

SECTION 26. Any franchise or privileges granted by ordinance or otherwise to any person, association or corporation by the common council of the city of Marinette, which affects the city at large, or the health, welfare or interest of the citizens generally, or the welfare, trade or commerce of the city, may be revoked or annulled by the proper proceeding at law, or in equity instituted against the party or parties holding the same, for or on account of any violation of the provisions, terms or condition, restrictions or obligations imposed by or contained in such franchise or grant; provided, that such violation materially affects the welfare or interest of the city at large or the citizens generally.

When franchise may be revoked.

SECTION 27. All ordinances, regulations, by-laws, rules or proceedings now in force in the city of Marinette, not inconsistent or conflicting herewith, shall be and remain in full force and effect until altered, amended, modified or repealed under the provisions of this act.

Ordinances not inconsistent with this act to remain in force.

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

Public act.

SECTION 29. This act shall take effect and be in force from and after its passage and publication.

Approved March 28, 1889.

[No. 540, A.]

[Published March 30, 1889.]

CHAPTER 184.

AN ACT to revise, consolidate and amend the charter of the city of Eau Claire, approved March 2, 1872, and the several acts amendatory thereof.

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

CHAPTER I.

CITY AND WARD BOUNDARIES.

SECTION 1. From and after the passage of this act, the district of country in the county of Eau

Amendment of
the charter of
the city of Eau
Claire.

Claire, contained within the limits and boundaries hereinafter described, shall be a city by the name of Eau Claire, and the people now inhabiting, and those who shall hereafter inhabit the district of country herein described, shall be a municipal corporation by the name of the city of Eau Claire, and shall have the general powers possessed by municipal corporations at common law; and in addition thereto, shall possess the powers herein specially granted, and the authorities thereof shall have perpetual succession, shall be capable of contracting and being contracted with, suing and being sued, pleading and being impleaded, in all courts of law and equity, and shall have a common seal and may change and alter the same at pleasure.

Corporate
name.

Corporate
limits.

SECTION 2. The territory lying in the county of Eau Claire, and being all of sections 4, 5, 6, 7, 8, 9, 16, 17, 18, 19, 20, 21, 28, 29 and 30, of township 27 north of range 9 west, and lots 1, 2, 3, 4, 5, 6, 7 and 8, and the east half of northwest quarter of section 25, and the east half of section 24, of township number 27 north, or range 10 west, shall comprise the territory and limits of the city of Eau Claire.

Wards.

SECTION 3. The city shall be divided into eight wards as follows:

First ward.

The First ward shall be all that portion of said city lying north of the Eau Claire river and east of the Chippewa river, and east of a line commencing at the Eau Claire river in the center of Dewey street; thence northerly on Dewey street to the center of Galloway street; thence westerly on Galloway street to the center of Farwell street; thence northerly on the line of Farwell street to the east and west quarter line of section seventeen (17), town twenty-seven (27) north, range nine (9) west; thence east on said line to the center of said section; thence north on the north and south center line of said section to the Chippewa river.

Second ward.

The Second ward shall be all of that portion of said city lying south of the Eau Claire river and east of the Chippewa river, and north of Jones street, together with lot six (6) of section sixteen (16), and lots one (1), two (2), three (3) and four (4), of section twenty-one (21), and lot five (5), of section twenty (20), of town twenty-seven (27), range nine (9) west, excepting lot one (1), block

forty-six (46), of the plat of the village of Eau Claire.

The Third ward shall be all that portion of said city lying south of the Second ward and east and south of the Chippewa river. Third ward.

The Fourth ward shall be all that portion of said city lying north of the Chippewa river and south of the east and west quarter line running through section nineteen (19), of town twenty-seven (27), range nine (9) west, and section twenty-four (24), of township twenty-seven (27), range ten (10) west, and west of the center line of Ninth avenue, together with lots seven (7), eight (8) and nine (9), of section nineteen (19) aforesaid according to government survey. Fourth ward.

The Fifth ward shall be all that portion of said city lying north of the Chippewa river, east of the center line of Fifth avenue, and south of the center line of Bridge street. Fifth ward.

The Sixth ward shall be all that portion of said city lying west of the Chippewa river and not included in the Fourth, Fifth and Seventh wards. Sixth ward.

The Seventh ward shall be all that portion of said city lying north of the Chippewa river, west of the center of Fifth avenue, south of the center of Bridge and State streets, extending to Half Moon lake, and east of the center of Ninth avenue. Seventh ward.

The Eighth ward shall be all of that portion of said city lying north of the Eau Claire river and east of the Chippewa river not included in the First ward. Eighth ward.

CHAPTER II.

