

of range one west, and the inhabitants thereof are hereby attached to and shall hereafter constitute a part of school district number one, of the city of Tomah, for all school purposes, and the inhabitants of such territory so attached shall have all the rights and privileges of residents of said school district in the schools and school meetings of said district number one, of the city of Tomah. And the general laws relating to joint school districts between towns and regulating the levy and collection of school taxes upon the territory so attached and the inhabitants thereof, and the payment thereof to the treasurer of said school district number one, of the city of Tomah, shall apply to and govern the town of La Grange in its relations to said school district number one, of the city of Tomah.

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

Approved April 11, 1887.

[No. 351, S.]

[Published April 13, 1887.]

## CHAPTER 409.

AN ACT to revise, consolidate and amend the act incorporating the city of Berlin, and the several acts amendatory thereof.

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

### CHAPTER I.

#### INCORPORATION.

Corporate  
name.

SECTION 1. All that district of country in the counties of Green Lake and Waushara, contained within the limits and boundaries hereinafter described shall be a city by the name of "Berlin," and the people who now inhabit, and those who shall hereafter inhabit the same, shall be a mu-

municipal corporation by the name of "The city of Berlin," and as such shall have the general powers possessed by municipal corporations at common law, and in addition thereto shall possess the powers hereinafter specifically granted, and the authorities thereof shall have perpetual succession, shall be capable of contracting and being contracted with, of suing and being sued, pleading and being impleaded, in all courts of law and equity, and shall have a common seal and may change and alter the same at pleasure.

#### CITY AND WARD BOUNDARIES.

SECTION 2. The following described territory shall be, and the same hereby is, included within the corporate limits of the said city of Berlin, to-wit: Sections number three, four, nine, ten and the east half of sections five and eight, and that part of section number sixteen, and the east half of section number seventeen, lying north of the center of Fox river, all in township number seventeen north, of range number thirteen east, and that part of sections number thirty-three and thirty-four in township number eighteen north, of range thirteen east, lying south and east of the center of Fox river.

SECTION 3. The territory of said city shall be and the same hereby is divided into five wards, as follows:

#### FIRST WARD.

All that portion of section number four in said city lying east of the center of Fox river, shall constitute and be the First ward.

#### SECOND WARD.

All of section number three and that part of sections number thirty-three and thirty-four in said city, shall constitute and be the Second ward.

#### THIRD WARD.

All that portion of sections number nine and ten, in said city, lying east of the center of Fox river, shall constitute and be the Third ward.

## FOURTH WARD.

Fourth ward. All that portion of said city lying south of the center of Broadway street and west of the center of Fox river, shall constitute and be the Fourth ward.

## FIFTH WARD.

Fifth ward. All that portion of said city lying north of the center of Broadway street and west of the center of Fox river, shall constitute and be the Fifth ward.

## CHAPTER II.

Corporate  
authority.

SECTION 4. The corporate authority and government of said corporation shall be, and is vested in the mayor and common council, subject to the reservations and exceptions hereinafter contained. The common council shall be composed of the mayor and two aldermen from each ward.

Elective  
officers.

SECTION 5. The elective officers of said city shall be a mayor, a city clerk, an assessor, a city treasurer, a superintendent of schools, two justices of the peace and two constables elected by the city at large, and two aldermen and one supervisor and two school commissioners from each ward. All elective officers shall, unless elected to fill a vacancy, hold their respective offices for two years, and until their successors are elected and qualified; provided, however, the council shall have power for due cause to expel any of its own members, and to remove from office any officer or agent of the city except justices of the peace, due notice of such cause, and an opportunity to be heard before said council, being first given to the officer or agent proposed to be removed. The term of every officer elected under the provisions of this act, shall commence on the second Tuesday of April of the year for which such officer is elected; provided, that the terms of the officers elected at the first election under the provisions of this act shall commence on the fourth Tuesday in April, 1887, and the term of office of all officers elected at the first election under this act shall expire on the second Tuesday of April, 1889, except

in case of one alderman, one school commissioner and one supervisor whose term of office shall expire on the second Tuesday of April, 1888. The term of office of all appointed officers shall expire on the first day of May next following the time when he enters upon the office to which he is appointed. No person who is not a resident elector of said city shall be eligible to any office therein.

SECTION 6. At the first election held in said city under the provisions of this act, there shall be elected a mayor, an assessor, a city treasurer, a superintendent of schools, a justice of the peace and one constable from the city at large. At said election there shall be elected from each ward one alderman, one school commissioner and one supervisor, whose term of office shall be one year, and one alderman and one school commissioner, whose term of office shall be two years; aldermen and school commissioners elected thereafter, except to fill vacancies, shall hold their offices for two years; provided, however, that the aldermen and school commissioners of said city who are now in office and whose term of office does not expire until April, A. D. 1888, shall represent the ward in which they shall respectively reside as said city is divided by this act, and where there is any such alderman or school commissioner residing in any ward, only one alderman or school commissioner shall be elected at said first election, and they shall severally remain in office for two years; and provided also, that no elective officer shall be voted for at said first election, when there is now a person occupying such office, whose term of office, as now constituted, will not expire till April, 1888, but such person shall continue to exercise his said office until his successor, elected at the regular April election in the year 1888, shall have qualified. The ballots which shall be cast for aldermen and school commissioners at said first election shall designate the person voted for whose term of office shall be one year, and the person whose term of office shall be two years. The present marshal of said city shall continue in office until after the April election in the year 1888, and shall have all the powers of chief of police and shall perform the same duties and sustain the same liabilities, and the common council shall not appoint a chief of police hereunder until a

Officers to be  
elected on first  
election. 4

vacancy shall occur in said office of marshal, either by resignation or expiration of term of office. All the present appointed officers of said city shall remain in office until their successors are appointed and qualified.

Supervisor to be appointed.

SECTION 7. The common council shall appoint a supervisor to represent in the county board of supervisors of Waushara county, that part of said city which lies within Waushara county, and such supervisor shall possess all the powers of a supervisor of Waushara county.

Annual election.

SECTION 8. The annual election for city and ward officers shall be held on the first Tuesday in April in each year, at such convenient places as the common council shall direct; provided, that the first election under this act shall be held on the third Tuesday in April, 1887. The poll of each ward shall be kept open from nine o'clock in the forenoon until five o'clock in the afternoon of the same day, and shall be within the ward for which it is held. Ten days' notice of such election shall be given by the city clerk, by publication thereof in any newspaper published regularly in said city and if there be no such newspaper, then by posting three written or printed notices of such election in three public places in each ward of said city, but the omission to publish or post such notices, shall vitiate no such election. Special elections may be held, when ordered by a majority of the common council, specifying the objects thereof, provided ten days' notice thereof, specifying the time and places for holding the same, and the objects thereof, be given as above provided. Such notice may, in either case, be given by any five electors if there be no officer to give the same.

Qualified electors.

SECTION 9. All persons who are qualified electors of the state of Wisconsin, who have resided in the ward or precinct where he offers to vote for ten days prior to any election hereunder, shall be deemed a qualified elector of such precinct or ward.

Elections to be by ballot.

SECTION 10. All elections by the people shall be by ballot, and all votes for elective officers (except those whose duties appertain to school matters), at any election shall be upon one ballot, and be deposited in one ballot box, and all votes for elective officers whose duties appertain to school matters, at any election, shall be upon one other ballot,

and be deposited in one other ballot box, provided especially for such ballots. All elections by the common council shall be *viva voce*. A plurality of votes shall elect. If two or more persons receive an equal number of votes for the same office, the election shall be determined by the casting of lots in the presence of the council, at such time and in such manner as it shall direct.

SECTION 11. All elections held under the provisions hereof, shall be presided over by the inspector of elections appointed under the general laws of this state, who shall decide all questions which may arise, as to the legality of any vote presented, shall count the ballots at the close of the polls, and shall certify and receive two returns, and the day following the election, shall direct and return one of said returns to the city clerk of the city of Berlin, and the other to the county clerk of Green Lake county. The mayor of the city, and such members of the common council as shall hold over, shall constitute a board of canvassers, who shall within five days after such election meet at the council rooms in said city and canvass such returns, and after the aforesaid returns have been canvassed by said board, the mayor shall notify by a certificate the persons elected to the respective offices. All such elections shall be, except as herein otherwise provided, conducted and the result canvassed and certified, and the ballots preserved as in case of town meetings, and except as modified by this act, every statute relating to holding town meetings, canvassing and certifying the results thereof, and relating, or applicable to the duties of inspectors and clerks, the challenging of votes, and to voting thereat, and every statute prescribing and punishing offenders for illegal voting, bribery, fraud, deceit, corruption, official delinquency, or other offense at, or concerning elections, which is applicable to town meetings, is hereby extended and applied to elections held under this act.

General election law shall apply.

SECTION 12. Special elections shall be held and conducted, and returns thereof made, in all respects as herein provided for regular elections.

Special elections.

SECTION 13. All that part of section thirty-three and thirty-four, in township eighteen north, of range thirteen east, which lies within said city, shall be known as the second precinct of the Sec-

Second precinct of second ward.

ond ward, and at all elections, when there are any candidates to be voted for, other than city and ward officers, there shall be provided for such precinct, separate ballot boxes, poll lists and registry lists; and the electors in such precinct shall vote only in the ballot boxes thus provided. The polls of the election in the second precinct of the Second ward, shall be presided over by the inspectors of election; and the registry lists made, by the board of registration of the first precinct of said ward, which precinct shall be all of said ward not included within said precinct, such poll shall be held at the same place as the poll of said first precinct and all the laws governing registration, or elections made or held at any other poll in said city, shall apply to the registrations made and elections held for said precinct, except that all returns for state, county, judicial, or congressional, officers, shall be certified and returned to the county clerk of Waushara county, and the same, when so returned, shall be canvassed by the board of canvassers of Waushara county, in the same manner, and with like effect, as the returns from any poll of election in said Waushara county.

When office  
may be  
declared  
vacant.

SECTION 14. Any person elected or appointed under this act, who shall neglect, or refuse, to qualify for the space of twenty days, after being notified of his election, or appointment, or having qualified, shall, if a city officer, remove from the city, or if a ward officer, remove from the ward for which he was elected, or appointed, shall be deemed to have vacated his office, and the common council shall proceed to fill such vacancy.

How vacancies  
shall be filled.

SECTION 15. In event of a vacancy in any office of said city, from any cause, the common council shall fill the same by appointing some person who is qualified to such office. Any person elected or appointed to fill a vacancy shall hold the office and discharge the duties thereof for the unexpired term with the same rights and subject to the same liability as the person whose office he may be elected or appointed to fill. Any person elected or appointed to fill a vacancy shall enter at once upon the duties of such office.

## CHAPTER III.

## OFFICERS — THEIR POWERS AND DUTIES.

**SECTION 16.** The mayor, when present, shall Duties of the mayor defined. preside over the meetings of the common council, shall sign all ordinances, rules, by-laws, regulations, commissions, licenses, permits, deeds, bonds or contracts adopted, or authorized by the common council. He shall maintain peace and good order, see that the ordinances are faithfully obeyed and that all officers of the city discharge their respective duties, and in case of disturbance, riot or other apparent necessity, appoint as many special policemen as he shall deem necessary, who, for the time being, shall possess all the powers of constables. He shall, from time to time, give the common council such information, and recommend such measures as he may deem proper, and shall perform all duties imposed upon him by this act, or by ordinances or resolutions of the common council. He shall vote in the common council only in case of a tie. He shall have power to veto any ordinance or resolution passed by the common council, and also to command and direct the chief of police and the policemen of the city, at all fires, riots, disturbances of the peace, and tumultuous assemblages, and may, for disobedience of his orders or misconduct of any member of the police force, verbally or in writing, suspend such member of the police force, and stop his pay, until the common council shall take final action upon such order of suspension, which action shall be taken on or before the second regular meeting thereafter.

**SECTION 17.** The president of the common council, when present, shall preside at all meetings of the common council. In the absence of the mayor, and in case the mayor is absent from the city, or is unable to discharge the duties of his office, or if the office of mayor shall become vacant, he shall discharge all the duties of the office of mayor. If both the mayor and president are absent from any meeting of the council, the council may elect a temporary president, and the president and temporary president while acting Duties of president.

and performing the duties of mayor shall be styled "acting mayor."

Duties of clerk defined.

