preside over the meetings of the common council, and shall take care that the laws of the state and the ordinances of the city are duly enforced and observed, and that all officers of the city discharge their respective duties. He shall be the chief executive officer of the city, and the head of the police and fire department; he shall appoint the police forces in such numbers as the common council shall direct, and in case of a riot or disturbance of the peace, shall appoint a temporary police; he shall communicate in writing to the common council once a year such information as he may deem necessary; and at all times give such information as the common council may require. The mayor shall have a casting vote only in case of a tie on the election of an officer by the common council.

Election of president of council.

SECTION 3. At the first meeting of the common council each year, or as soon thereafter as may be, they shall proceed to elect by ballot one of their number president, and in the absence of the mayor the said president shall preside over the meetings of the common council, and during the absence of the mayor from the city or his inability from any cause to discharge all the duties of his office, the

president shall execute all the powers and discharge all the duties of the mayor. In case the mayor and the president shall be absent from any meeting of the common council, they shall proceed to elect a temporary presiding officer, who, for the time being, shall discharge all the duties of the mayor. The president or temporary presiding officer, while presiding over the council or performing the duty of mayor, shall be styled "acting mayor," and acts performed by them shall have the same force and validity as if performed by the mayor.

SECTION 4. The common council shall elect a city clerk; he shall keep the corporate seal, and all papers and records of the city. It shall be his duty to attend all meetings of the common council, and to keep a full record of their proceedings; he shall draw and sign all orders on the treasury (except as otherwise provided in this act) in pursuance of an order or resolution of the common council, and shall keep a full and correct account thereof, in books provided for that purpose and shall also keep an accurate account with the city treasurer and charge him with all tax lists delivered to him for collection, and all sums of money paid into the treasury from the state, copies of any and all books, papers, instruments, or documents duly filed and kept in his office, and of the indorsements thereon 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 and places of the contents thereof and such indorsements, in like manner and of the same force and effect as if the originals were produced. He shall also have power to administer oaths and affirmations, and shall perform such other duties as may be required of him by the common council or by the provisions of this act. Whenever the clerk shall be absent from any meeting, the common council may appoint a clerk *pro tem.* and fix his salary. The city clerk shall be clerk of the school board and shall receive no compensation other than that hereinafter provided in this act.

Duties of city clerk defined.

SECTION 5. The common council may elect a city attorney, who shall perform all professional services incident to the office as prescribed by or-

Duties of city attorney.

dinance or resolution, and when required shall furnish written opinions to the common council or its committees.

Duties of city treasurer defined.

SECTION 6. The treasurer shall receive all moneys belonging to the city, and keep an accurate and detailed account thereof, together with an account of all disbursements, in such manner as the common council may direct; all money of whatever description, raised by tax, license, fine, penalty, forfeiture or otherwise, for city purposes, shall be paid into the city treasury. He shall collect all taxes and assessments which may be levied or assessed upon the real and personal property in the city, and exercise the same powers, when not prescribed by this act, as control and govern treasurers of towns, and shall be subject to the same liabilities; provided, that he shall receive no fees for his services, except as hereinafter provided. He shall pay all orders drawn upon the treasury by order of the common council, or as is otherwise authorized, out of the proper funds. He shall report to the common council quarterly, a full and detailed account of all receipts and expenditures, after the date of the last quarterly report, which statement shall be filed with the city clerk; and at the expiration of his term of office, shall hand over to his successor all moneys, books, papers and property in his possession belonging to said city. The books kept by said treasurer shall be open to inspection by any person at all reasonable times. At the expiration of his term, the said treasurer shall file all assessment or tax rolls in his hands in the office of the city clerk; said assessment and tax rolls shall be substantially bound annually, and shall remain of record in the clerk's office.

Duties of marshal defined.

SECTION 7. The common council shall elect a city marshal. The marshal shall attend all meetings of the common council and shall perform such duties as shall be prescribed by the common council, for the preservation of the public peace, and the collection of fines and license moneys; he shall be the keeper of the city lock-up, and shall possess the power of constables at common law or as given by the laws of this state, and shall receive like fees; he shall have power to appoint one or more deputies to be approved by

the common 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; and all writ and process issued by any justice within the county of Walworth, directed to any constable therein, shall be deemed as if also directed to said marshal, and he may serve any criminal process or processes for the violation of any city ordinance in any part of the state. It shall be the duty of the marshal or of any constable in the said city of Whitewater, and he or they are hereby authorized and required to summarily arrest and take before any justice of the peace of said city any person who shall be found within the corporate limits of said city in a state of intoxication, or who shall be guilty of any boisterous revelry or obscenity, or of any breach of the peace, by making an improper noise or disturbance, or by firing guns, or fighting or threatening to fight, or in any other manner disturbing the public peace, or who shall be engaged in violating any ordinance of said city made for the preservation of the peace and good order therein, and such justice shall have power to hear, try and determine all such offences, and any person convicted of any offense specified in this act, where no other punishment is provided by law or by any ordinance of said city, shall be punished by fine not less than three dollars nor more than fifty dollars, or by imprisonment in the county jail or city lock-up not less than three days nor more than fifty days, in the discretion of the justice; and in all cases the justice shall impose the payment of the costs of prosecution upon the person so convicted, as a part of the punishment; and in default of payment of any such fine or costs, the justice shall commit the defendant to such county jail or lock-up for such number of days, not exceeding thirty nor less than five, as he may think proper; but in case any person shall be committed for non-payment of any such fine or costs, he shall be discharged upon paying the same, together with the costs and expenses of his imprisonment, to the sheriff or other officer having charge of such jail or lock-up.

SECTION 8. Any person making any arrest under the provisions of this act, may, if necessary, commit the person arrested to said jail or lock-up

Arrest and trial
of prisoners.

without process, and such person shall be delivered up to such officers by the keeper of said jail, or lock-up, on demand and without process, the person so confined shall be taken before a justice of the peace within twenty-four hours (Sunday excepted) after such complaint, and the arresting officer shall make the complaint in every case of summary arrest, unless a formal complaint be filed by some other person, and process duly issued within the time specified after the commitment.

Duties of superintendent of schools defined.

SECTION 9. The superintendent of schools shall be the executive officer of the board of education; he shall examine all teachers making application for schools (examinations to be public and in the presence of the board); shall grant certificates to such persons so examined as shall be deemed by him and a majority of the board suitably qualified, and shall carry into effect the ordinances of the common council, and the rules and regulations of the board in reference to the common schools; he shall also be especially charged with the care and custody of the several school-houses of the city, and under the direction of the board, shall superintend the building, enlarging, improving, furnishing and repairing of all the school-houses ordered to be erected by them, and the making of all repairs and improvements on and around the same. In addition to the foregoing duties, he shall visit the common schools of the city at least once in each month, and report their condition to the board, with such suggestions for their improvement as he may deem proper; he shall also perform such other duties, with respect to such schools, as the board may assign him. It shall be the duty of the superintendent between the first and fifteenth days of October in each year, to make and transmit to the county clerk of the county of Walworth, a report in writing, bearing date the first day of October, in the year of its transmission, stating:

1st. The number of schools taught within the city, and the length of time they had been taught by qualified teachers.

2d. The total amount of public money received for the use and benefit of such schools.

3d. The number of children taught in the common schools of the city, and the number of child-

ren residing in the city over the age of four and under the age of twenty years.

4th. The manner in which the public moneys have been expended and whether any, and what part remains unexpended, and for what cause.

5th. The amount of money raised in the city and paid for teachers' wages in addition to the public money raised therefor, the amount of taxes raised for the purchasing, repairing and insuring of school-houses, for the purchase of school-house sites, for building, hiring, for fuel, for district libraries, or for any purposes allowed by law in said city, since the date of the last preceding reports, with such other information as the state superintendent may, from time to time, require.

SECTION 10. The common council of said city may, from time to time, and at such time or times as it shall deem necessary, elect some suitable person superintendent of streets, and by ordinance or resolution provide for and fix his compensation per diem, and prescribe his powers and duties, and remove him from office at pleasure by a majority vote of said common council, at any time the said common council may deem proper; and the said superintendent of streets shall at all times be under the control of said common council, and no act or contract done or made by him shall be valid or binding upon or against the city unless authorized by the common council. It shall be the duty of the superintendent of streets to see that all ordinances of the city relating to the obstruction and cleaning of sidewalks, streets, alleys, public grounds, reservoirs, gutters, sewers and water-courses within the city are duly observed and kept, and direct and control the persons employed therein. The superintendent of streets shall have a general supervision over all works let by contract for the improvement of streets or sidewalks, unless the common council shall otherwise provide. The superintendent of streets shall monthly report to the common council a correct statement of the labor expended by him on streets or sidewalks, and the names of the persons by him employed for street work, and the amounts to which they are entitled; and the superintendent of streets shall also perform all the acts and duties imposed upon him, or prescribed by any ordinance or resolution of the common council,

Superintendent
of streets.

and the said superintendent of streets shall, at all times, be under the direction and control of the common council, and shall expend no more money upon streets than the common council may, from time to time, order, and at such place or places, and upon such street or streets, and to such an amount as shall be ordered by the common council.

Common council may require other and further duties.

SECTION 11. 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 fix the compensation of the marshal, clerk, assessor, watchmen, and superintendent of streets, at the commencement of the year, and which shall not be increased or diminished during the term such officer shall remain in office.

Printing to be provided for annually.

SECTION 12. The common council shall annually provide that all printing authorized and required by them to be done for their use for the city, shall be let to the lowest responsible bidder for the term of one year, and may require sufficient security for the faithful performance of said contract. All ordinances, resolutions, notices and other proceedings required by this act, or by-laws or ordinances of the common council, to be published shall be published in the newspaper selected under the provisions of this section, and the printer of said newspaper shall, in person or by his foreman, file with the clerk of the city his or their affidavits of the length of time said ordinances, by-law or proceedings have been published and such affidavit shall be evidence of the publication of such ordinance, resolution, by-law or proceeding.

Penalty for failure to deliver to successor.

SECTION 13. If any person, having been an officer in said city, shall not, within ten days after notification and request deliver to his successor in office, all property, moneys, books, papers and effects of every description in his possession belonging to said city or pertaining to the office he may have held, he shall forfeit and pay to the use of the city, one hundred dollars, besides all damages caused by his neglect or refusal so to deliver; and such successor may recover the possession of such books, papers and effects in the manner prescribed by the laws of the state.

SECTION 14. The mayor, sheriff of Walworth

county, each and every alderman, justice of the peace, marshal, constables and watchmen, shall be officers of the peace, and suppress in a summary manner all rioting and disorderly behavior within the limits of the city, and for such purposes may command the assistance of the by-standers, and the mayor, president and marshal may command the assistance of all by-standers, and if needful, of all citizens; and if any by-standers shall refuse to aid in maintaining the peace when required, every such person shall forfeit and pay a fine of fifty dollars, and in case where the civil power may be required to suppress riots or disorderly behavior, the superior or senior officer present in the order mentioned in this section shall direct the proceedings.