OFFICERS AND ELECTIONS.

SECTION 1. The municipal government of the city of Eau Claire, shall consist of and be vested in, the mayor and a common council, composed of the mayor and two aldermen from each ward, subject to the exceptions and reservations hereinafter expressly contained. Officers and elections.
Municipal government, in whom vested.

SECTION 2. The elective officers of said city shall be a mayor, city clerk, city treasurer, two aldermen and one supervisor from each ward, one justice of the peace from each ward, and one municipal judge for the city at large. All officers Elective officers.

necessary for the proper management of the affairs of said city, shall, unless otherwise provided by law, be elected by the common council at such time and in such manner as the common council may determine. The mayor, city clerk and city treasurer shall hold their respective offices for one year and until their successors are elected and qualified. The municipal judge shall hold his term for four years. The aldermen shall be residents and qualified electors in, and be elected by their respective wards. The mayor, city treasurer, city clerk, supervisors and municipal judge shall be residents and qualified electors of said city.

Appointive
officers.

SECTION 3. On the third Wednesday of April in each year, or within ten days thereafter, the common council shall elect one street commissioner, one city engineer, one poor commissioner and one fire warden, each one of which shall hold his office until the next third Tuesday in April, and until his successor is duly elected and qualified; and the common council shall, from time to time, have power to fill vacancies that may exist in said offices. The city attorney and city auditor of said city shall be appointed by the mayor and confirmed by the affirmative vote of a majority of the members of the common council voting upon such confirmation. And such appointment and confirmation shall be made on the third Wednesday in April of each year, or within ten days thereafter. And the city attorney and auditor shall hold their respective offices for the term of one year, and until their successors are duly elected and qualified; provided, however, that no city auditor shall be appointed in said city until the common council shall by ordinance determine that such appointment shall be made.

Annual elec-
tion.

SECTION 4. The annual election for ward and city officers shall be held on the first Tuesday of April in each year, except as hereinafter mentioned, at such place or places in the wards as the common council shall designate; and the polls shall be kept open from nine o'clock in the forenoon until five o'clock in the afternoon, and ten days' notice, except for the first election after the passage of this act, shall be given by the city clerk, in such manner as the common council may direct, of the time and place of holding such election, and of the officers to be elected; provid-

ed, however, that no election shall be invalidated because of the failure to give such notice; provided, further, that the first election after the passage of this act shall be held on the first Tuesday of April, 1889, but the municipal judge shall not be elected at such election, but the municipal judge now in office shall continue to hold his office until his present term expires. All city and ward officers now in office shall hold their respective offices for the terms for which they have been severally elected or appointed. And the several aldermen shall represent in the common council the several wards in which they respectively reside. In each of the several wards of the said city there shall be elected at the first charter election one alderman for two years; and at each and every annual election for city and ward officers, after the first charter election hereinbefore provided for, there shall be elected in each ward of said city one alderman for each said ward, whose term of office shall continue for two years; and at the first charter, and at each annual election thereafter, there shall be elected from each ward of the city of Eau Claire one supervisor for said ward.

SECTION 5. When an election shall be closed the canvassers shall proceed to count the votes cast for each person voted for, and shall make return thereof to the city clerk on the day following the election. They shall return the ballot boxes, sealed, with the ballots therein that have been canvassed by them. If any contest is commenced over the result of such election within ten days thereafter, the ballots shall be preserved, otherwise they shall be destroyed in the presence of the council; and on the second day after the election the mayor, city clerk and a majority of the common council shall proceed to canvass the said votes by said returns, and shall file in the office of the city clerk a written statement of the whole number of votes cast for each office and the number cast for each person therefor, duly subscribed by a majority of said board of canvassers, and the city clerk shall, within three days thereafter, give notice in writing to each person elected of his election.

Election returns.

SECTION 6. Any officer removing from the city or any ward officer removing from the ward from which he is elected, or any officer who shall ne-

Vacancy.

glect or refuse for ten days after notice of his election or appointment, to qualify in the manner provided by law and enter upon the discharge of his duties, shall be deemed to have vacated his office. The officer appointed or elected to fill any vacancy shall enter upon the duties of such office immediately after receiving notice of such appointment or election.

Vacancy, how filled.

SECTION 7. Any vacancy in the elective offices of said city shall be filled by the common council, except as herein otherwise provided; and the person so appointed shall hold said office and discharge the duties thereof until his successor, who shall be elected at the next charter election, shall be qualified for said office. Resignations by all elective officers of said city shall be made in writing to the common council. Any vacancies in the appointive offices of said city shall be filled by appointment in the same manner and subject to the limitations and restrictions under which such original appointments are authorized.