SECTION 18. The city clerk shall give a bond to the city of Berlin, to be approved by the common council; he shall keep the corporate seal and all papers and records of the city, and shall keep a record of the proceedings of the common council at whose meetings it shall be his duty to attend; he shall keep a detailed account of the financial condition of the city, in such form as the common council shall prescribe; he shall so keep the books of said city, that every subject of taxation shall be entered under its proper head as state, county, schools, bridges, and the like; he shall make copies of the assessments of the city when required by the common council and shall make and complete all tax rolls; he shall also keep an accurate account with the city treasurer, and charge him with all taxes levied and with all sums paid into the treasury; he shall make and keep a record of all bonded indebtedness, and of all coupons of the city, to whom, when and where payable; he shall report as often as the common council shall require, an estimate of the expenses of the city and of the revenues necessary to be raised for the current year; he shall countersign all contracts made in behalf of the city, and unless so countersigned they shall have no validity; he shall countersign all orders drawn on the city treasurer by order of the common council, and shall keep a correct record of the same; he shall also countersign all ordinances, orders, resolutions, licenses and permits passed or granted by the common council, and cause to be published or posted, every ordinance, order, resolution or by-law passed by the common council and adopted as provided herein; and he shall cause proper proof of such publication or posting to be made and filed in his office; he shall, ex-officio, be clerk of the board of health, clerk of the board of review, and clerk of the board of canvassers; he shall attend the meetings of such boards and keep a correct record of the proceedings thereof; he shall file in his office all chattel mortgages presented to him for that purpose, and safely keep the same therein, and shall receive therefor the same compensation as clerks of towns; and all the laws applicable to mortgages filed in the office of town

clerks are extended and made to apply to mortgages filed as aforesaid; he may make and certify under the corporate seal copies of any paper on file in his office, or transcripts from the records in his office, and the same when so made and certified, shall be evidence in all courts in like manner as if the original were produced; he shall transmit to the county clerk of Green Lake county within ten days after election and qualification, a certified statement of the name and term of office of the mayor, clerk, aldermen and treasurer; he shall also transmit a like statement to the county clerk of Waushara county, and also the name and term of office of the person who shall be appointed a supervisor of Waushara county; he shall make and transmit to the clerk of the circuit court of Green Lake county immediately after their election and qualification a like statement of the time and term for which elected, of every justice of the peace, constable, or chief of police of said city; he shall also perform all other duties required of him by law, or by any ordinance of said city; he shall have power to administer oaths, and take and certify the acknowledgement of deeds and instruments in writing; he shall appoint a deputy to be approved by the common council, for whose acts he shall be responsible and of whom he may require a bond. The deputy clerk shall, in the absence of the city clerk, have power to do any act which may be done by the city clerk.

SECTION 19. The treasurer shall collect and receive all moneys belonging to the city, and keep an accurate and detailed account thereof, together with an account of all disbursements, in such manner as the common council shall direct; he shall report to the common council as often as required by the council, and annually, at least ten days before the regular election in each year, a full and detailed account of all receipts and expenditures from the date of the last preceding annual report, and also the state of the treasury; which statement shall be filed with the city clerk; he shall be collector of taxes, as provided by the general laws of the state, and all general laws of the state relating to treasurers of towns as collectors of taxes shall apply to him, and he shall receive the same compensation, except that on all taxes collected prior to the tenth day of January

Duties of city treasurer, defined.

in any years such treasurer shall remit four per cent. of the five per cent. collection fee, and on all taxes collected thereafter he shall remit three per cent. of the five per cent. collection fees, and on all moneys paid into the city treasury on account of licenses and permits granted by the common council, he shall receive one per centum, to be by him retained from the same.

Duties of city  
attorney  
defined.

SECTION 20. The city attorney shall conduct all law business of said city and the departments thereof, and all actions or legal proceedings in which said city shall be a party or be interested, on behalf of said city; he shall, when requested by the common council, make and file with the city clerk his opinion in writing on any subject submitted to him by the mayor or council or by any department of said city. It shall be his duty to draft all ordinances, bonds, contracts, leases, conveyances, and such other instruments in writing as may be required by the common council, and to perform such other duties as may be prescribed by the ordinances of said city. The city attorney shall be paid an annual salary, the amount of which shall be fixed at the time of his appointment. No one not duly qualified as an attorney in courts of record shall be city attorney.

Duties of city  
surveyor.

SECTION 21. The city surveyor shall be a practical surveyor and engineer; he shall keep his office in some convenient place in said city. The common council shall prescribe his duties and fix his fees and compensation for any services performed by him. All surveys, plans, profiles and estimates, made by him for the city, shall be the property of the city, and shall be carefully preserved in the office of surveyor, open for the inspection of all persons who desire to inspect the same; and when required by the common council, he shall make and file with the city clerk, certified copies of all plans, profiles and estimates made by him; he shall deliver over to his successor in office, at the expiration of his term of office, all books and papers appertaining to said office.

Duties of chief  
engineer.

SECTION 22. The chief engineer of the fire department, shall, in all cases have control of the different fire companies of the city, their engines, steamers, and fire apparatus, and also the direction and control thereof when on duty, subject

only to the control of the common council; he shall see that the engines, steamers and apparatus of the fire department are kept in perfect order and readiness for immediate use, and cause all necessary repairs to be made, and report the same to the common council for approval and allowance; he shall use his utmost endeavors, in preventing and subduing fires, and in controlling the firemen thereat; he shall perform such other or further duties as are prescribed in the provisions of this act, and as shall be prescribed by the ordinances of said city; his compensation shall be fixed by the common council.

SECTION 23. The superintendent of schools shall be, *ex officio*, president of the board of education; he shall have the superintendence of all the public schools, school-houses, books and apparatus; he shall visit all schools as often as his duties shall require, and shall give special attention to the classification of the pupils in the several schools, and to the apportionment among the classes of the prescribed studies; he shall carefully observe the teachings and discipline of all teachers employed in the public schools, and shall report to the board whenever he shall find any teacher deficient or incompetent in the discharge of his or her duties; he shall attend all meetings of the board of education when required, and shall keep the board constantly informed of the condition of the public schools and the changes required in the same; he shall be the executive officer of the board of education, and shall see that the resolutions, regulations and rules of the board are faithfully executed and obeyed; he shall perform all other duties required of him by law.

Duties of superintendent of schools.

SECTION 24. The chief of police shall attend all meetings of the common council, and shall perform such duties as shall be prescribed by this act or by any ordinance of the city for the preservation of the peace, for the health of the people, and the collection of fines and license money; he shall possess the powers of constables at common law, or by the laws of this state, and shall receive like fees and be subject to the same liabilities; it shall be his duty to execute and return all writs and processes to him directed, or to any constable of the county of Green Lake, and when necessary in criminal cases, or for the violation of any

Duties of chief of police.

ordinance of said city or law of this state, may serve and execute the same in any part of this state; he shall, under the direction of the mayor, be chief executive of the police department; he shall repair to all fires, riots and tumultuous assemblages, take charge of the police present, and use every exertion to protect property, disperse mobs, and cause to be arrested all persons engaged in disturbing the peace; to apprehend any persons engaged in the act of committing any offence against any ordinance of said city, or law of said state, and within reasonable time bring such person before competent authority for examination, or trial; he shall have power to direct the policemen to any place where he shall deem their services necessary; he shall promptly report to the mayor all complaints against the policemen, and cause to be obeyed all rules and regulations prescribed for the police department; and he, or some policeman appointed by him, shall be keeper of the watch-house, and keep the keys thereof.

Duties of policemen.

SECTION 25. It shall be the duty of all policemen appointed under the provisions of this act, to faithfully perform such duties as shall be prescribed by the ordinances, laws and resolutions of the common council for the preservation of the public peace and health of the city; they shall possess all the powers of constables at common law, or by the laws of this state; they shall faithfully obey all ordinances, prescribing the manner and extent of their duty, and the time in which the same is to be performed; they shall obey all proper commands of their superior officers; they shall act as night or day watchmen for the city, if required, under such regulations as the common council shall prescribe.

Officers of the peace defined.

SECTION 26. The mayor, each and every alderman, justice of the peace, chief of police, policemen and constables, shall be officers of the peace, and shall suppress it in a summary manner, all riotous and disorderly behavior, within the limits of the city, and for such purpose may command the assistance of all by-standers and of all citizens. If any person shall refuse to aid in maintaining the peace, when so required, every such person shall be deemed guilty of a misdemeanor, and shall pay a fine of fifty dollars and the costs of prosecution, and in default of payment thereof,

shall be committed to the county jail of Green Lake county, for not to exceed sixty days. It shall be lawful for the mayor, any alderman, chief of police, every policeman or constable of the city, to arrest without warrant any person who shall be found drunk, disorderly, riotous or doing any act which shall by this act be made a misdemeanor, or by warrant, to arrest any person whom they, or any of them, shall find committing any violation of the laws or any ordinance of the city, and to take such person before a justice of the peace of the city, as soon thereafter as an examination or trial can be had before such justice, of the offense for which such person shall be arrested.

SECTION 27. The fire-warden shall examine as to the construction of all chimneys, fire-places, hearths, stoves, stove pipes, ovens, smoke-stacks, boilers and fire apparatus used in and about any building, and shall have power to prevent the improper construction thereof, and may cause them to be removed and placed in a secure and safe condition; he shall prevent the depositing or keeping ashes or any other combustible material in any place except such as is safe; and shall perform such other and further duties as shall be prescribed by the common council.

Duty of fire-warden.

SECTION 28. The justices of the peace elected under the provisions of this act, shall have the same jurisdiction and perform all duties of justices of the peace as provided by the general laws of this state, except that their official bonds shall be approved by the common council, and in addition thereto they shall have jurisdiction in all cases arising under the ordinances and laws passed by said city, unless otherwise provided.

Duty of justice of the peace.

SECTION 29. The assessor shall assess all the taxable property in said city as required by law, without regard to wards; he shall make two assessment rolls, one for that territory of country herein known and described as the second precinct of the second ward, and the other roll to comprise all of said city except said second precinct, and shall return said rolls to the common council on the day fixed by the general laws of this state. The assessor shall receive for his services such compensation as the common council shall determine.

Duties of assessor.

Common council shall order clerk to advertise for public newspaper.

**SECTION 30.** The common council shall, at the first regular meeting of the new council in each year, or as soon thereafter as may be, order the city clerk to advertise for proposals for all the printing and publication necessary to be done by the city for the year then next ensuing, except as otherwise provided herein, and said printing and publication shall be let to the lowest bidder, who shall be styled the city printer; provided, that the same shall be let to the printer of some newspaper published in said city. The city printer or printers immediately after the publication of any notice, ordinance or resolution, which by this act or any ordinance of said city is required to be published shall make and file with the city clerk of said city a copy of such publication, with his or their affidavit or the affidavit of his or their foreman, of the length of time the same has been published, and such affidavit shall be conclusive evidence of the publication of such notice, ordinance or resolution. In letting the city printing the common council shall have the right to reject any and all bids.

Street commissioner to be ex-officio policeman.

**SECTION 31.** The street commissioner shall be ex-officio a policeman, and shall hold his office where directed by the common council, and shall receive a per diem compensation for the days he shall actually serve, to be fixed by that body. He shall give a bond to the city in such sum and with such sureties as the council shall require; he shall attend the stated monthly meetings of the common council and shall present in writing at each meeting a sworn statement showing in detail the amount and cost of all materials used and labor employed by the city during the previous month, and of whom purchased, and where used, and he shall make such purchases from time to time, as the council shall direct, but not inconsistent with this act; and at the end of his term of office, make a full report thereof, to that body. His powers and duties, except as herein provided and defined, shall be prescribed by the common council. He shall deliver over to his successor in office, at the expiration of his term of office all books, records, papers and other property pertaining to said office or belonging to the city, and all records and papers in his office or pertaining

thereto shall be open to the inspection of any citizen of the city, at all reasonable hours.

#### CHAPTER IV.

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

SECTION 32. The mayor and aldermen shall constitute the common council. The style of all ordinances shall be "the mayor and common council of the city of Berlin do ordain," etc. A majority of the aldermen shall constitute a quorum, but a less number may adjourn from time to time and compel the attendance of absent members. Regular meetings of the council shall be held on the second Tuesday in April of each year, at the council rooms in said city, and at such other times and places as the council by resolution shall appoint. The mayor, or a majority of the common council, may call special meetings of said council by filing a written notice of the same with the city clerk, who shall thereupon seasonably notify the aldermen of the time and place thereof, as directed by the by-laws adopted by said council. All meetings shall be open to the public. The common council shall keep a record of its proceedings, determine its own rules of procedure, shall have power to preserve order at its meetings, be the judge of the election and qualification of its members, shall have power to compel the attendance of absent members, and to punish for non-attendance.

Common council—how constituted.

SECTION 33. Every member of the common council, who shall directly or indirectly vote to himself, or knowingly to any other person, any sum of money for any purpose whatever in violation of this act or any amendment hereto, or shall ask or receive any compensation for doing any official act, except as inspector of elections, member of the board of registry, member of the board of equalization, or member of the county board of supervisors; and every member of the common council, or other elective officer of said city, who shall be directly or indirectly interested in any contract made with or in behalf of the city, and every member of the council, or other city officer

Penalty for voting money to self.

who shall, directly or indirectly, purchase or be interested in the purchase of any city order or city indebtedness for less than the full amount thereof, shall be guilty of a misdemeanor and shall be punished by a fine not exceeding one hundred dollars, nor less than twenty dollars, or by imprisonment in the county jail not more than sixty days, nor less than ten days, or by both such fine and imprisonment, at the discretion of the court.