Officers of the peace.

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

Election of city surveyor and his duties.

SECTION 16. The justices of the peace provided for in this act shall hold their offices in the city of Whitewater, and at such places as the common council may designate, and shall have the same rights, powers and jurisdictions as justices of the peace elected in towns; and shall have jurisdiction to hear all complaints and conduct all examinations and trials in criminal cases within the city, cognizable before a justice of the peace; and try all offenses against the ordinances of the city, and said justices shall have sole jurisdiction in all cases of offenses against the ordinances of the said city, and defendants in criminal cases shall have the same right of appeal as provided by law; and in all cases of fine under the ordinances, defendants shall have the same right to an appeal, under the same provisions and requirements, as

Justices of the peace and their jurisdiction.

now are or may be provided for taking appeals from justices of the peace.

Justices of the peace to make annual report.

SECTION 17. On the first day of May in each year, or within ten days preceding said date, every justice of the peace before whom any proceedings have been had under this act, shall report to the common council the names of all persons brought before him under this act, for what cause, the final disposition of the complaint, the amount of costs which have accrued upon such complaint chargeable to the city (if any), to whom such costs are payable, and the amount of fines received by him in each case.

Salaries payable monthly.

SECTION 18. All salaries paid by the city to officers or others shall be payable monthly at the end of each and every month, except assessors, who shall be paid at the conclusion of their duties each year.

CHAPTER V.

THE COMMON COUNCIL—ITS POWERS AND DUTIES.

Powers and duties of common council.

SECTION 1. The municipal government and the corporate authority of the city of Whitewater shall be vested in the mayor and common council. The board of aldermen, consisting of two members from each ward, shall constitute the common council, and the style of all ordinances shall be: "The common council of the city of Whitewater do ordain," etc. The common council shall meet at such time and place as they by resolution, shall direct; a majority of the aldermen shall constitute a quorum.

Stated and special meetings may be held.

SECTION 2. The common council shall hold stated meetings, and the mayor may call special meetings by notice to each of the aldermen, to be served personally or left at their usual places of abode. The common council shall determine the rule of its own proceedings, and be the judge of the election and qualifications of its own members, and shall have power to compel the attendance of absent members.

Management and 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, except as in this act otherwise provided; and shall likewise, in addition to all other powers herein vested in them,

have full power and authority to make, enact, ordain, establish, enforce, alter, modify, amend and repeal all such ordinances, rules, by-laws and regulations, for the government and good order of the city, for the benefit of the trade, commerce and health thereof, for the suppression of vice, for the prevention of crime, for the protection of persons and property, and for carrying into effect the powers vested in said common council, as they shall deem expedient; and to declare and impose penalties, and to enforce the same against any person or persons who may violate any of the provisions of such ordinances, rules, by-laws and regulations, and such ordinances, rules, by-laws and regulations are hereby declared to be and have the force of law; provided, that they be not repugnant to the constitution of the United States or of this state; and for these purposes the common council shall have authority, anything in any general law of this state to the contrary notwithstanding, by ordinances, resolutions, by-laws, rules or regulations:

1st. To license and regulate taverns, saloons, victualing-houses, and all persons vending or dealing in ardent, spirituous, wines, fermented, or intoxicating drinks of any kind, including ale and beer, and prescribe the amount paid for such license and the time when it shall expire by limitation, or for a violation thereof; and to revoke any license at pleasure, and require as a condition of granting any license such bond and with such conditions, as the common council may direct; provided, that no license shall be granted, in violation of any general law of the state, nor shall the amount of license fixed in any case, be less than the minimum amount required by the general law of the state, in like cases. Licenses.

2d. To tax, license, regulate and suppress, or prohibit the keeping of billiard tables, pool tables, nine or ten pin alleys, bowling saloons and ball alleys for the purposes of gain and prescribe the hours within which the places where the same are kept may be opened. Gambling houses, etc.

3d. To license, take, regulate, suppress or prohibit all exhibitions of common showmen, shows of any and every kind, concerts or other musical entertainments by itinerant persons or companies; exhibitions of natural or artificial curiosities, Shows and showmen.

caravans, circusses, theatrical performances, and all other exhibitions and amusements.

Prohibit gam-
bling.

4th. To restrain or prohibit all descriptions of gaming and fraudulent devices and practices, and all playing of cards, dice or other games of chance for the purpose of gaming in said city; and to restrain and prohibit the keeping open of groceries, shops, stores, saloons and other places of amusement or business on Sunday, in said city, and to prohibit the performance of secular business on that day.

Riots and
houses of ill-
fame.

5th. To prevent any riots, noise, disturbance or disorderly assemblages; to suppress and restrain disorderly houses and houses of ill-fame, and to authorize the destruction of all instruments and devices used for the purpose of gaming.

Cleanse nau-
seous places.

6th. To compel the owner or occupant of any grocery, cellar, tallow-chandler shop, soap factory, tannery, stable, barn, privy, sewer or other unwholesome, nauseous house or place to cleanse, remove or abate the same from time to time as often as it may be deemed necessary for the health and comfort and convenience of the inhabitants of said city.

Regulate brew-
eries and other
establishments.

7th. To direct the location and management of, and regulate breweries, tanneries and packing-houses; and to direct the location, management and construction of and regulate, license, restrain, abate or prohibit, within the city and the distance of four miles therefrom, distilleries, slaughtering establishments, establishments for steaming or rendering lard, tallow, offal and such other substances as can or may be rendered, and all establishments or places where any nauseous, offensive or unwholesome business may be carried on.

Public markets.

8th. To establish and regulate public markets, determine their location and 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.

Butchers and
provisions.

9th. To regulate butchers, and to regulate and restrain the sale of game, poultry, fresh meats, vegetables, fish, butter, fruit, eggs and other provisions in the city, and cause the seizure and destruction or other disposition of tainted or un-

wholesome meats, butter, vegetables, fruit or provisions.

10th. To direct or prohibit the location and management of houses for the storing of gunpowder or other combustible and dangerous materials within the city. Gunpowder and combustibles.

11th. To regulate and restrain the keeping and conveying of gunpowder and other combustible and dangerous materials, and the use of candles and lights in barns, stables and out houses. Use of lights, etc.

12th. To prevent shooting of fire-arms and fire-crackers, and to prevent the exhibition or use of any fire-works, at any time or in any situation which may be considered by the council dangerous to the city or any property therein, or annoying to any citizen thereof or fishing from any bridge, street, alley or sidewalk. Shooting of fire-arms.

13th. To prevent the incumbering of the streets, sidewalks, lanes, alleys, and public grounds with carriages, carts, wagons, sleighs, sleds, wheelbarrows, boxes, lumber, firewood, timber, posts, signs, awnings or any substance or material or in any manner whatsoever. Incumbering streets, alleys, etc.

14th. To prevent horse-racing, immoderate riding or driving in the streets, and to authorize any person to stop persons immoderately riding or driving as aforesaid; to prohibit and punish the abuse of animals; and to compel persons to fasten their horses, oxen or other animals attached to vehicles or otherwise, while standing or remaining in any street, alley or public grounds. Horse-racing and immoderate driving.

15th. To regulate and determine the times and places of bathing and swimming in the rivers, harbors or other waters in and adjoining said city, and to prevent any obscene or indecent exhibition, exposure or conduct. Bathing.

16th. To restrain and punish vagrants, mendicants, street beggars and prostitutes, and to restrain drunkards, immoderate drinking, 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. Vagrants and prostitutes.

17th. 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 Restrain cattle.

of any such animals for a violation of any ordinance in relation thereto.

Dogs.

18th. To prevent the running at large of dogs in the said city, and to authorize the destruction of the same in a summary manner when at large contrary to the ordinances.

Licensing of dogs.

19th. To provide for licensing the keeping of dogs in the said city, at a sum or rate of not less than one dollar nor more than five dollars a year for each dog and to provide for a badge or token to be carried by each licensed dog; and for the secure muzzling of licensed dogs, and for the killing and destruction in a summary manner of all dogs not licensed, whenever the same may be found within the said city, and of all licensed dogs running at large in the streets, alleys or public grounds in the said city, and to punish persons keeping unlicensed dogs.

Hackmen, etc.

20th. To license, regulate and suppress hackmen, draymen, cartmen, porters, omnibus drivers, cabmen, carmen and all others, whether in the permanent employment of any corporation or otherwise; who may pursue like occupations, with or without vehicles, also to license bill posters and prescribe their compensations.

Hoops, kites, etc.

21st. To prevent and regulate the rolling of hoops, flying of kites, playing of ball, or other amusements or practices having a tendency to annoy persons passing in the streets or on the sidewalks, or to frighten teams and horses.

Contagious or infectious diseases.

22d. To regulate, control and prevent the landing of persons from railroad cars wherein are contagious or infectious diseases or disorders, and to make such disposition of such persons as to preserve the health of said city; and also to make regulations to prevent the introduction of contagious diseases into the city, or their spread therein, and to make quarantine laws and regulations and enforce the same within the city, and not to exceed four miles beyond the city bounds.

Abatement of nuisances.

23d. To abate all nuisances which are or may be injurious to the public health, in any manner they may deem expedient, and to do all acts and make all regulations which may be necessary or expedient for the preservation of health and the suppression of disease.

24th. To provide and hold cemetery grounds

for the burial of the dead, and to improve, protect and regulate the same; to provide by ordinance or resolution for the punishment by fine and imprisonment, of any person or persons for injuring in any manner the fences, ornaments, trees, shrubbery plants, grave-stones, monuments, railings, buildings or other fixtures or improvements on the same, or by violating any ordinances or regulation of the common council enacted for the protection of such cemeteries against trespassers; and for that purpose all cemetery grounds in the city shall constitute and be held to be a part of the territory of said city, and to be within the jurisdiction of the same; to regulate the burial of the dead and registration of births and deaths; to direct the returning and keeping of bills of mortality, and to impose penalties on physicians, sextons, and others for any default in the premises; also to provide for, hold and regulate grounds for the interment of dead animals; to appropriate such sums at any time as may be necessary to keep the cemetery grounds within the city limits in good repair, whether the said grounds be held in the name of the city or of any cemetery association or religious body, and such sums may be expended and repairs made under the direction of the city officers, or by such association or religious body with the consent and approval of said city officers.

Cemetery grounds.

25th. To abate and remove all nuisances under the ordinances or at common law, and punish the author thereof by penalties, fine and imprisonment; and to define and declare what shall be deemed nuisances, and authorize and direct the summary abatement thereof; but nothing in this act shall be so construed as to oust any court of its jurisdiction to abate and remove nuisances in the streets, or any other part of said city, or within its jurisdiction, by indictment or otherwise.

Removal of nuisances.