Officers to be appointed at first meeting.

SECTION 34. At the first meeting of the common council, or as soon thereafter as may be, the following officers shall be appointed by the common council, to wit: a president of the council, a city attorney, a city surveyor, a chief engineer, a chief of police and policemen, a fire-warden, and such other officers as the interest and welfare of the city may require.

All instruments to be sealed with corporate seal.

SECTION 35. Every contract, conveyance, commission, license or other written instrument, shall be executed on the part of the city by the mayor and city clerk, sealed with the corporate seal, and in pursuance of authority therefore from the common council.

Control of finances.

SECTION 36. The common council shall have the control and management of all the finances, and of all the other property of the city, and shall likewise, in addition to the powers herein vested in said council, have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify, amend and repeal all such ordinances, rules and by-laws for the government and good order of the city, for the suppression of vice and for the prevention of crime, and for the benefit of trade, commerce and health thereof, as they shall deem expedient; declaring and imposing penalties, and to enforce the same against any person or persons who may violate any of the provisions of such ordinances, laws, rules or by-laws, and such ordinances, rules and by-laws are hereby declared to be and have the force of law; provided, they be not repugnant to the constitution or laws of the United States or the state of Wisconsin; and for such purposes shall have authority, by ordinances, resolutions, by-laws or vote:

\* Rules.

1. To regulate the mode of and establish rules for their proceedings.

2. To adopt a corporate seal and alter the same Corporate seal.  
at pleasure.

3. To manage, regulate and control the finances Control of  
finances.  
of said city, and to receive, purchase, regulate,  
preserve, sell and convey the property, real and  
personal, belonging to said city.

4. To limit and define the duties and powers of Dr. fine powers.  
of officers.  
officers and agents of the city, fix their compen-  
sation and fill vacancies, when no other provision  
is made by law, to require all officers and agents  
of the city to take and file an oath of office, and  
execute a bond to the city, conditioned for the  
faithful discharge of their duties and the proper  
application and payment of all moneys that may  
come into their hands by virtue of such office or  
employment, and to fix the penalty of such bonds,  
and to call special elections, and to appoint in-  
spectors and clerks of elections.

5. To adopt all legal and requisite measures Collecting  
licenses.  
for collecting licenses, taxes and assessments.

6. To license, prohibit, regulate, tax and sup- Shows, etc.  
press the exhibitions of common showmen or  
shows of any kind, or exhibitions of caravans,  
circuses, theatrical performances, musical enter-  
tainments, billiard tables, bowling saloons, ten-  
pin alleys, or nine-pin alleys; to fix the amount  
to be paid for such licenses and prescribe the time  
when the same shall expire.

7. To grant licenses for the sale of strong, spir- Liquor licenses.  
ituous, or fermented liquors, ale or beer and to re-  
voke the same, under and upon such terms and  
conditions as is now, or shall hereafter be required  
by the general laws of the state of Wisconsin, and  
to regulate and control the places wherein such  
liquors, wine, beer or ale shall be sold.

8. To restrain or prohibit all descriptions of Gambling.  
gaming and fraudulent device and practice and  
all playing of games of cards, dice or other games  
of chance in said city, and to authorize the des-  
truction of all instruments and devices used for  
the purpose of gaming.

9. To prevent any riots, noise, disturbance, or Riots.  
disorderly assemblages, to suppress and restrain  
disorderly houses and saloons and groceries and  
houses of ill-fame.

10. To compel the owner or occupant of any Nauseous  
places.  
grocery, cellar, tallow-chandler's shop, soap fac-  
tory, tannery, stable, barn, privy, sewer or other

unwholesome or nauseous house or place, to cleanse, remove or abate the same, from time to time, as often as it may be deemed necessary for the health, comfort and convenience of the inhabitants of said city, and to compel the abatement of all nuisances under the common law.

Brewries,  
tanneries, etc.

11. 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, 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.

Markets.

12. To establish and regulate public markets, determine their location and make rules and regulations for the government of the same, and 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.

Sale of provisions.

13. To regulate butchers, and to regulate and restrain the sale of game, poultry, fresh meat, vegetables, fish, butter, fruits, eggs; and other provisions in the city; to restrain and punish the forestalling of poultry, fruit and eggs; and to cause the seizure and destruction or other disposition of tainted or other unwholesome meat, butter, vegetables, fruit or provisions.

Storing gunpowder.

14. To direct the location or management of houses for the storing of gunpowder or other combustibles within the city.

Sale of gunpowder.

15. To regulate and restrain the keeping and conveying of gunpowder, and other combustible and other dangerous materials in said city.

Shooting fire-arms.

16. To prevent the shooting and firing of any fire-arms or crackers, or of any fire-works at any time, or in any situation which may be considered by the common council dangerous to the city, or to any property therein, or annoying any citizen thereof.

Incumbering streets.

17. To prevent the incumbering of streets, sidewalks, lanes, alleys, public grounds, wharves and docks with carriages, carts, wagons, sleighs, sleds, wheel-barrows, boxes, lumber, fire-wood,

timber, posts, signs, awnings, or any other substance or material or in any manner whatsoever.

18. To prevent horse-racing, or immoderate riding or driving, in the streets or upon any bridge in said city, and to authorize any person to stop persons immoderately riding or diving 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 ground. Horse-racing,  
etc.

19. To regulate and determine the times and places of bathing or swimming in the river or other waters in and adjoining said city, and to prevent obscene or indecent exhibition, exposure or conduct. Swimming.

20. To restrain and punish vagrants, mendicants, street beggars, prostitutes, and to restrain drunkards, immoderate drinking or obscenity in the streets or public places, and to provide for arresting, removing and punishing any one guilty of the same. Vagrancy.

21. To restrain, regulate or prohibit the running at large of cattle, horses, mules, swine, sheep, goats, poultry and geese, and to authorize the restraining, impounding and sale of the same, for the penalty incurred, and the costs of proceedings and also to impose penalties upon the owners of any such animals, poultry and geese for a violation of any ordinance in relation thereto. Estrays.

22. To prevent the running at large of cats and dogs in said city, and to authorize the destruction of the same in a summary manner, when at large contrary to any ordinance. Restrain dogs.

23. To provide for licensing the keeping of dogs in said city, at a sum or rate not less than one dollar, nor more than three dollars a year for each dog, and to provide for a badge or token to be carried by each licensed dog, and for the killing and destruction in a summary manner of all dogs not licensed, wherever they may be found in the city, and of licensed dogs at large in the streets, alleys or public grounds, in said city, and to punish persons for keeping unlicensed dogs. Licensing dogs.

24. To license, regulate and suppress hackmen, draymen, cartmen, porters, omnibus drivers, cabmen, carmen, and all others, whether in the per- License dray-  
men, etc.

manent employment of any corporation or otherwise, who may pursue such or said occupation with or without vehicles, and to prescribe his compensation.

Games in streets.

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

Contagious diseases.

26. To make regulations to prevent the introduction of contagious or infectious diseases into the city, or their spread therein.

Abate nuisances.

27. To abate all nuisances that 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 may be deemed expedient for the preservation of health and the suppression of disease.

Burial of the dead.

28. To regulate the burial of the dead, and the registration of births and deaths, to provide hospitals and cemetery grounds, and to care for, maintain and make rules and regulations in relation to the same; 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, or for a violation of any rule or regulation adopted by the council aforesaid.

Removal of nuisances.

29. To abate and remove all nuisances under the ordinances, or at the common law, and punish the authors thereof, by penalties, fines or imprisonment, and to define and declare what shall be deemed nuisances, and shall authorize the summary abatement thereof, but nothing in this act shall be construed to oust any court of its jurisdiction, to abate or remove nuisances in the streets, or any part of said city by individuals or otherwise.

Putrid carcasses.

30. To prevent any person from bringing, having or depositing within the limits of said city, any putrid carcass, or any other unwholesome substances, and to require the removal or destruction of the same, by any person who shall have upon or near his premises any putrid or unsound beef, pork, fish, hides, or skins of any kind, and on his default to remove or cause the destruction thereof by some officer or officers of the city at the expense of such person or persons.

31. To erect and establish one or more pest houses, hospitals and dispensaries, and control and regulate the same. Pest houses.

32. To prevent the ringing of bells, blowing of horns and bugles, crying of goods, and all other noises tending to the collection of persons by auctioneers or others for the purpose of business, amusement or otherwise. Noises in streets.

33. To compel the owners or occupants of buildings or grounds to remove and keep snow, ice, dirt or rubbish from the sidewalk or alley opposite thereto, and to compel such owners or occupants to remove from the lots owned or occupied by them all such substances that the board of health shall direct, and on their default, to authorize the removal or destruction thereof by some officer of the city at the expense of such owners or occupants. Removal of snow, dirt and rubbish from sidewalks.

34. To control, regulate, repair and clean the streets, alleys, bridges, public grounds and side and crosswalks, and open, widen, straighten and vacate streets and alleys and establish and alter the grade thereof, and prevent the encumbering of the streets and alleys in any manner and protect the same from any encroachment or injury, and remove and abate any obstructions and encroachments therein, and to regulate the manner of using streets and pavements in said city, and protect the same from injury from vehicles used thereon. Riding and driving on sidewalks.

35. To prevent all persons from riding or driving any cattle, horse, mule, or any other animal on the sidewalks in said city, and protect the same from injury or damage. Opening and vacating streets.

36. To make, establish and regulate public pounds, pumps, wells, cisterns and reservoirs, and to provide for the erection and maintenance of water-works for the supply of water to the inhabitants, and to prevent the unnecessary waste of water. Public pounds.

37. To erect lamps and regulate the lighting thereof, and to provide for lighting the streets and public grounds and public buildings with gas or otherwise. Lighting of streets, etc.

38. To regulate the sale of bread within said city, and to prescribe the size and weight of bread in the loaf and the quality of the same, and to provide for the seizure and forfeiture of bread Bread.

baked contrary to such regulations and prescriptions.

Weights and  
measures.

39. To require every merchant, retailer, trader and dealer in merchandise, or property of any description that is sold by weight or measure to cause his weights or measures to be sealed by the city sealer, and to be subject to his inspection, and provide for the punishment of persons using false weights and measures; the standard of such weights and measures shall be conformable to those established by law in this state.

Things sold by  
weights.

40. To regulate the weight and sale of hay and places and manner thereof; to regulate the cutting and sale of ice, and to restrain the sale of ice that is impure, also to regulate the measuring and sale of wood, and the weighing and selling of coal and lime, and the places and manner thereof; to appoint suitable persons to superintend and conduct the same, fix their compensation and define their duties.

Auctions.

41. To regulate the times and places of holding public auctions and vendues.

Inspector of  
engines.

42. To provide for the inspection and regulation of stationary steam engines and boilers; to appoint inspectors of the same, and a sealer of weights and measures, and define their duties and fix their compensation.

Public parks.

43. To establish and regulate public grounds, parks and boulevards, and to purchase grounds for the same.

Watchmen, etc.

44. To appoint watchmen, policemen, and a fire-warden, and regulate the same and prescribe their duties.

Numbering  
houses.

45. To compel the owners or occupants of houses, stores or other buildings within said city, to number the same in a manner the common council may from time to time prescribe.

Destruction of  
noxious weeds.

46. To declare noxious plants and weeds growing on lots, or parts of lots, or on lands in said city, a public nuisance, and proceed to abate the same as the said city is authorized by law to abate other nuisances.

May impose  
fines.

47. To impose fines for all violations within said city of the general laws of the state when, in the judgment of the common council, it is necessary for the peace and good order, or for the health of said city.

48. To direct and regulate the planting of ornamental trees and the erection of monuments in the streets, alleys, and public grounds of said city.

Ornamental trees.

49. To prevent any use of the waters of Fox river within the limits of the city, or any act in relation thereto, inconsistent or detrimental to the public health, or calculated to render the water of the same, or any part thereof, impure or offensive, or tending in any degree to fill up or obstruct the same; to prevent the casting or depositing therein of any earth, dead animals, ashes or other substance or filth, or floating matter; and punish any person or persons who shall cast or deposit the same therein; to prevent or remove all obstructions therein, and punish the authors thereof.

Deterioration of water.

50. To regulate and control the construction of piers and wharves on Fox river within the limits of said city, and to prescribe and control the prices to be charged for pierage and wharfage thereon, and to regulate, prescribe and control the prices to be charged for dockage and storage within said city.

Piers and wharves.

51. 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 that are destitute of parental care and growing up in mendicancy, ignorance, idleness and vice.

Educating destitute children.

52. To authorize the arrest, fine, and imprisonment as vagrants, of all persons, who not having visible means to sustain themselves, are without employment, idly loitering or rambling about, or staying in groceries, drinking saloons, houses of ill fame, houses of bad repute, gambling houses, railroad depots or fire-engine houses, or who shall be found to be trespassing in the night time on the private premises of another, or begging or placing themselves in the street or other thoroughfares or public places to beg or receive alms; also keepers, exhibitors or visitors of any gaming tables, gambling houses, houses of fortune telling, places of cock fighting, or other places of devise, and 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 pretences, or who shall

Vagrancy.

disturb any place where public or private schools are held either on week day or on Sabbath day or places where religious worship is held.

Carrying concealed weapons.

53. To regulate or prohibit the carrying or wearing by any person under his clothes or concealed about his person of any pistol, slingshot, knuckles of lead, brass or other metal, or bowie knife, dirk knife, dagger, or other dangerous or deadly weapon; and to provide for the confiscation and sale of such weapon.

Construction of buildings.

54. To control and regulate the construction of buildings, chimneys and stacks; and to prevent or prohibit the erection or maintenance of any insecure or unsafe building, stack, wall or chimney in said city, and prescribe penalties for the violation of such rules and regulations as they may adopt in relation to the same, and to declare them to be a nuisance and to provide for their summary abatement where by reason of fire or any other cause, the same may become dangerous to life or health.

Street railway

55. To grant by ordinance all rights of way through any street to any person, persons or corporation proposing to build thereon street railroads, cars thereon to be propelled by horse-power, and to grant them rights and privileges under such limitations as they may direct.

Grading lots.

56. To direct the digging down or filling up of lots whenever the same may be deemed necessary to prevent injury to the streets, side or crosswalks at the expense of the owners thereof, and to prevent, prohibit and cause the removal of all obstructions and incumbrances in and upon all wharves, streets, lanes, alleys, sewers, gutters, ditches, streams and public grounds of said city.

Watch-houses.

57. To erect and establish a watch-house for the confinement of all persons who may or shall be arrested for violating any ordinance of said city, and to purchase or lease all necessary grounds therefor and pass all such ordinances for the regulation thereof as may be necessary.

Electric wires, etc.

58. To regulate, control and prohibit the location, laying, use and management of telegraph, telephone and electric light power wires and poles.

Boards of health.

59. To establish and regulate boards of health.

Penalties for violations.

60. To prescribe penalties for the violation of any ordinance or by-law, to be not less than one

dollar nor more than one hundred dollars in any case besides the cost of suit in all cases, and in default of payment to provide for committing the person convicted to the watch-house or place of confinement in said city, or to the county jail of Green Lake county, until payment of such fine and costs be made, but not to exceed ninety days in all, or to provide that in default of payment of such fine and costs that such person or persons shall work out the same upon the public streets of said city or otherwise as the common council shall direct.

SECTION 36. Every ordinance or resolution of the common council, excepting those prescribing rules for their government (and the appointment of officers), shall before it takes effect be presented to the mayor. If he approves of it he shall sign it, in which case it shall take effect immediately thereafter, unless otherwise provided for, in the resolution or ordinance. If he does not approve it, he shall return it with his objections to the city clerk within five days after he shall have received it. The common council may then proceed to reconsider the same, and if two-thirds of all the aldermen shall agree to pass the same it shall take effect as a law. In every such case the votes shall be taken by ayes and naves, to be entered upon the records. If such ordinance or resolution shall not be returned within five days after receiving the same it shall take effect in like manner as if he shall have signed it. Before any such ordinance or resolution shall be in force, it 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.

Ordinances must first be presented to the mayor.

SECTION 37. The powers conferred on said council providing for the abatement and removal of nuisances shall not bar or hinder suits or prosecutions in the courts according to law. Depots, houses or buildings of any kind wherein more than ten pounds of gunpowder is deposited, stored, or kept at any one time, gambling houses, houses of ill-fame, disorderly taverns or houses and places where spirituous, vinous or fermented liquors are sold where a license is not required or granted therefor, within the limits of said city, shall be deemed and declared a public nuisance.

Shall not bar or hinder suits.

Examine and  
adjust  
accounts.

**SECTION 38.** The common council shall examine, audit and adjust the accounts of city officers or agents at such times as they shall deem proper, and also at the end of each year, and before the time for which the officers who are elected or appointed shall have expired, and the common council shall require each and every such officer or agent to exhibit his books, accounts and moneys, and vouchers for such examination and settlement. And if any such officer or agent shall refuse to comply with the order of said council in discharge of said duties, or shall neglect or refuse to render his accounts or exhibit his books, funds, moneys or 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 the city, who may be found delinquent or faulty in his accounts or in the discharge of his official duties, and the common council shall cause to be made a full statement of all such settlements and adjustments.

Payment of  
accounts.

**SECTION 39.** All accounts or demands against the city, except salaries or amounts previously fixed by law, or by resolution of the common council, before the same shall be allowed, shall be verified by affidavit, and any person who shall falsely swear to any such account or such demand shall be deemed guilty of perjury.

**SECTION 40.** No money shall be appropriated or drawn out of the city treasury except in payment of accounts or demands allowed by the common council, and except as otherwise provided herein, and no interest shall be paid on any city order or certificate whatever; provided however, that when the city being duly authorized thereto, shall borrow money, certificates of appropriation or bonds therefor may be issued, payable at such time or times as the council may determine, and such certificates may be drawn to bear interest at a rate not exceeding seven per centum per annum, and when so drawn and signed by the mayor and clerk, interest shall be paid thereon as therein expressed.

Claim must  
first be pre-  
sented.

**SECTION 41.** No action shall be maintained by any person against said city upon any claim or demand, whether the same shall arise out of tort or contract, until such person shall first have

presented his claim or demand to the common council for allowance except city orders, duly issued by the common council after payment thereof has been duly demanded.

SECTION 42. The determination of the common council, disallowing in whole or in part any claim of any person, whether such claim arises from tort or contract, shall be final and conclusive, and a perpetual bar to any action in any court founded upon such claim, except that such person may appeal to the circuit court of Green Lake county as hereinafter provided.

Determination of council to be final.

SECTION 43. In case any person shall present his claim or demand to the common council, and the said claim shall be disallowed in whole or in part by such council, such claim shall not thereafter be entered or considered by the common council, but the claimant may prosecute his said claim by appeal to the circuit court and not otherwise.

Claimant may appeal to circuit court.

SECTION 44. When any claim against the city shall be disallowed in whole or in part by the common council, the person preferring such claim may appeal from the decision of the common council disallowing such claim, to the circuit court of the county of Green Lake, by causing a written notice of such appeal to be served on the clerk of said city within twenty days after the making of such decision. The city clerk, in case such appeal is taken, shall make a brief statement of the proceedings had in the case before the council, with its decision thereon, and shall transmit the same, together with all papers in the case, to the clerk of the circuit court of Green Lake county, and said circuit court shall thereupon have full jurisdiction of such appeal as though such action had been originally brought therein.

When claimant may appeal.

SECTION 45. Upon such appeal being taken, the clerk shall forthwith give notice thereof to the mayor and city attorney, and shall also report the same to the common council at its first meeting thereafter.

Clerk to give notice of appeal.

SECTION 46. The common council is authorized to compel the attendance of witnesses to testify upon any matter pending or under consideration by the council; and any witness who shall testify falsely before such council shall be deemed guilty of perjury, and shall be punished in the manner

Attendance of witnesses.

provided by law for that offense. The subpoena to compel attendance of witnesses shall be signed by the mayor, and may be served by any person authorized to serve process from justice courts. Witnesses shall be entitled to receive the same fees allowed to witnesses in justices courts, but they shall not receive their pay in advance. Any person refusing to obey any such subpoena or refusing to testify before the common council, shall be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than one dollar, nor more than fifty dollars, besides the costs of prosecution, and in default of payment of such fine and costs, shall be committed to the common jail of Green Lake county for not to exceed sixty days.

Limit sixty days.

SECTION 47. When any claim, duly verified, shall have been presented to the city clerk, and the common council shall neglect or refuse to allow or disallow the same for sixty days thereafter, it shall be deemed and taken to be disallowed, and the owner or holder thereof shall have the same right to appeal as in case of a disallowed claim.

No officer can appear against city.

SECTION 48. No member of the common council, or of the board of education, nor the mayor, city clerk or city attorney, if by profession an attorney-at-law of this state, nor any member of a law firm of which he is a member, shall be permitted to appear against the city in any action or appeal in which the city is a party.

Certified copies of plats.

SECTION 49. The common council shall as soon hereafter as practicable, cause to be made and filed in the office of the city surveyor, certified copies of all the plats now, or hereafter, recorded in the office of the register of deeds of Green Lake or Waushara counties, which in any way relate to any lands in said city, and the same, when so filed, shall be kept open to the inspectors of all citizens of said city during reasonable hours.

## CHAPTER V.

### FINANCES.

Finances.

SECTION 50. All moneys, credits and demands belonging to the city, shall be deposited with and kept by the city treasurer, and shall, except the

school fund, be under the control of the common council, and shall be drawn out only upon the order of the mayor and city clerk, thereunto duly authorized by the common council; provided, that the school fund shall be drawn out only as hereinafter provided, in relation to the school fund. All orders drawn upon the treasury may be payable generally out of any funds in the treasury belonging to the city, except the school fund; and all orders drawn upon the treasury of the city, shall be made payable to the person in whose favor they may be drawn, or bearer; all such orders shall be received in payment of any city taxes levied and assessed, except for school purposes.

SECTION 51. The common council of said city may levy annually upon the taxable property of said city to defray the current expenses of said city, a tax on all property, real, personal or mixed, within said city, subject to taxation by the laws of this state, such tax, however, not to exceed for all city purposes, except for schools, ten mills on each dollar of taxable property of the city, as shown by the assessment roll of that year for which the tax is levied.

Tax on all property annually unless exempt.

SECTION 52. The common council shall cause to be levied annually upon the taxable property of said city, such sum or sums of money as the board of education shall determine and certify as necessary to be raised for defraying the current expenses of the public schools of the city; provided, that the sum or sums so levied in any year shall not exceed the sum, which the board of education is by this act authorized to call for to be used in the public schools of said city.

School tax.

SECTION 53. The common council shall cause to be levied annually upon the taxable property of said city, such sum or sums of money as the board of education shall determine and certify to be necessary for the purchase of school-houses, sites, or for the building or repairing of school-houses, and that the amount so levied in any one year shall not exceed the sum which the board of education shall certify as necessary for such purposes as provided by this act.

Purchase of school houses.

SECTION 54. All moneys levied and raised for the purpose of defraying the current expenses of the public schools, or for the purchase of sites for school-houses, or for building or repairing school-

Moneys for school purposes to be in one fund.

houses, shall, after they are collected, constitute one fund, subject to the control of the board of education, for school purposes, in said city. All moneys raised in said city, for school purposes, shall be paid to the city treasurer, who shall be accountable therefor in the same manner as for other moneys of said city.

Credit of the board of education.

SECTION 55. All moneys coming into the hands of the city treasurer, by any provision of law, by gift or otherwise, for the use and benefit of the public schools of said city, shall be placed by him to the credit of the board of education of said city; and such moneys shall not be paid out by him, except upon an order drawn upon him, by direction of the board of education, and signed by the superintendent of schools and countersigned by the clerk of the board of education; and all such orders shall be made payable to the person or persons entitled to receive the same.

Exempt property.

SECTION 56. No property in said city shall be exempt from taxation, except such as is exempt from taxation under the general law of this state; provided, however, that real estate exempt from taxation by the laws of this state shall be subject to special taxes for sidewalks, sewers, and street improvements on the same.

Taxes are a lien on property.

SECTION 57. All taxes, special or general, levied under this act, shall be a lien upon and against the property upon which the same is levied, and shall be collected in the same extent and in like manner as provided in the law of this state, in relation to the levy and collection of taxes in towns.

Return of assessment roll.

SECTION 58. The assessor shall complete and return his assessment rolls to the board of review of said city, on or before the first Monday in August in each year. During the last week of the month of July in each year, the assessor shall attend at the chamber of the common council, and there hear the complaints of persons who may feel themselves aggrieved by such assessment, and he shall make alterations and amendments thereto, such as justice and equity may require.

Board of review.

SECTION 59. The mayor, city clerk and assessor shall constitute a board of review and equalization, and shall meet at the chambers of the common council on the first Monday of August in each year, and shall proceed in all respects as town

boards are required by law to proceed in reviewing or equalizing assessment rolls, and lands omitted from the assessment of previous years, shall be re-assessed as provided in the general laws of the state in respect thereto.

SECTION 60. After the correction and revisions of the assessment rolls of the city, the same shall be filed with the city clerk, who shall record all changes made therein by the board of review.