26th. 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 or destruction of the same by any person who shall have upon or near his premises any such substance or any putrid or unsound beef, pork, fish, hides, or skins of any kind; and on default to authorize the removal or

Putrid carcasses or unwholesome substances.

destruction thereof by some officer or officer of the city, at the expense of such person or persons.

Pest-houses.

27th. To erect or establish one or more pest-houses, when deemed necessary, and control and regulate the same.

Ringling bells, auctioneers, etc.

28th. To prevent the ringing of bells, blowing of horns and bugles, crying of goods, and all other noises, performances and devices tending to the collection of persons on the streets or sidewalks by auctioneers and others, for the purpose of business, amusement or otherwise.

Steam whistles.

29th. To control, regulate or prohibit the use of steam whistles within the limits of the city.

Control and regulate streets

30th. To control and regulate the streets, alleys and public grounds in said city, and to remove and abate any obstructions and encroachments therein.

Removal of snow and dirt.

31st. To compel owners or occupants of buildings or grounds to remove and keep snow, ice, dirt, or rubbish from the sidewalk, street, or alley 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 shall direct; and on their default, to authorize the destruction or removal thereof, by some officer of the city, at the expense of such owners or occupants.

Control of streets and alleys.

32d. To control, regulate, repair, mend and clean the streets and alleys, bridges, side and cross walks, and open, widen, straighten and vacate streets and alleys, and establish and alter the grade thereof, and prevent the incumbering of the streets and alleys in any manner, and protect the same from any encroachment or injury; and to regulate the manner of using the streets and pavements of said city, and to protect the same from injury by vehicles used therein.

Riding or driving on sidewalks.

33d. To prevent all persons from riding or driving any horse, ox, mule, cattle, or any other animals on the sidewalks in said city, or in any way doing any damage to such sidewalks.

Pounds.

34th. To make, establish and regulate public pounds, pumps, wells, cisterns and reservoirs.

Lighting of streets.

35th. To erect lamps and regulate the lighting thereof; and to provide for lighting the streets and public buildings, with gas or otherwise.

Weighing and sale of hay, coal and lime.

36th. To regulate the weighing and sale of hay and the places and manner thereof; to regulate

the cutting and sale of ice, and to restrain the sale of such as is impure; also to regulate the sale and measuring of wood, and the weighing and selling of coal and lime, and the places and manner thereof, and to appoint suitable persons to superintend and conduct the same, and define their duties.

37th. To regulate the times, places and manner of holding public auctions and vendues. Public auctions.

38th. To tax, license and regulate auctioneers, distillers, brewers and pawnbrokers, and all keepers and proprietors of junk shops, and places for the sale and purchase of second hand goods, wares and merchandise, to tax, license, regulate and restrain hawkers and peddlers, transient dealers and runners, or solicitors for steamboats, vessels, cars, railroads, stages, public houses and other establishments, and other runners, including runners or solicitors for mercantile houses from other cities and towns, for the sale of goods, wares and merchandise by sample, order or otherwise, and keepers and proprietors of gift book-stores, gift concerts and other gift enterprises, and to fix and regulate the amount for licenses under this subdivision, and to prescribe the time for which such licenses shall be granted, and to provide and enforce penalties for carrying on either of said trades, kinds of business or employments without license, and to regulate the manner in which they shall be carried on; provided, that no such license shall be granted for a less term than three months nor for a longer term than one year, and that the amount for any such license shall not be less than at the rate of ten dollars per year, nor greater than at the rate of one hundred dollars per year for carrying on either of the said trades, kinds of business or employment.

39th. To regulate or prohibit the keeping of any lumber yard and the placing, piling or selling of lumber, timber, wood, or other combustible material within the fire limits of said city. Lumber yards.

40th. To establish and regulate public grounds. Public grounds.

41st. To regulate the speed of locomotive engines within the city, and to direct and control the location of railroad tracks, etc. Locomotives and engines.

42d. To appoint watchmen and policemen, and

- Watchmen and policemen.** regulate the police and prescribe their duties, and fix their compensation.
- Number houses.** 43d. To compel the owners and occupants of all houses, stores and other buildings within the city to number the same in such manner as the common council may from time to time prescribe.
- Weeds a public nuisance.** 44th. to declare the weed commonly called the Canada thistle and other noxious plants and weeds on lots, parts of lots, railroad tracks and streets, and lands in said city, a public nuisance, and to proceed to abate the same as the said city is authorized by law to abate other nuisances.
- Impose fines.** 45th. To impose fines for all violations within the limits of the said city of the general laws of the state, when in their judgment it is necessary for the peace and good order or for the health of the said city.
- Ornamental trees.** 46th. To direct and regulate the planting and preserving of ornamental trees in the streets and public grounds.
- Purity of waters.** 47th. To preserve the purity of waters of the streams, ponds or lakes, to prevent any use of the same, or any act in relation thereto, inconsistent with, or detrimental to the public health, or calculated to render the waters of the same or any part thereof, impure or offensive, or tending in any degree to fill up or obstruct the same; to prevent and punish the casting or depositing therein of any earth, dead animals, ashes or substances, filth or logs or floating matter; to prevent and remove all obstructions therein and punish the authors thereof.
- Education of children.** 48th. To authorize the taking up, and to provide for the safe-keeping and education for such periods of time as may be deemed expedient, of all children who are destitute of proper parental care, and growing up in mendicancy, ignorance, idleness and vice.
- Arrest and imprisonment of vagrants.** 49th. To authorize the arrest, fine and imprisonment as vagrants of all persons who, not having visible means to maintain themselves are without employment, idly loitering or rambling about or staying in drinking saloons, houses of ill-fame or houses of bad repute, gambling houses, railroad depots or fire engine-houses, or who shall be found trespassing in the night time upon the private premises of others, or beg-

ging, or placing themselves in the streets or other thoroughfares or public places, to beg or receive alms; also keepers, exhibitors or visitors at any gaming table, gambling house, house of fortune-telling, place of cock fighting or other device; all persons who go about for the purpose of gaming or watch stuffing, or who shall have in their possession any article or thing used for obtaining money under false pretenses, or who shall disturb any place where public or private schools are held, either on week day or Sabbath, or places where religious worship is held.

50th. To regulate and prohibit the carrying or wearing by any person under his clothes or concealed about his person of any pistol or revolver, or sling shot, or cross knuckle, or knuckles of lead, brass or other metal or bowie-knife, dirk-knife, or dirk, or dagger, or any other dangerous or deadly weapon, and to provide for the confiscation or sale of such weapons. Concealed weapons.

51st. To prevent and prohibit the erection and maintenance of any insecure or unsafe buildings, smoke stack, wall or chimney in said city, and to declare them to be nuisances, and to provide for their summary abatement. Unsafe building.

52d. To declare that it shall be unlawful for any hall, theater, opera-house, church, school-house or building of any kind whatsoever to be used for the assemblage of people, unless the same is provided with ample means for the safe and speedy egress of the persons assembled in case of alarm. Fire-escapes.

53d. To authorize and direct the expenditure each year of a sum of money not exceeding a total amount of one-fourth of one per centum of the taxable property of the city, unless authorized thereto at any general or special election by a vote of the electors of said city, upon any road or roads leading to the city within six miles of the limits thereof. Expenditure of money.

SECTION 4. Every act, ordinance, by-law, regulation, resolution or appropriation, which shall have been duly passed by the common council, before it shall take effect, and within four days after its passage, shall be presented to the mayor, by the city clerk, for his approbation. If he approve, he shall sign it; if not, he shall return it within five days, with his objections stated in When ordinances shall take effect.

writing to the city clerk, and the clerk shall submit such objections to the common council at their next meeting thereafter, who shall enter said objections upon the records of their proceedings, and shall proceed to reconsider the matter, and if after such reconsideration two-thirds of the members elected should vote to pass such act, ordinance, by-law, regulation, resolution or appropriation, it shall take effect and be in force as an act or law of the corporation, otherwise it shall be null and void. All such votes, after receiving the objections of the mayor, shall be taken for yeas and nays and entered upon the journal of proceedings of the common council. If the mayor shall not return any act, ordinance, by-law, regulation, resolution or appropriation so presented to him within five days after such presentation thereof, it shall take effect in the same manner as if he had signed it; and in case said ordinance, act, by-law, regulation, resolution or appropriation shall not receive the signature of the mayor, the certificate of the city clerk shall be attached thereto, showing the manner in which the ordinance, act, by-law, regulation, resolution or appropriation, was passed and acquired its validity. Before any such acts, ordinances, by-law, regulations, or appropriations, shall be in force, they shall be published in the official paper of said city, and together with the affidavit of publication, shall be recorded by the city clerk in books provided for that purpose. The time and manner of publication may be proven by the original affidavit of publication or by the recorded copy thereof, or in case of the loss and destruction of either the original affidavit or act, ordinance, by-law, regulation, resolution or appropriation, or the book or books containing a record of the same, the contents of the affidavit, act, ordinance, by-law, regulation, resolution or appropriation, as well as the fact of recording the same, or any of them, or any matter or thing therein contained, may be proven by parole testimony.

Shall not bar or hinder suits.

SECTION 5. The power conferred upon the said council to provide for the abatement or removal of nuisances, shall not bar or hinder suits, prosecutions or proceedings in the courts, according to law. Gambling houses, houses of ill-fame, dis-

orderly taverns, and houses and places where spirituous, vinous or fermented liquors are sold without the license required thereof, houses or buildings of any kind wherein more than ten pounds of gunpowder are deposited, stored or kept at any one time, are hereby declared and shall be deemed public or common nuisances.

SECTION 6. 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 times as they 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 officer and agent to exhibit his books, accounts and vouchers for such examination and settlement; and if any such officer or agent shall refuse to comply with the orders of the council, in the discharge of their said duties in pursuance of this section, or shall neglect or refuse to render his accounts or present his books and vouchers to said council, it shall be the duty of the common council to declare the office of such person vacant; and the common council shall order suits and proceedings at law against any officer or agent of said city who may be delinquent or defaulting in his accounts, or in the discharge of his official duties, and shall make a full record of all such settlement and adjustments.

Examination and adjustment of accounts.

SECTION 7. The common council shall have power to expel any member of said council from his seat as a member of said council, and from his office as alderman, or for any violation of his oath of office; provided, that no such member of the council or alderman shall be expelled unless a majority of the aldermen elect vote for such expulsion.

Expulsion of members.

SECTION 8. No alderman shall be a party to, or interested in any job or contract with the city or any of the wards; and any contract in which any alderman may be so interested shall be null and void; and in case any money shall have been paid on any such contract, the common council may sue for and recover the amount so paid, from the parties to such contract, and the alderman interested in the same.

Shall not be interested in any job or contract.

CHAPTER VI.

OPENING OF STREETS, ALLEYS, ETC.

Power to lay
out and open
streets.

SECTION 1. The common council shall have power to lay out public squares, grounds, streets and alleys, and to enlarge, widen 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, widening or extending 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 lands, in case such owner or owners shall reside in the city of Whitewater, and to the occupant or occupants of such lands, 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 any of said lands shall not be in the actual occupation of any person, not owned by any resident of said city, then the common council shall cause such notice, describing as near as may be, the premises proposed to be taken, to be published in a public newspaper printed in the city of Whitewater, for two successive weeks, at least once in each week.

What the notice
shall state.

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 Walworth, 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 purpose 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.

SECTION 3. Upon presentation of such application and upon proof of the publication of 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.

Freeholders to be appointed as jurors.

SECTION 4. If any juror so appointed shall be disqualified 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 be disqualified or refuse to act.

SECTION 5. The said jurors shall give notice of the proceedings to be taken, of the time and place, when and where they will view the premises in question, to the owner or owners of such land in case they shall reside in the city of Whitewater, and to the occupant or occupants of such land if any there be, which notice may be served personally or left at the place of business, or residence of such owner or owners, occupant or occupants; at least five days before the view will be made, and in case any of said lands shall not be in the actual occupation of any person nor owned by any resident of said city, the said jurors 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 said city, for two successive weeks. The said jurors having first taken the oath hereinafter provided for, and on the day stated in said notice, shall proceed in a

Jurors to give notice when and where they will view the premises.

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.

Report to be made after viewing the premises.

SECTION 6. After viewing the premises and hearing such testimony as may be offered, the jurors shall make a report of their proceedings, which shall be signed by them respectively, and which shall state whether, in their judgment, it is necessary to take 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.

Amount of damages to be paid to owner.

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, and after having taken the oath hereinafter provided for and giving notice of the proceedings to be taken, in the manner and as provided by section 5, of this act, 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 or any who shall neglect or refuse to serve in ascertaining the amount of compensation as above.

In case there is a building standing in whole or in part.

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, beside 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 personal notice of determination shall 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 two 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 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, given 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
refuse to take
the building.

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

Premises to be
viewed within
the time
limited.

the whole estimated value of such building or buildings.

Jurors shall assess the damages.

SECTION 12. The jurors shall assess the damages 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

In case lands 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 shall be signed by jurors.

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 be paid or 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 purposes of examining and repairing said sewers and drains.

All covenants shall cease.

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, or 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.

Also in case only a part of land be taken.

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 assessed in each part shall be paid or 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 Walworth county, or the county judge of said county, 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 legal disability.

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. Said jurors shall each be paid the sum of two dollars per day, by said city, for each day actually spent by them in the discharge of their duties.

Jurors shall each take an oath.

How appeal
may be taken.

SECTION 21. The common 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 Walworth county from the decision of said jurors so far as it affects the interest of said appellants. Notice of such appeal shall be filed by 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, conditioned 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 court
increases or
diminishes
damages.

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.

Accurate sur-
vey and profile
to be made.

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.

Vacation of
streets and
alleys.

SECTION 24. No street, 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.

Shall not apply
to unplatted
lands.

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.

Directions 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 VII.

IMPROVEMENT OF STREETS.

SECTION 1. The common council may cause a survey of all or any streets to be made, and the grade thereof established, and an accurate and perfect map and profile of the same made and deposited with the clerk of said city, with suitable field notes and explanations thereof to enable the same to be fully understood, which grades shall be strictly complied with (unless altered and modified as hereinafter provided), in the opening and grading of all streets, and in the erecting of all bridges, sluices, water-courses and drains, and in constructing all sidewalks, platforms, cross walks and alleyways.

Survey of streets to be made.

SECTION 2. Upon the application in writing of the resident owners of three-fourths of the lots upon any street or upon that part of any street in which the grade is proposed to be changed, the common council shall have power to cause a new survey to be made, and to alter all such grade, or establish a new one in such street or part of street set out in such application, as the public good may seem to require.

New survey may be made.

SECTION 3. Any person not being a signer of such application who shall have sustained damage by such change of grade, shall have this right of action against the city for the recovery of the same; provided, that no suit shall be brought against the city for the recovery of such damages until the application shall have been made to the common council, and said common council shall have refused or neglected for three months to settle the same. The signing of such application shall be taken and construed as a release of all claims for damages of every such signer.

Damages for change of grade.

SECTION 4. Whenever the majority of the resident property owners on one or both sides of any street or part of a street shall petition the common council for that purpose they shall order a sidewalk or sidewalks to be built which shall be constructed upon the proper and established grade

Building sidewalks, how ordered.

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

Repair of
streets.

SECTION 5. Whenever the superintendent of streets and the common council shall deem it necessary to repair or rebuild any sidewalk within the limits of said city, when the same is out of order or decayed, said street superintendent shall cause the same to be properly done and report the cost of said repairs to the common council. And in case any such walk is unsafe or dangerous it shall be the duty of the superintendent to repair it at once and report the cost thereof to the common council, and the same shall be paid out of the general fund of the city.

Stagnant
waters.

SECTION 6. The council shall give written notice to all owners or occupants of lots upon which stagnant waters may be, which may be deemed injurious to health by reason thereof, to abate such nuisance by draining or filling such lot within a reasonable time, to be specified in such notice, and if such nuisance shall not be abated or removed within the time so specified the council shall cause the same to be abated and removed at the expense of the property upon which the same may exist.

SECTION 7. The common council of the city of Whitewater shall have power to cause any street, highway, lane or alley, or part of any street, highway, lane or alley, in said city to be graded, worked, graveled, macadamized and repaired, and to cause any sidewalk, cross walks, drains, sewers, gutters and culverts to be made therein as it shall be deemed necessary, and the same shall be repaired or relaid as may be ordered by the common council. The common council prior to ordering by resolution, ordinance or otherwise, any street, highway, lane or alley, or any part thereof, to be graded, worked, macadamized, graveled, or any sidewalk, sewer, drain, gutter or culvert to be made therein shall cause a plain and accurate specification of the proposed work to be prepared and filed with the city clerk. The common council shall cause to be published in the official paper of said city, such specifications with a notice signed by the clerk, that on a certain day fixed in said notice, at least eight days after the first publication thereof, the common council will proceed to act in relation to the work mentioned in such specification; and said notice shall specify that sealed proposals for the performance of said work will be received by the city clerk up to the time fixed in said notice for the opening of such proposals. Upon the day mentioned in the above required notice, all such proposals shall be opened in the presence of the common council, when the said common council shall determine which is the most favorable of such proposals, and may, by a vote of a majority of its members, accept such proposal, and authorize and direct the construction of the proposed work, and direct the expense thereof to be assessed in the manner hereinafter specified; provided, however, that the common council are hereby authorized to reject all of said proposals, if in their opinion they shall be deemed unreasonable. The common council may require the person or persons whose proposal or proposals may be accepted, to execute a bond with one or more sureties, to be approved by the mayor, and in such penalty as the said council shall determine conditioned that the person whose proposal has been accepted, shall perform the work mentioned in such proposal at the price and upon the terms proposed, according to the published plan and

Grading streets
and how ordered.

specifications, and subject to the approval and supervision of the superintendent of streets and the aldermen of the ward in which said work is to be done, and the expenses thereof shall be paid out of the general fund of the city.

CHAPTER VIII.

FINANCES AND TAXATION.

City funds.

SECTION 1. All funds in the city treasury, except school, state and county funds, shall be under the control of the common council, and shall be drawn upon the order of the mayor, countersigned by the clerk, duly authorized by a vote of the common council, and in no other manner.

What city orders shall specify.

SECTION 2. 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; and all such orders shall be received in payment of any debt or demand due to, or tax assessment levied by authority of the city, except taxes levied for school purposes.

How debts may be contracted against the city.

SECTION 3. No debt shall be contracted against the city, or order drawn upon the city treasurer, unless the same shall be authorized by a majority of all the aldermen elect, and a vote authorizing the same shall be entered by ayes and noes upon the journal of the council, and no money shall be appropriated for any purpose whatever, except such as is expressly authorized by this act; and it shall not be allowed; neither shall it be legal in any manner whatever, nor at any time, to contract a debt against the city (over and aside from the current expenses of the city government) for any purposes.

Forfeitures and penalties.

SECTION 4. All forfeitures and penalties accruing to the city for a violation of this act, or of any of the ordinances, by-laws, rules and regulations of the city, and all money accruing for licenses, shall be paid into the city treasury and become a part of the general fund, except as otherwise provided by this act. No penalty or judgment recorded in favor of the city shall be remitted or discharged, except by a vote of two-thirds of all the aldermen elect.

SECTION 5. All property, real or personal, within the city, except such as may be exempt by the laws of this state, shall be subject to annual taxation for the support of the city government, and the payment of its debts and liabilities, and the same shall be assessed in the manner hereinafter provided. The assessors elected under this act shall have and possess the same powers that are or may hereafter be conferred upon township assessors, except so far as they may be altered by this act; provided, however, that the common council may prescribe the forms of assessment rolls, and more fully define the duties of assessors, and make such rules and regulations in relation to revising, altering or perfecting such rolls as they may from time to time deem advisable.

All property
subject to an-
nual taxation.

SECTION 6. On or before the first day of June of each year, the assessors shall make out an accurate and complete assessment roll, which shall contain a description, as near as may be, of all lands, lots or parcels of land within the city, sufficient to identify the same, and also of all persons or bodies politic, liable to pay taxes on personal property; and opposite to each lot or parcel of land shall be affixed the value thereof, and opposite the name of each person or body politic, shall be affixed the value of personal property assessed to each. When there are any buildings or any lots or tracts of land, the value of the same shall be set forth separately when so desired by the owners thereof. The assessor may assess any lot or tract of land in such parcels or subdivisions as they may deem proper, but it shall be necessary to enter the name of the owner opposite to every tract, lot or parcel of land. The assessment roll shall be made out by wards, and show the taxable property, both real and personal, of each ward separately.

Assessment
roll to be made
out.

SECTION 7. The mayor, city clerk, the city treasurer and the assessors of the several wards, shall constitute a board of review; said board shall meet annually on the last Monday of June, at the common council room; a majority shall constitute a quorum. Notice of the time and place of said meeting shall be posted up by the city clerk in at least one public place in each ward, and at least four days prior to such meeting. The city clerk shall be the clerk thereof, and shall keep an ac-

Board of re-
view.

curate record of all its proceedings. The board may adjourn from day to day until its business is completed. Said board of review so constituted, shall have the same powers, and shall be subject to the same restrictions as town boards of review under the laws of the state.

Return of assessment roll.

SECTION 8. Immediately after the final adjournment of the boards of review in each year, the assessors shall return their assessment rolls to the common council by depositing the same with the city clerk. The common council may supply omissions in said rolls, and for the purpose of equalizing the same may alter, add to, take from and otherwise revise and correct the same, but shall not have the power to increase the amount of said roll, except by the value of such real or personal property as may have been omitted by the assessor.

Tax levy when determined.