Changes in roll.

SECTION 61. The common council shall, on or before the third Tuesday in November, of each year, by resolution, levy such sum or sums of money not exceeding the authorized per centage, as may be sufficient for the several purposes for which taxes are herein authorized to be levied, particularly specifying the purposes for which the same are levied.

Annual tax levy.

SECTION 62. That part of the city of Berlin lying within Waushara county, and herein described as the second precinct of the second ward, shall be considered for the purposes of county and state taxes, as a town in Waushara county, and the county board of supervisors of said Waushara county shall apportion the county and state tax as to such district and the county clerk of said county shall certify the same to the city clerk of said city in the same manner and with like effect as provided in the general laws of this state in relation to the apportionment of taxes, and the certifying such apportionment to any town in said Waushara county; provided, however, that no tax shall be apportioned or assessed against said territory on account of salary or stationery of the superintendent of schools of said Waushara county.

A part of city to be considered as a town.

SECTION 63. The city clerk, on receiving the corrected assessment rolls, and a certificate of the amount of state, county and school tax apportioned to said city, shall calculate and carry out the total amount of such taxes upon a uniform percentage against the property returned in said assessment rolls, the taxes apportioned to said city by the board of supervisors of Waushara county upon the assessment roll returned from the second precinct of the Second ward, and the taxes apportioned against said city by the board of supervisors of Green Lake county, upon the assessment roll returned for all of said city lying

City clerk to calculate tax roll.

within Green Lake county, and shall also calculate and carry out upon both said rolls the total amount of all city and other local taxes, setting down opposite to the several sums set down as the valuation of the real and personal property, the respective sums assessed as taxes thereon, in dollars and cents, rejecting the fraction of a cent when less than one-half, otherwise reckoning said fraction as one cent. The said clerk shall also calculate and carry out on both said rolls, in the same manner, the total amount of all sums due from the city on account of moneys heretofore or hereafter borrowed by said city by authority of law; and also all judgments recovered against said city as provided in the general laws of the state. Said clerk shall also enter upon both said rolls, in an additional column opposite each valuation, five per centum upon all the taxes charged therein as a collection fee.

Duplicate copy to be made out.

SECTION 64. Upon completion of said rolls, the clerk shall make a duplicate copy of each thereof, and deliver such duplicate copies to the city treasurer on or before the first day of December in each year. To each of the rolls so delivered shall be annexed a warrant, under the hand of the city clerk, and the corporate seal of said city, which warrant shall be substantially in the form prescribed by the general laws of this state, to be delivered to town treasurers.

Prima facie evidence.

SECTION 65. The said assessment rolls and warrants thereto attached shall be prima facie evidence in all courts that the lands and persons therein named, were subject to taxation, and that the assessment was just and equal.

Remission of taxes.

SECTION 66. After the assessment rolls are completed, and placed in the hands of the city treasurer for collection, it shall not be lawful for the common council to remit, annul or cancel any tax charged against any real or personal property except in the following specified cases:

Clerical error.

1. When a clerical error has been made in descriptions or transfer of the property from the original assessment lists or books, or in the extension of the tax.

2. When the tax is manifestly illegal and void by reason of the exemptions of the property from taxation by law.

SECTION 67. The city treasurer, upon the receipt of such duplicate copies of the tax lists, shall proceed to collect the same in like manner, and shall have the same powers and be subject to like requirements, liabilities and restrictions as town treasurers, except as otherwise provided by this act.

City treasurer.  
to collect.

SECTION 68. All the general laws of this state which now are, or hereafter shall be in force relative to the assessment and collection of taxes, shall be in force in said city, except as herein otherwise specially provided.

General laws  
in force.

SECTION 69. The city treasurer of said city shall make and return two delinquent lists, the one for the second precinct of the Second ward to the county treasurer of Waushara county, and one for all of said city not comprised in said precinct, to the county treasurer of Green Lake county; such lists shall be made and returned at the same time and in the same manner, and the penalty of five per centum shall be included therein as provided by the general laws of this state in regard to delinquent tax lists of treasurers in towns; and he shall also settle with and pay over all moneys properly payable to county treasurers of said counties as provided in relation to town treasurers by said general law.

Return of  
delinquent tax  
roll.

SECTION 70. No error or informality in the proceedings of any of the officers in assessing property, levying or collecting taxes, or in making return of unpaid taxes, not affecting the substantial justice of the tax itself, shall vitiate, invalidate, or in anywise affect the validity of the assessment or of the tax.

Does not  
vitate assess-  
ment or tax.

SECTION 71. No tax shall be apportioned, assessed or levied against any property in said city on account of the salaries of the superintendents of schools of Green Lake and Waushara counties, or either of them.

Superintend-  
ent's salary.

## CHAPTER VI.

### LAYING OUT OR ALTERING STREETS, ALLEYS, ETC.

SECTION 72. Whenever the common council shall intend to lay out and open, change, widen or extend any street, lane, alley, public grounds,

Laying out  
streets.

square or other place or to construct and open, alter, enlarge or extend drains, canals or sewers, or alter, widen or straighten water-courses therein, and it shall be necessary to take private property therefor, they shall cause an accurate survey and plat thereof to be made and filed with the clerk, and they may purchase or take by donation such grounds as shall be needed, by agreement with the owners, and take from them conveyances thereof to the city, for such use or in fee; but otherwise they shall, by resolution, declare their purpose to take the same, and therein describe by metes and bounds the location of the proposed improvements and the land proposed to be taken therefor, defining separately each parcel and the amount thereof owned by a distinct owner, mentioning the names of the owners or occupants so far as known, and therein fix a day, hour and place when and where they will apply to the county judge or a court commissioner of Green Lake county, or a justice of the peace of Green Lake county, for a jury to condemn and appraise the same.

Appointment  
of a jury—how  
ordered.

SECTION 73. They shall thereupon cause to be made by the clerk a notice of the adoption of such resolution, embracing a copy thereof, and notifying all parties interested that the common council will, at the time and place named, apply to the judge, commissioner or justice named, for the appointment of a jury to condemn and appraise such lands. A copy of such notice shall be served by the chief of police, or any constable, on the owner of each such parcel of land to be taken, if known and a resident within the county; such service to be made in the manner prescribed for serving a summons in an action in the circuit court, and the return of the officers shall be conclusive evidence of the facts therein stated. If the notice cannot be so given as to all the parcels, then the same shall also be published once in each week for three successive weeks, in a newspaper published in said city; and the affidavit of the printer or foreman of such newspaper shall be conclusive evidence of such publication. Such notice shall be served and such publication made for three weeks, complete at least one week before the time fixed therein for such application. If any person so served with notice be a minor, or of un-

sound mind, the judge, commissioner or justice, before proceeding, shall, on the day fixed for hearing such application, appoint for him a guardian for the purposes of such proceeding, who shall give security to the satisfaction of such magistrate, and act for said ward.

SECTION 74. At the time and place fixed for such hearing, the application, accompanied by a copy of such resolution and such survey, and by proof of service of the notice, as provided in the last section, shall be filed with the judge, commissioner or justice, who shall thereupon make a list of twenty-four competent jurors, not interested, but residents of the city shall not be disqualified. He shall hear and decide any challenges for cause or favor, made to any one, and if sustained, shall replace his name with an unobjectionable juror, until the list shall be perfected. Thereupon, under direction of such magistrate, each party, the city, by its attorney on the one side, and the owners of lands or their agents present, or if none be present, or they disagree, a disinterested person, appointed by the judge, commissioner or justice, on the other, shall challenge six names, one at a time, alternately, the common council beginning. To the twelve jurors remaining, such judge, or justice, shall issue a precept, requiring them, at an hour on a day named, not more than ten nor less than three days thereafter, to appear before him, to be sworn and serve as a jury, to view lands and appraise damages, and at the same time shall publicly adjourn the proceedings to the time and place so named; such precept shall be served by the chief of police or any constable, at least one day before the appointed time, by reading the same to each such juror, or by leaving a copy at his usual place of abode in the presence of a member of his family.

Selection of a jury.

SECTION 75. The jurors summoned shall appear at the time and place named; and if any be excused by the judge, commissioner or justice, or fail to attend, he shall direct other disinterested persons to be forthwith summoned in their stead, until twelve be obtained. The magistrate shall then administer to them an oath that they shall well and truly inquire into and determine the necessity for taking the lands mentioned in the resolution, and if found necessary, the damages

When jury shall appear.

occasioned thereby, and faithfully discharge their duties as jurors according to law.

Jury to view  
the lands.

SECTION 75a. Under the direction of such magistrate, the jury shall view the lands to be taken, and shall then sit before him to hear such competent evidence as shall be produced by any party; and for such purpose, such magistrate shall possess the same powers as a court in session with a jury and if there be necessity, may adjourn the sitting from day to day. The jury shall render a separate unanimous verdict in writing, signed by them in which they shall find whether it will be necessary to take such lands, or any part thereof, for such purpose, describing such as they find necessary to be taken; and if any be found necessary to be taken, then an appraisement of damages, specifying therein the damages to each owner, and separately the value of the land taken from each, and the damages otherwise sustained by each by reason of the taking thereof, in estimating which they shall deduct therefrom any special benefit, if any, to be enjoyed by each from such improvement, and a majority of such jury may render such verdict or appraisement of damages, and shall sign the same. Any technical error in such verdict may be immediately corrected by the magistrate with the assent of the jury and they shall be thereupon discharged and their verdict filed by the magistrate. In case the jury shall fail to find a verdict, another jury shall be selected, summoned, sworn, and proceed in the same manner.

Appeal, how  
made.

SECTION 76. Within ten days after such verdict, any land owner whose land has been taken, may appeal from the award of damages to him, in such verdict to the circuit court, and the city may likewise appeal from the award of damages to any owner, by filing with such magistrate a notice of appeal, specifying whether the appeal is from the whole award to him or a part, and if a part what part, and therewith an undertaking with two sufficient sureties, to be approved by the magistrate, to pay all costs that may be awarded against such appellant on the appeal, and paying the magistrate for his return thereof, except when the city appeals no such undertaking shall be filed. Any party not so appealing shall be forever concluded by such verdict or appraisement. Upon

an appeal being taken, the magistrate shall transmit to the clerk of the circuit court of Green Lake county, within ten days the notice of appeal and undertaking, and thereto annexed a copy of all the papers and proceedings before him with his certificate thereof. He shall, after the time for appealing expires, file with the city clerk, annexed together, all the original papers, including the verdict, with a certificate by him thereof, and that no appeal has been taken from such verdict, except as the facts are, which he shall briefly specify; and the clerk shall record all such proceedings.

SECTION 77. Upon filing such transcript in the circuit court, the appeal shall be considered an action pending in such court, and be so entered, the land owner as plaintiff and said city as defendant, and be subject to a change of place of trial and appeal to the supreme court. The appeal shall be tried by a jury unless waived; and costs shall be awarded against the appellant if a more favorable verdict be not obtained; otherwise, against the respondent. Upon the entry of judgment, the clerk of the circuit court shall transmit a certified copy thereof to the city clerk of said city.

Appeal to be considered an action pending.

SECTION 78. If the verdict of the jury first called find it necessary to take such land or any part thereof, the common council may, upon return thereof to the clerk, enact an ordinance according thereto for laying out, changing, widening or extending and opening any such street, lane, alley, public grounds, square or other public place, or constructing and opening, altering, widening or straightening, or extending any such drains, canals, sewers or water-courses, but shall not enter upon any such land therefor, until the owner be paid in full the damages awarded him by such verdict or appraisalment, or such damages be set apart for him in the hands of the treasurer, and an order therefor lawfully executed to him to be deposited with the clerk to permanently remain subject to his order, at any time before causing any such land to be actually taken, or put to public use, and before the rendition of a judgment in the circuit court for damages, the common council may discontinue all proceedings theretofore taken and the city shall in such event be liable for costs only. All the costs of every

In case jury think it is necessary to take the land.

such proceeding shall be paid by the city, except where the city recovers costs in the circuit court.

Assessment of  
damages.

SECTION 79. For the purpose of payment of the expenses, including all damages and costs incurred for the taking of private property, and of making any improvements mentioned in the last preceding section, the common council may, by resolution, levy and assess the whole or any part not less than half of such expenses, as a tax upon such property as they shall determine is specially benefited thereby, making therein a list thereof, in which shall be described every lot or parcel of land so assessed, with the name of the owner thereof, if known, and the amount levied thereon set opposite. Such resolution, signed by the mayor and clerk, shall be published once in each week for two weeks, in a newspaper published in said city, and a notice therewith that at a certain time therein stated, the common council will meet at their usual place of meeting and hear all objections which may be made to such assessment or to any part thereof. At the time so fixed the common council shall meet and hear all such objections, and for that purpose may adjourn from day to day, not more than three days, and may by resolution modify such assessment in whole or in part, at any time before the first day in November thereafter, any party liable may pay any such tax to the city treasurer. If the same shall not be so paid, then the city clerk shall insert the same with five per centum thereon additional, into the tax roll, in addition to and as part of all other taxes therein levied on such land, to be collected therewith.