SECTION 9. On the first Tuesday of July in each year, or within ten days thereafter, the common council shall determine the amount of taxes to be levied for general city purposes not to exceed five mills on the dollar for any one year and also the amount necessary to be levied for school purposes, and shall by resolution levy the same, but no such resolution shall be adopted except by a vote of two-thirds of the members elect, which shall appear in the proceedings of the common council.

Abstract of assessment roll to be transmitted.

SECTION 10. Before the annual meeting of the board of supervisors of the county of Walworth, and by the time required by the laws of this state for the return of assessments from the several towns, the city clerk shall transmit an abstract of the assessment roll to the county clerk of said county, who shall lay the same before the board of supervisors at their annual meeting.

City to be regarded as a town for equalizing levy of taxes.

SECTION 11. The board of supervisors shall regard the city of Whitewater as a town in equalizing the assessment of the several towns in said county, as provided by law, but in such equalization shall consider the assessment roll of said city as an entire roll.

Clerk to make out tax roll.

SECTION 12. 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 clerk, in manner provided by law in relation to towns or town clerks, and in all transactions of the board of supervisors of said county, said city shall be regarded as a town.

SECTION 13. 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 the making out of the last annual tax roll, 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 roll of the city of Whitewater," 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.

Tax roll as made out to be prima facie evidence.

SECTION 14. The tax roll 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 taxes, from the election of officers to the completion of the tax roll inclusive, has been done, regularly and correctly as required by law.

Warrant to be appended to tax roll.

SECTION 15. Immediately after making out the tax roll as aforesaid a warrant shall be appended thereto, 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 tax roll in the manner provided by law; and said clerk shall on or before the 25th of November of the same year, or as soon thereafter as practicable, deliver the same to the city treasurer for collection and charge the amount of the tax roll to the treasurer.

Collection of tax roll.

SECTION 16. The city treasurer upon receipt of such tax roll, shall proceed to collect the same in like manner, and shall have like powers, and shall be subject to like requirements, liabilities or restrictions as a town treasurer, except as otherwise provided in this charter. The city treasurer

Delinquent tax list.

shall collect one per cent. fees upon all taxes paid before the tenth day of January, and three per cent. on all taxes collected after that time, to be added to the amount of taxes and collected with the same, and such fees shall be in full for his compensation.

Delinquent tax list.

SECTION 17. On or before the fifteenth day of February of each year, the said treasurer shall make out and file in his office a list of all lands and lots upon which the taxes have not been paid.

Special taxes.

SECTION 18. All real estate exempt from taxation by the laws of this state, within said city, shall be subject to special taxes for the building of sidewalks, the repairing thereof and improvements of streets in front of the same.

How delinquent taxes may be collected.

SECTION 19. In all cases of non-payment of taxes upon lots or real estate in said city, in the manner now required by law, it shall be the duty of the treasurer of said city to proceed, in accordance with the provisions of existing laws relating to the sale of lands for delinquent taxes in the several counties of this state, to advertise and sell, on the second Tuesday in April in each year, all delinquent lots and lands within the limits of said city, in the same manner as other lands are sold in said county of Walworth, and the said sale shall in all cases, be made for the smallest undivided portion of said lot or tract of land for which any person will take the same and pay the taxes and charges thereon. On receiving the amount of such taxes and charges, the treasurer shall issue to the purchaser, his or her assigns or heirs, a certificate containing the name of the purchaser and a description of the premises sold, the amount paid therefor, the rate of interest the same may bear, and the time when the right to redeem the same will expire. Said treasurer shall immediately after the close of any such sale of lots or lands for taxes, deposit in the office of the clerk of said city, all affidavits, notices and papers in relation to such tax sale to be filed in the office of said clerk; also a statement containing a particular description of each lot or parcel of land so sold by him, specifying the name of the person to whom sold, the amount for which the same was sold, and the name of the owner or owners, if known; and the said treasurer and clerk shall record such state-

ment in a book kept for that purpose by each of them in their respective offices, and all sales so made and the certificate so issued by the treasurer of said city, shall have the same validity and effect as if made by the county treasurer of said county.

SECTION 20. If at any sale of real or personal estate for taxes or assessments, no bid shall be made for any parcel of land or lot, or any goods and chattels, the same shall be struck off to said city, and thereupon the city shall receive in its corporate name a certificate of the sale thereof, and shall be vested with the same rights as other purchasers are. If the city shall become the purchaser of any personal property by virtue of this chapter, the treasurer shall have power to sell the same at public sale; and in case the city shall become the purchaser of any real estate at any tax sale, the treasurer is hereby authorized to sell the certificates issued therefor, for the amount and interest, and to indorse and transfer such certificates to the purchaser.

In case there is no bid.

SECTION 21. In case any purchaser at such tax sale shall neglect or refuse to pay the amount for which any lot or parcel of land was sold at such time as the treasurer shall designate, he shall on the day following offer said lot or parcel of land again for sale.

In case purchaser refuse to pay.

SECTION 22. Any lot or part of lot or parcel of land so sold, or any portion thereof, may be redeemed within three years from the day of sale, and at any time before the deed is executed, by the owner or any person interested therein, paying to the city treasurer the amount for which the same was sold, together with the interest at the rate of twenty-five per cent. per annum and legal charges thereon. And said treasurer shall deliver to the person making the same, duplicate receipts for such payments, signed by him, specifying therein the parcel or parcels of land on which such taxes were paid, the amount paid on each parcel, the time of payment, and the name of the person paying the same; and the treasurer shall also enter on the list kept by him, opposite the parcel or parcels of land on which such taxes shall be paid, the name of the person paying such tax, the sum paid therefor, and the time when paid. The person to whom such duplicate receipts

Redemption of lands.

are given shall present them to the city clerk, and thereupon said clerk shall countersign one of said receipts and return it to the person entitled thereto, and retain the other and safely keep the same in his office. The said clerk shall also make the same entries on the list of lands kept by him, as are required to be made by the treasurer. No receipt signed by the treasurer for the payment of such taxes as specified in this section, shall be any evidence of the payment of such taxes in the hands of any person except the city clerk unless the same shall first be countersigned by such clerk.

Conveyance of lands to purchaser, how consummated.

SECTION 23. Any lot or parcel of land sold in pursuance of the provisions of this act, or any part thereof, which shall not be redeemed within the time limited by this act, the city clerk shall, after the expiration of the time hereby prescribed for the redemption thereof, and on the presentation to him of the treasurer's certificate of sale, execute in the name of the city, as such clerk, under his hands and the seal of the city, to the purchaser, his heirs or assigns, a deed of the land so sold and unredeemed as aforesaid, and shall acknowledge the same; provided, the general law in regard to the filing of affidavits of service of notice to the owner or occupant or of non-occupancy has been complied with. An abstract of all deeds so made and delivered shall be entered by the clerk in the book where tax sales are recorded. A fee of one dollar may be charged by the clerk for every deed so issued, which deed shall vest in the grantee an absolute estate in fee simple in such land, subject, however, to all unpaid taxes and charges which are a lien thereon, and such deed duly witnessed and acknowledged, shall be *prima facie* evidence in all controversies and actions in relation to the right of the purchaser, his or her heirs or assigns, to the premises thereby conveyed, and the city clerk shall annually, within the last six months prior to the expiration of the time limited for redeeming lands sold for taxes, cause to be published in some newspaper printed in said city once a week for twelve successive weeks a list of all unredeemed lands, specifying each tract or lot sold, the name of the person to whom assessed, if any, and the amount of taxes, charges and interest calculated to the last day of

redemption, due on each parcel, tract or lot of land, together with a notice that, unless such lands be redeemed on or before the day limited therefor, naming the same, they will be conveyed to the purchaser and holder of the certificate of sale. The fees for said publication shall be the same as now are allowed by law for publishing lands sold by county treasurers, and the same shall be charged against the lots of lands so advertised and sold for taxes.

SECTION 24. In all controversies and suits involving the title to land claimed and held under and by virtue of such deed, the person or persons claiming title adverse to the title conveyed by such deed, shall be required to prove, in order to defeat the said title, either that the land was not subject to taxation or assessment at the date of the assessment of said tax or making said assessment, that the taxes or assessment had been paid, that the land had never been assessed for taxation or assessment, or that the same had been redeemed according to the provisions contained herein, and that such redemption was made for the use and benefit of the persons having the right of redemption under the laws of this state. But no person shall be permitted to question the title acquired by the said deed without first showing that he, she or they, or the person under whom he, she or they claim title, had title to the land at the time of the sale, and that all the taxes and assessments due upon the lands have been paid by such person or persons under whom he, she or they claim title as aforesaid.

What is required to be proved to perfect title.

SECTION 25. The treasurer of said city shall charge for such services the same fees as are now allowed and paid to the county treasurer for the same or similar services, such fees to accrue to the benefit of the general city fund; and it is hereby declared to be the meaning and intent herein to confer all the powers and duties of the treasurer of the county of Walworth, as far as relates to the collection of delinquent personal property taxes, and to the selling of lots and lands for taxes within the city of Whitewater, upon the treasurer of said city.

County treasurer's fees.

SECTION 26. All the directions hereby given except in section nine of the title, for the assessing of lands and the assessing and the levying, col-

Direction only directory.

lection and returning of taxes and assessments, shall be deemed only directory, and no error or informality in the proceedings 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.

CHAPTER IX.

PUBLIC SCHOOLS.

School districts.

SECTION 1. The school districts and parts of districts within the corporate limits of the city of Whitewater shall constitute one district for the better regulation and management of the public schools of said city.

Board of education, how composed.

SECTION 2. The commissioners of common schools of said city, together with the superintendent of schools, shall constitute a board, to be styled "the board of education of the city of Whitewater," which shall be a corporate body in relation to all the powers and duties conferred on them by virtue of this act. The superintendent of schools shall be chairman of said board, and whenever he shall be absent, a president *pro tempore* may be appointed, but such president shall have only a casting vote. A majority of the board shall form a quorum. The city clerk shall be clerk of said board, and shall receive no extra compensation than that heretofore provided for in this act. The said commissioners shall receive no compensation for their services.

Duties of clerk of board.

SECTION 3. The clerk of said board shall keep a record of the proceedings thereof, and perform such other duties as the board may prescribe, which record, or a transcript thereof, certified by the superintendent and clerk, shall be received in all courts as *prima facie* evidence of the facts therein set forth, and such records and all the books and accounts of said board shall at all times be subject to the inspection of the city council and of any committee thereof.

Educational fund to be raised for the following purposes.

SECTION 4. The common council of the said city shall have the power, and it shall be their duty to raise from time to time, by a tax upon the real and personal estate in said city, which shall be liable to taxation, in addition to the amount of school moneys now or hereafter appropriated or

such sums as the said council shall deem necessary or proper for any or all of the following purposes, estimates therefor having been previously submitted to the said council by the board of education for the information of the council; and it is hereby made the duty of the board of education of the city of Whitewater, to submit said estimates of the common council on or before the first Tuesday of July in each year:

1st. To purchase, lease or improve sites for school-houses.

2d. To build, purchase, lease, enlarge, alter, improve and repair school-houses, and their out-houses and appurtenances.

3d. To purchase, exchange, improve and repair school apparatus, books, furniture and appendages; but the power herein granted shall be denied to the furnishing of class or text books for any scholar whose parents or guardian shall be able to furnish the same.

4th. To procure fuel and defray the contingent expenses of the district library of said city.

5th. To pay the wages of teachers due after the application of the public moneys, which may by law be appropriated and provided for that purpose; provided, nevertheless, that no tax shall be laid for such purposes oftener than once in each year; and provided, also, that the amount to be raised for teachers' wages and for contingent expenses in any one year, shall in no case exceed eight dollars for each person that draws public money, that the amount to be raised in any one year, for repairing school-houses and the appurtenances, shall not exceed fifteen hundred dollars, and for buying sites and erecting new school houses shall not to exceed three thousand dollars.

SECTION 5. The common council shall cause the tax or taxes herein provided for to be levied and collected annually on all such real and personal property or capital of any kind within said city, as is subject to taxation by the laws for levying taxes for the state for the time being; said taxes to be levied and collected in the same manner as annual taxes are levied and collected in said city.

SECTION 6. All moneys to be raised pursuant to the provisions of this act, and all school moneys by law appropriated to or provided for said city shall be paid to the treasurer of said city, who,

Taxes to be collected annually

All school moneys shall paid to treasurer.

together with the sureties of his official bond, shall be accountable therefor, in the same manner as for other moneys of said city. The said treasurer shall also be liable to the same penalties for any official misconduct as in relation to the other moneys of said city.

How treasurer shall pay out moneys.

SECTION 7. The treasurer of said city shall not pay out any moneys in his hands, received by said city either as school moneys, or collected or received by virtue of any of the provisions of this act, excepting upon an order drawn upon him and signed by the superintendent and clerk of said board of education, and no such order shall be drawn except by virtue of a resolution of the said board.

Suits for official delinquency.

SECTION 8. The said board may cause a suit or suits to be prosecuted in the name of the city of Whitewater upon the official bond of the treasurer or of any collector of said city, for any default, delinquency or official misconduct in relation to the collection, safe keeping or payment of any moneys in this section mentioned.

Exempt from certain act.

SECTION 9. The city of Whitewater is hereby exempt from the provisions of an act entitled, "an act to create the office of county superintendent of schools," approved April 6, 1861, except in the matter of making reports to the state superintendent of schools.

Power and duty of board defined.

SECTION 10. The said board shall have power, and it shall be its duty:

POWERS AND DUTIES OF BOARD.

1st. To establish and organize such and so many schools in the several wards of the city (including the common schools now existing therein) as they shall deem requisite and expedient, and to alter and discontinue the same.

2d. To purchase or hire school-houses and rooms, and lots and sites for school-houses and to fence and improve them as they may deem proper; provided the amount necessary has been appropriated by the common council of said city.

3d. Upon such lots, and upon any sites now owned by said city, to build, enlarge, alter, improve and repair school-houses as they may deem advisable.

4th. To purchase, exchange, improve or repair school apparatus, books for indigent pupils, furniture and appendages, and to provide fuel for the schools, and defray their contingent expenses and the expenses of the district library.

5th. To have the custody and safe keeping of the school-houses, outhouses, books, furniture and appendages, and to see that the ordinances of the city council in relation thereto are observed.

6th. To contract with and employ all teachers in the common schools, and the high school, who shall have been licensed by the superintendent, and at their pleasure to remove them.

7th. To pay the wages of such teachers out of the school moneys which shall be appropriated to said city, so far as the same shall be sufficient, and the residue thereof from the money authorized to be raised for that purpose by section 4, of this title, by tax upon the city.

8th. To defray the necessary contingent expenses of the board.

9th. To have in all respects the superintendence, supervision and management of the common schools in said city, and from time to time to adopt, alter, modify and repeal, as they may deem expedient, rules and regulations for the reception of pupils, and their transfer from one school to another, and generally for their good order, prosperity and public utility.

10th. Whenever, in the opinion of the board, it may be deemed advisable to sell any of the school-houses, lots or sites, or any of the school property now or hereafter belonging to the city, to report the same to the common council.

11th. To prepare and report to the common council such ordinances and regulations as may be necessary or proper for the protection, safe-keeping, care and preservation of school-houses lots and sites, and appurtenances, and all other property belonging to the city connected with or appertaining to the schools, and to suggest proper penalties for the violation of such ordinances and regulations; and annually determine and certify to said city council the sums in their opinion necessary or proper to be raised under the ninth section of this chapter, specifying the sums re-

quired for each of the purposes therein mentioned, and the reason therefor.

12th. The board of education shall adopt for the use of the several public schools in the city, suitable text-books which shall be uniform, and when the board shall have adopted for use in the public schools of this city any text-book or text-books, the same shall not be changed by the board or by any teacher or other person for five years thereafter, and the said board shall adopt and at its discretion, modify or repeal by-laws, rules and regulations for their government, and for the organization, discipline and management of the public schools of said city, and generally adopt all such measures as shall promote the good order and public utility of said schools; provided, that such by-laws, rules and regulations shall not conflict with the constitution and laws of this state.

*Outside attendance at school.

SECTION 11. The said board of education shall have power to allow the children of persons not residents within the city to attend any of the schools of said city under the care and control of said board, and upon such terms as the board shall by resolution prescribe.

Shall not exceed appropriation.

SECTION 12. It shall be the duty of said board in all their expenditures and contracts to have reference to the amount of money that shall be subject to their order during the then current year, for the particular expenditure in question and not to exceed such amount.

*Trustees of district library.

SECTION 13. The said board of education shall be the trustees of the district library in said city, and all the provisions of law which now are or may hereafter be passed, relating to district-school libraries, shall apply to the said board in the same manner as if they were trustees of an ordinary school-district; they shall also be vested with the discretion as to the disposition of the moneys appropriated by any law of the state, for the purchase of libraries, which is therein conferred upon the inhabitants of school-districts. It shall be their duty to provide a library room and the necessary furniture therefor, and appoint a librarian; to make all purchases of books for the said library, and from time to time to exchange or cause to be repaired the damaged books belonging thereto.

SECTION 14. It shall be the duty of the said board, annually, on or before the first Monday in

May in each year, to prepare and report to the common council, true and correct statements of the receipts and disbursements of moneys under and in pursuance of the provisions of this act during the preceding year, in which account shall be stated under appropriate heads:

Annual statement to be made, what to contain.

1st. The moneys received by the common council under the fourth section of this title.

2d. The school moneys received by the treasurer of the city from the county treasurer.

3d. Moneys received by direct tax.

4th. All other moneys received by the treasurer subject to the order of the boards, specifying the sources.

5th. The manner in which such sums of money shall have been expended, specifying the amount paid under each head of expenditures; and the common council shall forthwith cause the same to be published in at least one of the newspapers published in said city.

SECTION 15. The said board shall be subject, from time to time, to the rules and regulations made by the state superintendent of common schools, so far as the same may be applicable to them, and not inconsistent with the provisions of this act.

Board subject to rules and regulations of state supt.

SECTION 16. The common council of the said city shall have power, and it shall be their duty to pass such ordinances and regulations as the board of education may report as necessary and proper for the protection, safe-keeping, care and preservation of the school-houses, lots, sites and appurtenances, and all necessary property belonging to or connected with the schools in said city, and to impose proper penalties for the violation thereof, subject to the restrictions and limitations contained in this act; and all such penalties shall be collected in the same manner that the penalties for a violation of the city ordinances are by law collected, and when collected shall be paid to the treasurer of the city, and be subject to the order of the board of education in the same manner as other moneys raised pursuant to the provisions of this act.

Ordinances for school regulations.

SECTION 17. Whenever said board shall report to the common council that it is advisable to sell any of the school-houses, lots or sites, or any of the school property now or hereafter belonging to

When school-houses or sites are to be sold.

the city, the common council may sell the same upon such terms as they may deem advisable. The proceeds of all such sales shall be paid to the city treasurer, and shall be subject to the order of said board, to be expended by them in purchase, leasing, repairs or improvements of other school-houses, lots, school furniture, apparatus or appurtenances.

School-house property title to be vested in the city.

SECTION 18. The title to the school-houses, sites, lots, furniture, books, apparatus and appurtenances and all other property in this act mentioned, shall be vested in the city of Whitewater, and the same, while used or appropriated for school purposes, shall not be levied upon or sold by virtue of any warrant or execution, not be subject to taxation for any purpose whatever, and the said city, in its corporate capacity, shall be able to take, hold and dispose of any real or personal estate transferred to it by gift, bequest or devise, for the use of the common schools of the said city, whether the same shall be transferred in terms to said city by its proper style or by any other designation, or to any person or persons or body for the use of said schools.

Moneys shall be held in trust by treasurer.

SECTION 19. All moneys authorized to be raised by virtue of this act, for school purposes on being raised as herein provided, shall be held by the treasurer of said city, and by him placed to the credit of said board of education, and shall be drawn out in pursuance of a resolution or resolutions of said board, by draft drawn by the superintendent and countersigned by the clerk of said board, payable to the person or persons entitled to receive such moneys, and the said treasurer shall keep the funds authorized by this act to be received by him, separate and distinct from any other fund that he is or may by law be authorized to receive.

Teachers not eligible to office of commissioner.

SECTION 20. No person in the city of Whitewater, engaged in teaching any of the public schools of said city, shall be eligible to the office of commissioner of common schools in any of the several wards in said city, and no member of the board of education shall be employed to teach any of the schools of said city.

Shall not be interested in any contract.

SECTION 21. No member of the board of education shall have any interest, direct or indirect, in any contract made by said board, and every

contract so made in which any member of said board shall have such interest, shall be absolutely void.

SECTION 22. All that territory now constituting School District No. 1, of the town of Whitewater, not included within the corporate limits of said city of Whitewater, as provided in this act, shall constitute and be a part of and be attached to the city of Whitewater for school purposes only, and whenever the common council of the city shall determine the amount of school tax for any one year, and fix the rate per centum upon the real and personal property of the city, the clerk thereof shall notify the town clerk of the town of Whitewater in writing of the per cent. so determined by the common council; and said town clerk shall assess the same rate upon all real and personal property within the territory hereby attached and the town treasurer of said town shall collect the same at the time and in the manner of collecting other town taxes, and when collected pay the same to the city treasurer of the city of Whitewater for the school purposes of said city.

CHAPTER X.

FIRE DEPARTMENT.

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

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 or secure condition when considered dangerous; to prevent the

deposit of ashes in unsafe places; to require the inhabitants to provide as many fire-buckets, and in such manner and time as they shall prescribe, and to regulate the use of them in time of fire; to regulate and prevent the carrying on of any manufactories dangerous in causing or promoting fires: to compel the owners or occupants of buildings to have scuttles in the roofs and stairs or ladders reaching to the same; to authorize the mayor, aldermen, firewardens and other officers of the city to keep away from the vicinity of a fire all idle and suspected persons, and to compel bystanders to aid in the extinguishment of fires; and in the preservation of property exposed to danger thereat and generally to establish such regulations for the prevention and extinguishment of fires as the common council may deem expedient.