How street or  
alley may be  
discontinued.

SECTION 80. Upon the petition in writing of all owners of lots or land on any street or alley in said city, and not otherwise, the common council may discontinue such street, alley, or any part thereof. At least one week before acting upon such petition, the council shall cause a notice to be published in the official paper of said city, stating when the petition will be acted on, and what street or alley or part thereof is proposed to be vacated.

What shall be  
deemed public  
roads.

SECTION 81. All public highways, streets or alleys, now in use in said city heretofore laid out and established pursuant to law, and all roads, streets or alleys in said city not recorded, which

shall have been or shall be used as public roads, streets or alleys ten years or more, shall be deemed and held to be public roads, streets or alleys.

## CHAPTER VIII.

### CITY IMPROVEMENTS.

SECTION 82. The common council shall adopt general regulations relative to the cleansing and repairing of streets, avenues, lanes, alleys, highways, bridges, sewers, sidewalks, crosswalks and public grounds, and requiring the owners and occupants of lots or parcels of land bordering or abutting on any street, lane, avenue, alley or highway to keep in repair or rebuild the sidewalks adjoining their premises; and in case the owner or occupant of any such lot or parcel of land after due notice, shall neglect or refuse to repair or rebuild any such sidewalk, the street commissioner shall, in pursuance of such regulations, or of the order of the common council, cause the same to be done at the expense of the said lots or parcels of land adjoining thereto or abutting thereon; and the street commissioner shall, prior to the second Monday in November in each year, make a report in detail to the city clerk, duly verified, of the amount of tax properly chargeable against each lot or parcel of land for all work done and unpaid for under the provisions of this section, and such amount shall be a lien on such lot or parcel of land, and with other or like special taxes authorized by this act, shall be levied thereon by the common council at the next succeeding annual levy of taxes in said city, as a special tax with all the legal consequences both as to collection of taxes and sale of such lot or parcel of land for unpaid taxes, prescribed in this act or the general laws of this state for special taxes. The cleansing, graveling and repairing of streets, avenues lanes, alleys, highways and public grounds shall be done under the superintendence of the street commissioner at the expense of the city; and the common council may provide for letting all such work by the month or year, by contract. Whenever the street committee of the common council signify in writing to the city

City improve-  
ments—how  
conducted.

clerk that certain repairs, as provided in this section, are needed, the city clerk shall forthwith notify in writing the street commissioner to cause the same to be done; and if the street commissioner shall fail or neglect to cause the same to be done within six days from the time of receiving such notification, said street committee may, in writing to be filed in the clerk's office, designate a suitable person to act in his stead, which person shall proceed in all respects the same as the street commissioner, and shall immediately thereafter make full return of his doings, under oath, to the city clerk, and the acts and doings of such person so appointed shall have the same force, effect and validity as the acts of the street commissioner.

Stagnant  
waters.

SECTION 83. When directed by the board of health, the street commissioner shall give notice to all owners or occupants of lots or lands which may be deemed injurious to health by reason of stagnant water remaining thereon, to abate such nuisance by draining or filling such lots or lands within a reasonable time to be specified; and if such nuisance shall not be abated or removed within the time so specified, the street commissioner shall cause the same to be abated or removed, and the expense thereof shall be charged to and collected from said lots or lands, as provided in the last preceding section.

Costs and  
expense of  
surveying.

SECTION 84. The costs and expense of surveying streets, alleys, sidewalks, sewers, and of estimating work thereon, and of constructing and repairing public wells, and reservoirs, shall be chargeable to and payable out of the general fund. Opening, grading, planking or paving streets and alleys to the center thereof, shall be chargeable to and payable as follows, viz: One-half out of the general city fund and one-half by the lots fronting on such street or alley. Sewers may be ordered by the common council and built at the expense of the lots or parcels of land benefited thereby, which shall be apportioned among said lots or parcels of land by the city surveyor; provided, however, that where sewers are constructed through alleys, no lots shall be assessed therefor except those situated in the block or blocks through which said sewers may be constructed; and where sewers are constructed through streets, no lot shall be assessed therefor

except those situated in the blocks fronting on such streets; and provided further, that in all cases where improvements or work of any kind are charged, by virtue of this section, upon lots benefited, all such improvements across streets, alleys and public grounds shall be made and paid for out of the general fund, in proportion to the width of the street, alley or public ground.

SECTION 85. The street commissioner shall not have power to make, grade, gravel, or pave any street, avenue, alley or public grounds, or to construct any well, gutter or sidewalk, nor shall the city surveyor have power to construct or accept any reservoir or sewer, unless the same shall have been first duly authorized by an order of the common council, to be entered in their proceedings; provided, that nothing herein shall be so construed as to prohibit the street commissioner from making or causing to be made, all necessary repairs to any sidewalk, street, avenue, alley, public grounds, wells, reservoirs, sewers and gutters; and provided, further, that he shall be at liberty to construct public wells, whenever the common council shall order the same; but there shall not be more than one well to any four blocks upon any one street or avenue. Hereafter, no special improvement shall be ordered by the common council exceeding in estimated costs the sum of two hundred dollars, unless more than one-half the owners of the lands or lots to be taxed for such improvement, shall petition in writing, for the same, or unless the same shall be ordered by a vote of two-thirds of all the aldermen elect. If the common council order any special improvements to be made, or pass any ordinance requiring any special improvement to be made, or pass any ordinance requiring any special improvement to be done, the vote thereon shall be taken by yeas and nays, and entered upon the journal of the proceedings of said common council; and no special improvement shall be valid or binding unless said vote be so taken and recorded.

Respecting the construction or repair of gutters, etc.

SECTION 86. Whenever the common council shall authorize the making of any public improvement as provided by this chapter, the city clerk shall forthwith notify the city surveyor to make and file in his office all necessary plans and specifications therefor, and an estimate of the whole

Clerk to notify the city surveyor of work to be done.

expense thereof and the proportion, if any, to be assessed and charged to each lot or parcel of land; and in the case of grading streets, avenues, lanes, alleys, highways or building sidewalks, of the number of cubic yards to be excavated or filled in front of each lot or tract of land, and such estimate and plans shall be the property of the city, and shall be open to the inspection of all parties interested. The city clerk shall give notice by advertisement in the official paper of the city, to the owners or occupants of the lots or parcels of land bordering on any street, avenue, alley or highway, ordered to be graded, planked or paved, requiring them to do the work mentioned in such notice within reasonable time, therein to be specified, according to the plans and specifications on file in his office, and if the said work shall not be done within such time, the city clerk shall at once proceed to advertise for proposals, and enter into contracts for the doing thereof. Whenever any contract shall have thus been made and concluded, the city clerk shall without delay, notify the street commissioner thereof, accompanying such notice with a copy of the terms and conditions of such contract. All contracts for work done by and pursuant to the provisions of this chapter, and for the construction of sewers and reservoirs, shall be subject to the acceptance of the city surveyor; provided, that any contractor may appeal from the decision of that officer to the common council. The common council may in its discretion, employ any competent man to superintend the construction of such public works as they think proper. In all cases where any improvement shall be ordered pursuant to the provisions of this act, one-half the expense of which shall be chargeable to the lots bordering thereon, the owner or agent shall be entitled to do the work according to the plans and specifications on file, and on completion thereof, to the acceptance of the proper officer, shall be entitled to receive from such officer a certificate showing that the city is indebted to him for an amount equal to one-half of the estimated expense (previously made and filed by the city surveyor) upon the presentation of which certificate duly verified by the owner or holder thereof to the common council, the same shall be allowed

to him out of the general fund of the city; provided, that any owner or agent shall within ten days after said work is ordered by the common council, signify to the city clerk in writing that he will perform the same according to the plans and specifications and estimate made by the city surveyor, within the time designated by the street committee or the city clerk.

SECTION 87. Whenever the general interests of the city requires deep cutting or extraordinary filling, of any street, or for the construction of any sidewalk, and the owners of the lots or lands fronting on such deep cutting or filling, shall deem themselves aggrieved thereby, and shall, within ten days after the service or first publication of the notice requiring the improvement to be made, represent to the street commissioner in writing, that the expense of such excavation or filling will exceed the benefit the same will be to the property assessed therefor, the street commissioner shall report the same to the street committee, who, or a majority of them, shall examine the premises, and if, in their opinion, the cost of such work shall exceed the benefit derived therefrom, it shall be their duty to determine in writing, subscribed by them and preserved with the records of said city, which portion of the work shall be chargeable to such lots or parcels of land, and how much or what portion shall be chargeable to the general fund; and such proportion as shall be reported as properly chargeable to the lots or parcels aforesaid, shall be assessed upon the same, and levied and collected as other taxes and assessments, and the remainder shall be paid out of the general fund; provided, however, that the common council shall, by a majority vote, duly ratify the same; and provided, further, that any party feeling himself aggrieved by the determination of the common council, may, within ten days from the date thereof, appeal to the circuit court as hereinbefore provided.

SECTION 88. After the completion and performance of any contract entered into by the street commissioner, for work chargeable to lots or lands, by virtue of this chapter, he shall give to the contractor or contractors a certificate under his hand, stating therein the amount of work done by such contractor, the nature thereof, and

How deep cutting shall be done.

Street commissioner to give certificate.

the description of the lot or parcel of land upon which the same is chargeable, which said certificate may be transferred by endorsement thereon, and thereupon, the claim of said contractor shall be audited, allowed and paid from the general fund upon the presentation of the same.

## CHAPTER VIII.

### FIRE DEPARTMENT.

Fire department.

SECTION 89. The common council, for the purpose of guarding against the calamities of fire, shall have power, and it shall be their duty to prescribe the limits within which wooden building or buildings of other materials that shall not be considered fire proof shall not be erected, placed or repaired, and to direct that all and any buildings within the limits prescribed, shall be made and constructed of fire proof materials, and to prohibit the repairing or rebuilding of wooden buildings within the fire limits, where 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 damage.

Dangerous construction of chimneys, etc.

SECTION 90. The common council shall have power to prevent the dangerous construction and condition of chimneys, fire-places, hearths, stoves, stove pipes, furnaces, ovens, boilers and apparatus used in and about any building, and to cause the same to be removed or placed in a safe and secure condition, when considered dangerous; to prevent the deposit of ashes in unsafe places; to require the inhabitants to provide as many fire-buckets, 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 manufactories, dangerous in causing and promoting fire; to regulate and prevent the use of fire-works and fire-arms; to compel the owners and occupants of buildings to have scuttles in the roofs and stairs of ladders leading to the same; and also to provide wells or cisterns on their premises; to authorize the mayor, aldermen, fire-wardens and other officers of the city to keep away from the vicinity of any fire all idle and suspected persons, and to compel all by-standers

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.

SECTION 91. The common council shall have full power to purchase fire-engines and other fire apparatus, and to authorize the formation of fire-engine, hook and ladder and hose companies, and to provide for the due and proper support and regulation of the same, and to order such companies to be disbanded, and their meetings prohibited, and their apparatus to be delivered up. Each company shall not exceed forty able-bodied men, between the ages of eighteen and fifty years, and may elect their own officers, and form their own by-laws, not inconsistent with the laws of this state or the ordinances and regulations of said city, and shall be formed only by voluntary enlistment. Every member of each company hereby authorized to be formed, shall be exempt from service as a juror and from military duty, during the continuance of such membership, and any person having served for the term of seven years in either of said companies, shall be forever thereafter exempt from military duty, except in case of insurrection or invasion.

Power to purchase fire-engines.

SECTION 92. There shall be a meeting of the members of said companies on the second Monday of April in each year, at such place as may be designated by the chief engineer, when they may nominate and recommend to the common council one chief engineer, and three assistant engineers; and the common council shall thereupon confirm or reject said nominations, and the persons so appointed shall perform such duties as the common council may prescribe.

Meeting of fire companies.

SECTION 93. It shall be lawful for said wardens at any time, in the discharge of their duties, to enter any building or enclosure, for the purpose of inspecting the same.

Inspector of buildings.

SECTION 94. The net proceeds of all fines and penalties recovered for any breach of any ordinance or regulation made in pursuance of this chapter, shall be paid to the fire department.

Proceeds of fines to go to fire department.

SECTION 95. Whenever any person shall refuse to obey any lawful order of any engineer, fire-warden, mayor, or alderman at any fire, it shall

Penalty for refusal to obey lawful order.

be lawful for the officer to arrest, or direct orally the chief of police, constable, watchman, or any citizen to arrest such person, and confine him temporarily in some 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 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.