Power to purchase fire-engines and form fire-companies.

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

Annual fire-companies inspection.

SECTION 4. There shall be a meeting of the members of said companies on the first Friday of January in each year, at such place as may be designated by the mayor, when they may elect and recommend to the common council for confirmation one chief engineer, one assistant engineer and one steward, which latter shall be a salaried officer; and the common council may thereupon confirm such elections, and the person so elected and confirmed shall perform such duties as the common council shall prescribe. The chief engineer of the fire department shall, annually, on or

before the first Friday of January in each year, prepare and file in the city clerk's office a complete list of all members in good standing belonging to the fire department.

SECTION 5. At the same time, as specified in the preceding section, the members of said companies shall elect, and the common council may confirm, four firewardens, one of whom shall reside in each ward, and who shall perform such duties as the common council shall prescribe; and they may at any time enter into or upon any house, store-house, or other building or enclosure for the purpose of inspecting the same, and with a view to guard against fire.

Election of firewardens.

SECTION 6. Whenever any person shall refuse to obey any lawful order of the engineer, firewarden, mayor or alderman at any fire, it shall be lawful for the officer giving such order to arrest, or to direct orally the marshal, constable, watchman or any citizen to arrest such person, and to confine him temporarily in any safe place until such fire shall be extinguished; and in the same manner such officers, or any of them, may arrest or direct the arrest and confinement of any person at such fire, who shall be intoxicated or disorderly; and any person who shall refuse to obey any such lawful order, or who shall refuse to arrest or aid in arresting any person so refusing, shall be liable to such penalty as the common council may prescribe, not exceeding fifteen dollars.

Penalty for refusal to obey order of fire officers.

SECTION 7. The common council shall have power to organize a sack company, number one, to consist of not more than twenty members. Such company shall constitute a part of the fire department and shall be subject to the control of the chief engineer. The members of said company, either collectively or individually, are hereby authorized and empowered to act as special police in and for the city of Whitewater, and are hereby vested with all power and authority which is or may hereafter be vested in any police officer of said city, and shall be entitled to all the rights and immunities of members of the fire department. At fires they shall take charge of property which may be exposed or endangered, and shall so far as may be in their power, preserve the same from injury or destruction. Said company may from time to time adopt such by-laws and regula-

Organization of sack company.

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

Height and
size of wooden
building.

SECTION 8. The common council of the city of Whitewater shall have power for the purpose of guarding against the calamities of fire, to prescribe and limit the height and size of wooden buildings to be hereafter erected or moved upon any lot or piece of ground within any specified limits in said city, and to prescribe and limit the time within which any wooden building or buildings, other than fire-proof, hereafter erected upon or moved upon any lot or piece of ground within specified limits, shall remain thereon and to compel the owner or owners of such building, so required to be removed to remove the same; and if the said owner or owners shall neglect or refuse to remove the same for thirty days after being so required to do, by order of the common council made and served upon the owner, his agent, or the occupant of said building, to cause the building to be removed from such lot at the expense of the owner or owners of such building, and to prescribe the mode and manner of compelling said owner or owners to pay the expenses of said removal, and shall have power to cause such building to be sold to pay the expense of such removal and the costs of such sale.

CHAPTER XI.

PROCEDURE FOR VIOLATIONS OF ORDINANCES, LAW,
ETC.

SECTION 1. The city of Whitewater may sue for and recover any and all penalties or forfeitures under the charter of said city, or any amendment thereto, or the ordinances, by-laws, police or health regulations made in pursuance thereof, in the corporate name of said city of Whitewater, any general law of the state to the contrary notwithstanding, and such action shall be commenced by complaint substantially in the following form:

Procedure for violation of ordinance.

State of Wisconsin, }
City of Whitewater, } ss.
Walworth county. }

“ — — —, being duly sworn complains on oath, to — — —, that — — — did, on the — — — day of — — —, A. D. 18—, violate the — — — section of an ordinance, by-law, or resolution (describing it by its title, and briefly setting forth the offense complained of), which said — — — is now in force, as this deponent verily believes, and prays that — — — may be arrested, and held to answer to said city of Whitewater, therefor.

Form of complaint.

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

It shall be sufficient to give the number of the section or sections, and the chapter, or title, of the ordinance, by-law, regulation or resolution, or of the law violated in such complaint, briefly setting forth the offense complained of, and said complaint may be sworn to before any officer authorized to administer oaths in this state. Upon the filing of said complaint with the judge or justice having jurisdiction, a warrant shall issue thereon substantially as follows:

State of Wisconsin, }
City of Whitewater, } ss.
Walworth county. }

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

Form of warrant.

Whereas, — — — has this day complained to me in writing on oath that — — — did, on the

— day of —, 18—, violate the — section or sections of an ordinance, by-law, regulation or law (describing it by its chapter or title, and briefly setting forth the offense complained of), which said — is now in force and effect, as said complainant verily believes; therefore in the name of the state of Wisconsin, you are hereby commanded to arrest the body of said — —, and him forthwith bring before — —, to answer to said city of Whitewater on the complaint aforesaid.

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

The defendant in such action may be arrested upon service of the warrant or process by which action is commenced. Upon the return of the warrant, the court may proceed summarily with the case, unless it be continued by consent or for cause, as in other cases provided by law. If the case be adjourned, the defendant, if required by the courts so to do, shall recognize, with surety for his appearance, in such sum as the court shall direct; or in default thereof, may be put in charge of the officer who made the arrest, or be committed to the common jail of Walworth county or to the city jail. The complaint made aforesaid shall be the complaint in the action, and the plea of "not guilty" shall put in issue all matters of defense in the action.

Witnesses and jurors shall attend without payment of fees in advance.

SECTION 2. A printed copy of an ordinance by-law or resolution, passed by the common council, and published in a newspaper or in a pamphlet or book form, shall be *prima facie* evidence of its due passage and publication, and that the same is in force, and may be received in evidence. After issue joined and before trial, in all city cases, the defendant may demand a jury; and if no demand of a jury be made it shall be deemed a waiver of a jury trial.

Finding of court or jury.

SECTION 3. Witnesses and jurors shall attend in all city prosecutions without the payment of fees in advance, upon process of the court, duly served, and in default thereof, their attendance may be enforced by attachment. In case the jury, after being kept out a reasonable time, should disagree, they shall be discharged, and thereupon the court shall adjourn the cause to a day certain, and issue a new venire, as aforesaid.

SECTION 4. In city prosecutions the finding of the court or jury shall be, guilty or not guilty. If guilty, the court shall render judgment thereon against the defendant, for the fine, penalty or forfeiture, and where the same is not to exceed a certain sum, and not less than a certain other sum shall fix the amount of such fine, penalty or forfeiture, as he shall deem best, within the provisions of such ordinance, by-law or resolution, for the violation of which the person or persons shall have been adjudged guilty, and for the costs of suit. If not guilty, the costs, as in actions in justice's court, shall be taxed against the city, but no attorney's fees shall be taxed for or against the defendant in any such suit; execution shall issue forthwith upon the rendition of the judgment, unless the same be stayed or appealed as hereinafter provided, and the fine or penalty imposed by the court, may be enforced and collected by levy and sale on execution of the property of the defendant, as provided by law in civil actions before a justice of the peace.

Regarding executions.

SECTION 5. The execution upon any judgment recovered in any such action, may require that in case nothing shall be found from which the amount can be collected, the defendant shall be taken and imprisoned in the jail of Walworth county, for a term of not exceeding six months, or in the city jail not exceeding three months, unless the judgment be sooner paid, and the term of such imprisonment shall be inserted in the execution and commitment. And said execution and commitment may require the defendant to perform hard labor during the term of such imprisonment. In case nothing be found from which the amount can be collected, the defendant shall be imprisoned in the jail of Walworth county, or in the city jail, according to the terms of the executions. Such execution may be in the following form:

Form of execution.

STATE OF WISCONSIN, }
 City of Whitewater, } ss.
 Walworth County. }

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

Whereas, the said city of Whitewater, on the

— day of —, 18—, recovered a judgment before the — —, of said —, against — —, for the sum of — dollars, together with — dollars, costs of suit, for the violation of (here insert the number of section, chapter or title of the ordinance, and offense, as set forth in the complaint). These are therefore, in the name of the state of Wisconsin, to command you to levy distress on the goods and chattels of the said — —, (excepting such as the law exempts), and make sale thereof, according to law, in such case made and provided, to the amount of said sums, together with your fees, and twenty-five cents for the execution; and the same return to me within thirty days, to be rendered to the said — —, for said judgment and costs, and for want of such goods and chattels whereon to levy, to take the body of the said — —, and him convey and deliver unto the keeper of the common jail of said county, who is hereby commanded to receive, and keep the — —, in safe custody, in said — and at hard labor for the term of —, unless the aforesaid sum and all legal expenses, be sooner paid and satisfied or until he is discharged thence, by due course of law.

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

Fines and penalties shall be paid to city treasurer.

SECTION 6. All penalties, forfeitures, fines or claims due to said city, when paid to the magistrate authorized to receive the same, shall be paid by him to the city treasurer, within one month after the receipt thereof, by him. Whenever execution shall be issued upon any judgment in favor of the city, the same shall be returned by the officer receiving the same, to the judge or justice who issued it, on or before the return day thereof, and if such officer neglect to return the same, for five days after the return day thereof, the judge or justice shall report the fact to the city treasurer, who shall cause an action to be brought in the name of the city, against the officer and his sureties for the default.

How appeals shall be taken.

SECTION 7. Appeals shall be allowed in all cases to the circuit court, and taken in the same manner as appeals from justices of the peace. The defendant in all city prosecutions may appeal to the circuit court of Walworth county, by

filing an affidavit and bond, and complying with the requirements of appeals in civil cases before justices of the peace; provided, however, that such appeals shall be taken and perfected within forty-eight hours from the time judgment is rendered in the suit. Upon any appeal being taken and allowed the judge or justices shall stay all other proceedings in the case, and the defendant, if in custody, shall be discharged, and the judge or justices shall transmit the papers in the case so appealed, with a transcript of his docket, to the clerk of said court, within the time and manner so prescribed, in cases appealed from justices of the peace.

SECTION 8. The jail fees, and officer's fees, if any, for commitment on prosecution in behalf of the city shall be audited and allowed by the common council, when the same cannot be collected of the defendant, before his discharge; and said common council may by resolution direct the judge or justice to discharge from the jail any person confined for judgment due said city, but such discharge shall not operate as a release of the judgment, unless said common council shall so direct in their resolution. Upon filing a certified copy of such resolution, attested by the city clerk, the judge or justice shall order such defendant discharged from custody, and make an entry of such discharge on his docket; and execution may issue or be renewed by endorsement from time to time, before or after the return day thereof, and before or after the commitment of the defendant, until the judgment is satisfied or released; but after the defendant shall have been once committed, no execution shall be issued against the body of the defendant in the same action.

Jail and officers fees, how audited.

CHAPTER XII.

MISCELLANEOUS PROCEEDINGS.

SECTION 1. All work for the city or either ward thereof shall be let by contract to the lowest responsible bidder, unless otherwise ordered by the common council, by ordinance or resolution, and due notice shall be given of the time and place of letting such contract.

All work to be let by contract.

SECTION 2. All actions brought to recover any

Actions shall be brought in corporate name of city.

penalty or forfeiture under this act, or the ordinances, by-laws, police and health regulations made in pursuance thereof, shall be brought in the corporate name of the city. It shall be lawful to declare generally in debt for such penalty or forfeiture, stating the clause of this act or by-law or ordinance under which the penalty or forfeiture is claimed, and to give the special matter in evidence under it. All prosecutions may be commenced by summons or by warrant, as the exigencies of the case seem to require; provided, that nothing contained herein shall be construed as to prevent any peace officer from arresting without process any person found in a state of intoxication, or guilty of immoderate drinking, improper reveling, obscenity or noisy, boisterous or disorderly conduct in the streets or public places, and taking such person or persons forthwith before any justice, or keeping them in confinement, until such time as said justice can reasonably hear and dispose of said offender.

Shall not work incompetency.

SECTION 3. 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.

Failure to hold election shall not invalidate.

SECTION 4. If any election by the people or common council shall, for any cause, not be held at the time or in the manner herein prescribed, or if the council shall fail to organize as herein provided, it shall not be considered reason for arresting, suspending or absolving said corporation, but such election or organization may be had on any subsequent day, by order of the common council, and if any of the duties enjoined by this act, or the ordinances or by-laws of the city, to be done by any officer at any specified time, are not then done or performed, the common council shall appoint another time at which the said acts may be done and performed.

Recovery of judgment against the city.

SECTION 5. When judgment shall be recovered against the city or against any city officer, in any action prosecuted by or against him in his name of office, when the same should be paid by the city, no execution shall be awarded or issued upon such judgment; but the same, unless reversed, shall be levied and collected as other city taxes are levied and collected, and when so collected

shall be paid by the city treasurer to the person to whom it shall be adjudged, upon the delivery of a proper voucher. All property, real and personal, now or at any time hereafter belonging to said city, or to either of the wards thereof, shall be exempt from levy and sale under or by virtue of any execution; provided, that any such property, real or personal, shall be subject to levy and sale by virtue of any execution issued on a judgment for the purchase money thereof. Nor shall any real or personal property of any inhabitant of said city, or of any individual or corporation, be levied on and sold by virtue of any execution issued to satisfy or collect any debt, obligation or contract of said city.

SECTION 6. Whenever any action or suit shall be commenced against said city, the service thereof may be made by leaving a copy of the process with the mayor; and it shall be the duty of the mayor forthwith to inform the common council thereof, or take such other proceedings as the ordinances or resolutions of said council may provide.

How action or suit shall be commenced.

SECTION 7. Said city may lease, purchase or hold real or personal property sufficient for the convenience of the inhabitants thereof, may sell and convey the same, and the same shall be free from taxation.

City may lease or hold real estate.

SECTION 8. No general law contravening the provisions of this act shall be considered as repealing, amending or modifying the same, unless such purpose be expressly set forth in such law.

No general law shall repeal.

SECTION 9. The citizens of the town of Whitewater shall have the privilege to hold all town meetings and all general and special elections at such place in the city of Whitewater as they may determine, and the officers of said town of Whitewater may transact all town business in said city, and with the like effect as if held or done in the town of Whitewater.

Town meetings may be held in city.

SECTION 10. No compensation or salary shall be paid out of the city treasury to any mayor or alderman of said city for his service as such mayor or alderman.

No salary for mayor or aldermen.

SECTION 11. The paupers of said city shall be removed to the poor-house of the county of Walworth, by the mayor or supervisor of the ward,

Disposition of paupers.

in like manner as they are removed from the several towns in said county.

City clerk shall sign all licenses.

SECTION 12. Every license issued by the authority or this act, or the ordinances of the city, shall be signed by the city clerk and sealed by the corporate seal; but no such license shall be issued by said clerk until the person applying for the same shall have deposited with the clerk the receipt of the city treasurer for the amount required to be paid therefor; nor shall any license be issued for dealing in, selling or vending spirituous, vinous or malt liquors, until the same shall have been authorized by the common council, and the applicant shall have filed his receipt as aforesaid, together with a bond as required by the laws of this state, which shall be approved either by the mayor or common council, and the sum paid for such license shall be appropriated as the common council shall direct. Every such license shall contain a clause prohibiting the selling, vending or giving away of any spirituous, vinous or malt liquors on general or special election days, and all such licenses shall expire on the tenth day of May next following the date of their issue.

Penalty for doing business without a license.

SECTION 13. Every person having such license who shall vend, sell or give away any spirituous, vinous or malt liquors on any election day, shall be liable to prosecution under this act, or the ordinance of the city, or may be proceeded against in the circuit court of Walworth county, and upon conviction thereof, every such offender shall forfeit and pay a sum not exceeding two hundred dollars, nor less than fifty dollars, or be imprisoned in the jail of Walworth county, not more than thirty days, nor less than ten days, at the discretion of the court, and the license held by such person shall be forfeited and void.

How suits shall be commenced and what is required.

SECTION 14. No suit or proceeding shall be commenced or prosecuted to recover title or possession of any lot, piece or parcel of land situated within the limits of the city, held or claimed by virtue of any deed purporting upon its face to be executed on account of any sale for taxes or assessments levied after the passage of this act, until the person commencing the suit or proceeding shall have deposited with the court in which such proceeding is or shall be commenced, for the use of the holder or claimant under such deed, an amount of money

equal to the amount of taxes, costs and charges paid in procuring such deed, and all subsequent taxes, costs and charges upon the lot or lands described in such deed and paid by such holder or claimant under such deed, except in cases when the taxes are paid before sale, or the lands redeemed according to law. In the trial of every such cause on the part of the defendant, such deed shall be first read in evidence to the jury, and shall be evidence in such suit or proceeding, to the extent specified and provided in section 109, chapter 15, title 5, of the revised statutes.

SECTION 15. The use of the jail of Walworth county, until otherwise provided, may be granted to said city for the confinement of offenders, and every such offender may be delivered to the sheriff of said county, for whose custody, safe-keeping and delivery the said sheriff shall be responsible, as in other cases, but said county shall not incur or pay any liability or expense on account of any person committed to said jail for a violation of any ordinance, by-law, rule or regulation of said city, but such expense shall be paid by the city.

County jail to be used by city.

SECTION 16. All officers of the city (except justices of the peace) may be removed from office for official misconduct by the common council, by a vote of a majority of the members thereof, but said officer or officers shall be granted a full and fair hearing before removal.

Removal of officers.

SECTION 17. Any street, alley, public square or grounds which have been regularly platted and recorded, but have been closed and used for agricultural purposes, or otherwise, may, by resolution of the common council, be declared as opened for travel and passage, and shall be opened for such purposes immediately after the passage of such resolution; provided, that no such resolution shall be put into effect between the twentieth of March and the twentieth of November in any one year.

Opening of streets.

SECTION 18. Whenever any injury shall happen to persons or property in the city of Whitewater by any reason of any defect or incumbrance of any street, sidewalk, alley or public ground, or from any other cause, for which the said city would be liable; and such defect, incumbrance or other cause of such injury shall arise from or be produced by the wrong, default or negligence of any

Defective sidewalks.

person or corporation, such person or corporation so guilty of such wrong, default or negligence, shall be primarily liable for all damages for such injury; and the said city shall not be liable therefore until after all legal remedies shall have been exhausted to collect such damages from such person or corporation.

First election,
when held.

SECTION 19. The first election of officers under this act shall be held on the first Tuesday of May, 1885, at such places as may be designated by the president and board of trustees of the village of Whitewater. The acting president of the village of Whitewater shall by and with the consent of the board of trustees of said village appoint three inspectors and one clerk for each ward who shall act as inspectors and clerks of election of the said precincts, and their powers and duties shall be the same as is now provided by law; and all of the officers of the village of Whitewater in office when this act shall take effect, shall hold their respective offices until such election shall be held, and the officers then to be elected shall have qualified, unless a vacancy shall occur which shall be filled by appointment as in other cases; the polls to be opened and closed as in this act provided. The inspector of election at each ward shall within twenty-four hours make returns to the village clerk and to the county clerk and the president and board of trustees of said village, shall within twenty-four hours thereafter count and canvass the votes and declare the result as it appears from the same, the result so declared shall be filed with the village clerk and by him delivered to the city clerk as soon as he shall qualify.

Village property to belong to city.

SECTION 20. The city of Whitewater shall be the lawful owner and successor of all real and personal property and all the rights and privileges belonging to the corporation of the village of Whitewater, together with all the funds, revenues, debts and demands due and owing to the said village, and of all the funds belonging to the road district of said village, all of which property shall be transferred to the proper officers of said city by the person or persons in charge of the same as soon as such officer shall be elected and qualified.

Lawful village debts to be assumed by city.

SECTION 21. Any lawful debt, claim, demand or right of action against the present village of White

water shall be and become a lawful debt, claim, demand or right of action against the city of Whitewater.

SECTION 22. The term of office of the officers selected at the first election shall commence on the second Tuesday of May, 1885. First term of office.

REPEALING CLAUSE.

SECTION 23. All acts incorporating the village of Whitewater and amendatory to the city charter, are hereby repealed; and all acts and parts of acts inconsistent with and conflicting with the provisions of this act are hereby repealed; but the repeal of said acts and parts of acts shall not in any manner affect, injure or invalidate any contract, acts, suits, claims, or demands that may have been entered into, performed, commenced, or that may exist under, or by virtue or in pursuance of the said acts, or any of them, but the same shall exist and be in force, and carried out as fully and effectually to all intents and purposes as if this act had not been passed. Repealing section.

SECTION 24. All ordinances and regulations now in force in the village of Whitewater, not inconsistent with this act, shall remain in force until altered, modified or repealed by the common council after this act shall take effect. Ordinances to remain in force until repealed.

SECTION 25. This act shall take effect and be in force from and after April 10, 1885.

Approved April 2, 1885.

[No. 438, A.]

[Published April 11, 1885.]

CHAPTER 230.

AN ACT to amend an act entitled, "An act to revise, consolidate and amend the charter of the city of Oshkosh, the act incorporating the city, and the several acts amendatory thereof," Approved March 30, 1883.

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

SECTION 1. All that part of the fifth ward of the city of Oshkosh lying south of the section line Sixth ward.