**Sack company.**

**SECTION 96.** The common council shall have power to organize sack companies, to consist of not more than thirty members each. Such companies shall constitute a part of the fire department, and at fires shall be subject to the control of the chief engineer. The members of said companies, either collectively or individually, are hereby authorized and empowered to act as a special police in and for said city of Berlin, and are hereby vested with all the powers and authority which now is, are, or hereafter may 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 all the property which may be exposed or endangered, and shall, as far as may be in their power, preserve the same from injury or destruction. Said companies, may, from time to time, adopt such by-laws and regulations as they may deem necessary, not inconsistent with the laws of this state. The members of said companies shall not be entitled to receive any pay or compensation for services rendered in their official capacity. They shall, in case of a 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 companies shall severally take an oath or affirmation that they shall faithfully discharge the duties of their said office, and when any member shall cease to be a member thereof, by resignation, expulsion or otherwise, a notice thereof shall be given to the city clerk, and he shall preserve a list of all the members of each of said companies.

SECTION 97. The chief engineer of the fire department shall, semi-annually, on the first Saturday in April and October in each year, make report in detail, and under oath, to the common council, of all property belonging to the city, in possession of the fire department, and of its condition and value. The chief engineer shall, from time to time, make such recommendations in writing to the common council, designed to promote the efficiency of the fire department, as he shall deem expedient. He shall also keep in a book to be provided for that purpose, a record of all alarms of fire, the cause thereof, the extent of the loss, and the amount of insurance, and shall incorporate the same in detail in his semi-annual report.

Semi-annual  
report to be  
made.

## CHAPTER IX.

### SUPPORT OF THE POOR.

SECTION 98. All laws of this state for the relief and support of the poor in towns, shall apply to said city, but the common council may, by ordinance, prescribe the mode of supporting city paupers. And the common council shall appoint one or more suitable persons to act as commissioners of the poor of the city, who shall perform all the duties of overseers of poor in towns, and such other and further duties as the common council shall prescribe.

Support of the  
poor.

## CHAPTER X.

### PROSECUTIONS AND FINES.

SECTION 99. Justices of the peace elected under this act, in addition to the powers, duties and jurisdiction vested in and required of them by the laws of this state, shall have power to examine, hear, try and determine all charges for offenses against any provision of this act, or any act amendatory thereof, and all charges for the violation of any ordinance, by-law, police or health regulation made in pursuance of and by the authority herein conferred.

Jurisdiction of  
justice.

How fines, etc.,  
may be  
collected.

SECTION 100. All fines, forfeitures and penalties imposed by any ordinance, by-law, regulation or resolution of said city may be collected in an action in the name of the city of Berlin. Upon complaint made to any justice of the peace of said city by the chief of police, constable, or any other person, that any offense under the ordinances, by-laws, regulations or resolutions of said city has been committed, he shall examine the complainant on oath and witnesses produced by him, and shall reduce the complaint to writing, and cause the same to be subscribed by the complainant; and if it shall appear that such offense has been committed, the said justice shall issue his warrant, reciting the substance of the complaint, and requiring the officer to whom it is directed forthwith to arrest the accused and bring him before such justice, or some other justice of said city, to answer to the city of Berlin for such offense, and to be dealt with according to law; and in the same warrant may require the officer to summon such witnesses as shall be named therein to appear and give evidence at the trial. Such complaint may be in the following form:

STATE OF WISCONSIN, )  
Green Lake County, ) ss.  
City of Berlin. )

A. B., being first duly sworn and examined on oath, complains to the undersigned justice of the peace of said city, that C. D. did on the — day of —, A. D. 18—, at said city, violate the — section of an ordinance (by-law, etc.) of said city, entitled — which said — is now in force as said complainant verily believes, by then and there (here state offense), and prays that said C. D. may be arrested and held to answer to said city of Berlin therefor, and to be dealt with according to law.

A—— B——.

Subscribed and sworn to before me this — day of —, 18—.

E. F., Justice of the Peace.

The warrant may be substantially in the following form:

STATE OF WISCONSIN, }  
 Green Lake County, } ss. In Justice Court.  
 City of Berlin. }

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

Whereas, A. B. has this day complained in writing, on oath, that C. D. did, on the — day of —, 18—, at said city, violate the — section of an ordinance, (by-law, etc.) of said city, entitled (here state title) which said — is now in force as said complainant verily believes, by then and there (here state offense). Therefore in the name of the state of Wisconsin, you are hereby commanded to arrest the said C. D. and him forthwith bring before me to answer to said city of Berlin on the complaint aforesaid, and to be dealt with according to law.

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

E. F., Justice of the Peace.

The officers mentioned in section 26, of this act may arrest offenders in all cases without warrant when such offenders are found in the commission of any offense.

SECTION 101. The justice shall enter an action in his docket in which the city of Berlin shall be plaintiff, and the accused defendant, and he shall keep all such other entries as are required in civil causes.

Justices to enter actions in his docket.

SECTION 102. On the return of the warrant with the accused, the said justice shall proceed to hear, try and determine the action within one day unless continued for cause, and if the defendant shall before he pleads to said complaint, make oath that from prejudice or other cause he believes that the justice will not decide impartially in the matter, and shall pay the justice seventy-five cents for making a copy of his docket and transmitting the papers in the case, then said justice shall immediately transmit all the papers in the case to the nearest justice qualified by law to try all causes between the said city and the defendant, and who is not unable to try the same by reason of sickness or absence, and in the event there shall be no justice of said city then qualified or able to try the same, then to any justice of the peace of said county, and the justice to whom such action shall be transmitted

Proceedings when warrant is returned.

as aforesaid, shall proceed to hear, try and determine the same in the same manner as it would have been lawful for the justice before whom the warrant was returnable to have done.

**Duty of city attorney to appear.**

**SECTION 103.** It shall be the duty of the justice before whom any person is brought charged with the commission of any offense under this act, or against any ordinance, by law, regulation or resolution of said city, to cause the city attorney to be immediately notified of such action, and it shall be the duty of the city attorney to appear for and on behalf of the city therein.

**General laws to be in force.**

**SECTION 104.** Except as herein otherwise provided, all the general laws of this state relating to the trial and determination of actions of tort before justices of the peace, and the proceedings thereat shall apply to the trial and determination of actions for a violation of any ordinance, by law, regulation or resolution of said city, and jurors shall be demanded, procured, summoned and sworn in all respects as provided in said general law for the trial of actions of tort before justices of the peace.

**Accused may give bail.**

**SECTION 105.** From the time of the return of the warrant until the time of trial, the accused may give bail, with one or more sufficient sureties, for his appearance at the time fixed for trial, or in the event of his failure so to do, may be committed to the watch-house of the city of Berlin for safe-keeping, by an order of said justice, or left in custody of the arresting officer.

**Accused may be immediately discharged upon acquittal.**

**SECTION 106.** Judgment shall be given, if for the plaintiff, for the amount of fine, penalty or forfeiture fixed by such ordinance, by law, regulation, resolution, or such part thereof, if a discretion be given, as the court shall deem proportionate to the offense, together with the costs of suit; and shall in all cases, unless otherwise provided in and by such ordinance further adjudge and order that in default of payment thereof the defendant be committed to the common jail of Green Lake county, for such time, not exceeding ninety days, as the court shall think fit. If such payment be not forthwith made, the justice shall make out a commitment, stating the amount of judgment and costs, and the time for which committed and in the usual form of commitment by justices of the peace. Every person so committed shall be re-

ceived and committed to jail by the keeper of the common jail of said county, and kept at the expense of said city of Berlin, until the expiration of the time; but he shall be released by order of the justice on payment of such fine and costs, and all costs subsequent to the judgment, or by due course of law; provided, always, that it shall be competent for the justice to sentence any person, who shall be convicted before him as aforesaid, to hard labor in addition to imprisonment, inside or outside such jail, but within the "jail limits" as established, and the common council shall, by ordinance, regulate the mode and manner of performing such labor, and the officer or officers who shall control such prisoners, and the form of the commitment may be varied accordingly.

SECTION 107. Appeals may be taken to the circuit court of Green Lake county in the same manner as from judgments in civil actions before justice of the peace, except that if taken by the defendant, he shall, as a part thereof, execute a bond to said city, with sureties to be approved by the justice, conditioned that if judgment be affirmed in whole or in part, he will pay the same and all costs and damages awarded against him on such appeal; and in case such judgment shall be affirmed in whole or in part, execution may issue against both defendant and his sureties, upon perfection of such appeal the defendant shall be discharged from custody.

Appeals may be taken to circuit court of Green Lake county.

SECTION 108. Whenever the accused, tried under the provisions of this act, either created hereby or under any ordinance, by-law, or regulation of said city, shall be acquitted, he shall be immediately discharged; and if the court before whom he is tried shall certify in his docket, that the complaint was wilful and malicious, and without probable cause, it shall enter a judgment against the complainant to pay all the costs that shall have accrued to the court, to the sheriff, constable or chief of police, the jury and the fees of witnesses in the proceedings had upon such complaint; the complainant may stay such judgment for thirty days by giving satisfactory security by bond to said city, with one or more sureties to be approved by the justice conditioned for the payment of such judgment at the expiration of thirty days; but if the

What judgment shall contain.

complainant shall neglect to give such security or shall neglect to pay such costs, then in such case the court before whom the cause is tried, may issue execution on said judgment against the person and property of the complainant in the same manner, and to the like effect as is now provided by law in cases where executions may issue against a defendant in actions founded in tort; but the defendant in such judgment shall have the right of appeal therefrom, in the same manner provided in the next preceding section, and on such appeal the case shall be tried and determined by the court upon the records and evidence in the case duly certified and returned by the magistrate.

Attendance of witnesses and jurors.

SECTION 109. Witnesses and jurors shall attend before a justice of the peace in all civil and criminal actions where said city is a party, without the payment of fees in advance, or a tender thereof, upon process of the court duly served, and in default thereof their attendance may be compelled by attachment as now provided by law.

Findings of court.

SECTION 110. In all prosecutions under this chapter the finding of the court or jury shall be either guilty, or not guilty.

Shall not be incompetent.

SECTION 111. 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; but if a justice or juror shall be near of kin to the defendant he shall be disqualified to sit in any action.

Laws in force.

SECTION 112. All ordinances, regulations or by-laws now in force in said city shall remain in force until altered, modified or repealed by the common council, unless the same shall be inconsistent herewith.

City to carry on prosecutions.

SECTION 113. All actions, rights, fines, penalties and forfeitures in suit or otherwise, which have accumulated under the several acts consolidated herein shall be vested in and prosecuted by the corporation hereby created.

What the defendant may state in answer.

SECTION 114. In every action for a violation of any ordinance of said city, where the title of land shall in anywise come in question, the defendant, at the time when he is required to join issue, and not thereafter, may in his answer, state facts

showing that the title to land will come in question, which answer must be in writing, signed by the defendant, or his attorney, and delivered to the justice, who shall thereupon file the same among the papers in the case.

SECTION 115. At the time of tendering such answer, the defendant, with at least one sufficient surety, to be approved by the justice, shall enter into a bond with the city of Berlin, in the penal sum of two hundred dollars, conditioned, if such plaintiff shall prosecute its said action in the circuit court and if judgment be rendered against the defendant on his answer setting up title in any such court, he will pay the amount of such judgment with costs. If such bond be not delivered, the justice shall proceed with the case, and the defendant shall be precluded in his defense from all evidence drawing in question the title to lands.

Defendant to enter into a bond to pay judgment and costs.

SECTION 116. Upon filing the answer and bond the justice shall immediately make an entry thereof in his docket, and cease all other proceedings in the case; and the defendant shall thereupon be discharged from custody, and the justice shall certify and return to the circuit court of Green Lake county, a transcript of all the entries made in his docket relating to said action together with all process and other papers therein, in the same manner and within the same time as upon an appeal.

Justice to make an entry in his docket.

SECTION 117. Upon filing the proceedings and papers in the office of clerk of court, the circuit court shall become possessed of the cause, and proceed to final judgment and execution, the same as if said action had been originally commenced therein, and the costs shall abide the event of the action.

When case is filed in circuit court—how court shall proceed.

SECTION 118. Every justice of the peace of said city shall, quarter yearly, make and file with the city clerk a verified statement of all fines, forfeitures or penalties, imposed or collected by him, in actions wherein the city is a party, and shall at the same time pay to the city treasurer all moneys in his hands arising from the same.

Statement of fines quarter yearly.

SECTION 119. A printed copy of any ordinance, by-laws, or resolution, published in a newspaper, or in pamphlet or book form, and having attached thereto a certificate of the city clerk that the same

Printed copy to be good evidence.

was passed and adopted by the common council of said city, and published as herein provided, shall be prima facie evidence of its due passage and publication, and shall be received in evidence on the trial of all cases cognizable before any court in this state.

## CHAPTER XI.

### PUBLIC SCHOOLS.

School district boundaries.

SECTION 120. The territory within the corporate limits of the city of Berlin, as defined by this act, shall constitute one district for the better regulation and management of the public schools of said city.

Superintendent to be an ex-officio president.

SECTION 121. The said superintendent of schools shall be ex-officio president of the board of education, and shall have a casting vote in said board in all cases of a tie, and shall perform all the duties, and shall have the same rights and powers within said city, and be subject to the liabilities as provided in this act.

Appointment of commissioners.

SECTION 122. The city council of said city may make appointments of commissioners of common schools to fill vacancies which may occur from any cause other than the expiration of the term of office of those elected. The commissioners so appointed shall hold their office until the next charter election.

Removal of commissioners.

SECTION 123. Any commissioner of common schools in said city may be removed from office for official misconduct by the city council thereof, by a vote of two-thirds of the members thereof, but said commissioners shall be granted a full and fair hearing before removal.

Board of education, of whom constituted.

SECTION 124. The commissioners of common schools in said city shall constitute a board, to be styled, the "board of education of the city of Berlin," which shall be a corporate body in relation to all the powers and duties conferred on them by virtue of this act. A majority of the board shall form a quorum. At their first meeting after each annual charter election, said board shall elect one of their number president, who shall in the absence of the superintendent, preside at the meetings of said board, and perform

his duties. In the absence of both superintendent and president, a president pro tempore may be appointed. They shall also elect a clerk and fix his compensation. The term of office of such clerk shall expire as that of other appointed officers.

SECTION 125. 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 transcript thereof, certified by the president 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.

Record to be kept by clerk.

SECTION 126. The city council of the said city shall have power, and it shall be their duty to raise from time to time, by tax upon the real and personal estate in said city which shall be liable to taxation for the ordinary city taxes, or for city or county charges, in addition to the amount of school moneys now or hereafter appropriated or provided by law for common schools in said city, such sums as may be determined and certified by the said board of education to be necessary or proper for any or all of the following purposes:

Powers of council respecting school matters.

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

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

3. To purchase, exchange, improve and repair school apparatus, books, furniture and appendages; but the power herein granted shall not be deemed to include the furnishing of class or text books for any scholar whose parents or guardian shall be able to furnish the same.

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

5. 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 levied for such purpose oftener than once in 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 six dollars for each person that draws public money, nor less than two dollars; that the amount to be raised in any one year for buying sites and erecting and repairing school-houses and the appurtenances, shall not exceed one thousand dollars.

Annual levy of taxable property.

**SECTION 127.** The city 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 usual taxes are levied and collected in said city.

Funds due the city to be paid to the treasurer.

**SECTION 128.** 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, 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 in relation to the said moneys, as for any similar misconduct in relation to the other moneys of the city.

Moneys to be only paid out on order.

**SECTION 129.** After the passage of this act, 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 may be prosecuted in name of city for malfeasance.

**SECTION 130.** The said board may cause a suit or suits to be prosecuted in the name of the city of Berlin, 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.

Power of board defined.

**SECTION 131.** The said board shall have power, and it shall be their duty:

1. To establish and organize such and so many schools in said city (including the common schools now existing therein) as they shall deem

requisite and expedient, and to alter and discontinue the same.

2. To purchase or hire school-houses and rooms, and lots and sites for school-houses, and to fence and improve them as they deem proper.

3. 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.

4. To purchase, exchange, improve and 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.

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

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

7. To pay the wages of such teachers out of the school moneys which shall be appropriated and provided in 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 this act, by tax upon the city.

8. To defray the necessary contingent expense of the board.

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

10. Whenever, in the opinion of the board, it may be 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 city council.

11. To prepare and report to the city 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 the 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 provisions of this act, specifying the sums required for each of the purposes therein mentioned and the reason therefor.

12. To provide for the payment of any adjoining school district the proper amount to which it may be entitled on account of such district, in whole or in part, having been connected with the territory now included in said city.

Outside children may attend city schools.

SECTION 132. 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, upon such terms as such board shall by resolution prescribe, fixing the tuition that shall be paid therefor.

Expenditures shall not exceed appropriation.

SECTION 133. It shall be the duty of said board in all their expenditures and contracts to have reference to the amount of moneys that shall be subject to their order during the then current year for the particular expenditure in question, and not to exceed such amount.

Board to be trustees of district library.

SECTION 134. The said board of education shall be trustees of the district library in said city, and all the provisions of law which are now 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 exchange or cause to be repaired the damaged books belonging thereto.

Annual report.

SECTION 135. It shall be the duty of the said board, at least fifteen days before the annual election for commissioners in each year, to prepare

and report to the city 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:

1. The moneys received by the city council under the provisions of this act.

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

3. All other moneys received by the treasurer subject to the order of the board, specifying the sources.

4. The manner in which such sums of money shall have been expended, specifying the amount paid under each head of expenditure; and the city council shall, ten days before such election, cause the same to be published in at least one of the newspapers published in said city.

SECTION 136. 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.

Rules and regulations of state superintendent to be applicable.

SECTION 137. The superintendent of schools shall be the executive officer of the board of education, shall examine all teachers making applications 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 specially 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 making 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 twice during each term 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. The amount

Duty of superintendent.

of his compensation shall be determined by the city council, and the manner of its payment.

**SECTION 138.** 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 clerk of the board of supervisors of the county, a report in writing, bearing date on the first day of October, in the year of its transmission, stating:

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

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

3. The number of children taught in the common schools of the city, and the number of children residing in the city over the age of four and under the age of twenty years.

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

5. 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 purchase of school-house sites for building, hiring, purchasing, repairing and insuring school-houses, for fuel, for district libraries, or for any purpose allowed by law in said city, since the date of the last preceding report, with such other information as the state superintendent may from time to time require.

Protection of  
schools.

**SECTION 139.** The city council of said city shall have the 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 and connected with the schools in said city, and to impose proper penalties for the violation thereof, subject to the restrictions and limitations contained in the act of incorporation of said city; 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 educa-

tion, in the same manner as other moneys raised pursuant to the provisions of this act.

SECTION 140. Whenever the said board shall report to the city 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 the city, it shall be the duty of the city council to sell the same without unreasonable delay, and upon such terms as the city council 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.

In case of sale of either of the school-houses.

SECTION 141. The title of 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 Berlin, and the same while used or appropriated for school purposes, shall not be levied upon or sold by virtue of any warrant or execution, nor 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, grant, bequest or devise, for the use of the common schools of 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.

Title of school property.

SECTION 142. All moneys required to be raised by virtue of this act, 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 resolution or resolutions of said board, by drafts 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.

Money to be placed to credit of board.

SECTION 143. No person in the city of Berlin engaged in teaching any of the schools of said city, shall be eligible to the office of commissioner of common schools in said city, and no

Who are not eligible as school commissioner.

member of the board of education shall be employed to teach any of the schools of said city.

Accounts to be verified.

**SECTION 144.** All accounts and demands against the school fund of said city, except salaries and amounts previously fixed by resolution of the board of education, shall before the same shall be allowed by the board of education be verified by the affidavit of the claimant or his agent, and any person who shall swear falsely in any such affidavit shall be deemed guilty of perjury, and shall be punished therefor as provided by law for that offense. The determination of the board of education disallowing any claim, in whole or in part shall be final and conclusive, and a perpetual bar to any action in any court, founded upon such claim, except that the person preferring such claim may appeal from the decision of said board of education to the circuit court of Green Lake county within the time, and in the same manner provided in sections 44 and 45 of this act, as to appeals from the determination of the common council, except that the notice of appeal and bond shall be served upon and approved by the superintendent of schools, and the return on appeal shall be made and certified by the clerk of the board of education, and the terms and provisions of section 47, of this act shall be held to extend to claims presented to the board of education, and filed with the clerk thereof.

## CHAPTER XII.

### MISCELLANEOUS.

School officers.

**SECTION 145.** The officers whose duties appertain to school matters, mention whereof is made in this act, are declared to be the superintendent of public schools, and school commissioners, and no other officers.

Penalty for failure to deliver to successor.

**SECTION 146.** If any officer of said city shall for ten days after the expiration of his term of office, and demand being of him made therefor, neglect or refuse to deliver to his successor in office, all books, property, papers, and effects of every description in his possession belonging to the city, or pertaining to the office which he may have held, he shall forfeit and pay to said city the sum

of 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 other effects, in an action in his own name as provided by the general laws of this state in relation to actions of replevin.

SECTION 147. The salaries of all officers of said city whose compensation is not herein provided for, shall be fixed by the common council; provided, however, that no school commissioner or alderman, shall receive any compensation except as herein allowed.

Salaries to be fixed.

SECTION 148. The officers of said city shall qualify by taking and filing with the city clerk an oath to support the constitution of the United States, and of the state of Wisconsin, and faithfully to discharge the duties of the office to which he is elected, or appointed, and by filing a bond if any bond is required to be given.

Officers to take the oath.

SECTION 149. The real and personal property belonging to said city shall always be exempt from seizure or sale on execution against the city, and no real or personal property of any inhabitant of said city, or of any individual or corporation, shall be levied upon and sold by virtue of any execution issued to satisfy or collect any debt, obligation or contract of the city.

Property to be exempt from seizure or execution.

SECTION 150. The general laws of the state for the preservation of bridges and the punishment of all persons for wilful or malicious injuries thereto are hereby extended to and shall include all the bridges in said city. And the city may maintain an action against any boat or watercraft under the law, to provide for the collection of demands against boats and vessels, for the damage done to any bridges of said city, by any such boat or watercraft, or the captain or master in command thereof.

Bridge laws to be in force.

SECTION 151. The said city may lease, purchase and hold, real or personal estate sufficient for the convenience of the inhabitants thereof, and may sell and convey the same, and they shall be free from taxation while owned by the city.

City may lease and purchase real estate.

SECTION 152. Any alderman or school commissioner, who shall wilfully vote for any appropriation, or for the expenditure or payment of any money, not authorized by law, or for the

Penalty for illegal voting.

levying of a larger tax than herein authorized, or the mayor, or superintendent of schools, voting for any such appropriation, expenditure or tax levy, or for the contracting of any such debts shall be personally liable to the city of Berlin for all damages the city may sustain in consequence of such illegal appropriation, payment, expenditure or tax levy.

Does not  
repeal.

SECTION 153. No general law of this state contravening the provisions of this act, shall be considered as repealing, annulling or modifying the same, unless such purpose be expressly set forth in such law, as an amendment to this act.

Bridge across  
Fox river at  
expense of city.

SECTION 154. Bridges shall be maintained, supported and built across Fox river in said city, where the same may be necessary or convenient, at the expense of the city.

Public act.

SECTION 155. This act is declared to be a public act, and shall be liberally construed in all courts.

Actions for  
damages.

SECTION 156. No person shall be entitled to have any action or claim against said city on account of any damage which shall happen to his person or property by reason of the insufficiency or want of repairs of any bridge, sluiceway, street, alley or sidewalk, unless such person shall within ninety days after the happening of the event causing such damage, make and serve, by himself, his attorney or agent, a notice in writing, upon the mayor and city clerk of said city, stating the place where and the time such damage occurred, and describing generally the insufficiency or want of repair which occasioned it, and that damage is claimed of said city therefor.

City orders to  
bear interest.

SECTION 157. All city orders lawfully issued to any person, which shall be presented to the city treasurer for payment and payment thereof shall be refused, shall bear interest at the rate of six per cent. per annum from the time when so presented, and the owner thereof may bring an action against said city thereon, by summons as provided by the general laws of this state in regard to actions against cities.

\$500 for build-  
ing highways  
yearly.

SECTION 158. The common council shall have power to expend not to exceed the sum of five hundred dollars in any one year in building or repairing any of the highways leading into the city, at any point outside of the city; provided,

that not less than two-thirds of all the aldermen of said city shall be of opinion that the same will tend to the advantage of said city, and shall consent thereto; and provided further, that all votes to appropriate money to be expended as provided by this section, shall be taken by the yeas and nays, to be entered upon the record.

SECTION 159. All acts incorporating the city of Berlin, or amendatory thereof, are hereby repealed; and all acts and parts of acts inconsistent or 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 said acts, or any of them, but the same shall exist, and be in force, and be carried out as fully and effectually to all intents and purposes as if this act had not been passed.

SECTION 160. This act shall take effect and be in force from and after its passage and publication.  
Approved April 11, 1887.

[No. 864, A.]

[Published April 20, 1887.]

## CHAPTER 416.

AN ACT to amend the charter of the city of Milwaukee.

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

SECTION 1. All the territory now included in the first ward of the city of Milwaukee which is bounded on the north by the present northern boundary of the city of Milwaukee, on the west by a line running from a point on the west end of said northern boundary southerly along the center of the Milwaukee river, to a point where such center line would be intersected by the center line of Brady street produced west; thence along the

Eighteenth ward created—boundaries defined.