Elections to be by ballot.

SECTION 8. All elections by the people shall be by ballot, and a plurality of votes shall constitute an election. All elections by the council, except the election of president, shall be viva voce. When two or more candidates for the same office shall receive an equal number of votes for the same office, the election shall be determined by the casting of lots in the presence of the council, at such time and in such manner as they may direct, except as otherwise herein provided.

Qualified electors.

SECTION 9. All persons who are qualified electors of the state of Wisconsin, and who shall have resided in the city thirty days next preceding any election in the city of Eau Claire, and in the ward where they offer their vote ten days next preceding such election, shall be deemed qualified electors of said city and ward.

Challenge of voters.

SECTION 10. If either of the inspectors of election shall suspect that any person offering to vote does not possess the necessary qualifications of an elector, or if such vote be challenged by an elector, the inspector, before receiving any such vote, shall require the voter offering his vote to take the following oath: "You do solemnly swear (or affirm, as the case may be,) that you are twenty-one years of age; that you are a citizen of the United States (or have declared your inten-

tion to become a citizen conformably to the laws of the laws of the United States on the subject of naturalization); that you have resided in the state of Wisconsin one year next preceding this election, and that you have resided in the city of Eau Claire thirty days last past, and within this ward ten days next preceding this election, and that you have not voted at this election, and that you have made no bet or wager dependent on the result of this election." And if the person offering to vote shall take such oath, his vote shall be received; and if such person shall take such oath falsely, he shall be deemed guilty of willful and corrupt perjury, and upon conviction thereof, shall suffer the punishment provided by law for persons guilty of perjury. If any person not a qualified voter shall vote at any election, or if any person duly qualified shall vote in any other ward than the one in which he resides, or shall vote more than once at any election, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall forfeit and pay a sum not exceeding one hundred dollars nor less than twenty-five dollars. It shall be the duty of the inspectors to keep a list of the names of all persons whose votes may be challenged as aforesaid, and shall swear in their votes. And if any inspector shall knowingly and corruptly receive the vote of any person not authorized to vote, or shall make out false returns of any election, or if any clerk shall not write down the name of every voter as he votes, or shall wilfully make untrue and incorrect counts and tallies of votes, each and every inspector or clerk shall be liable to prosecution, and on conviction thereof, shall severally forfeit and pay a sum not exceeding five hundred dollars nor less than one hundred dollars. All such prosecutions shall be tried in the circuit court for the county of Eau Claire.

Penalty for
illegal voting.

SECTION 11. The term of every officer elected under this law, shall commence on the second Tuesday of April of the year for which he was elected, and shall, unless hereafter or heretofore otherwise provided, continue for one year and until his successor is elected and qualified. And each of said officers shall have such powers and perform such duties as are prescribed in this act or as may be prescribed in any ordinance of said

Terms of of-
ficers.

city not inconsistent with this act, or which may not be incompatible with the nature of their respective offices.

In case of
special election

SECTION 12. Should there be a failure by the people to elect any officer herein required to be elected on the day designated, the common council may order a new election to be held, ten days' notice of the time and place of holding the election being first given, and said election shall be conducted in all respects, so far as practicable, in the same manner as annual elections are herein provided for.

Annual elec-
tions, where
held.

SECTION 13. The first annual election after the passage of this act, for city and ward officers shall be held in the several wards, election districts or precincts in said city, at the respective places where annual elections for city and ward officers were held before the passage of this act, and no further notice of the place of holding such election shall be necessary. At the first regular meeting of the common council in September of each year, the mayor shall present to the common council the names of three persons for inspectors of elections and the names of two persons for clerks of elections, for each election precinct of said city; such inspectors shall be electors in the precinct for which they shall be appointed inspectors, shall be able to read and write the English language understandingly, shall not be candidates to be voted for at any election for which they may be appointed inspectors, and no more than two of such inspectors shall belong to the same political party. The members of the common council of said city shall be competent to serve as members of said board of inspectors when not otherwise disqualified. Such clerks shall be electors of the wards in which they shall be appointed and shall be able to read and write the English language understandingly, shall not be candidates to be voted for at any election for which they may be appointed clerks, and shall be of opposing political parties. The common council upon presentation of such nominations for inspectors and clerks of election, shall immediately proceed to approve or disapprove of the same, and in case a majority of the members of the common council, shall disapprove of the persons so nominated, the mayor shall then nominate another person for

such position and shall so continue to do until such board of three inspectors and two clerks for each election precinct in said city shall have been nominated and confirmed, and when such nominations and confirmations have been made and concluded, such board of inspectors and clerks shall possess the qualifications and be composed of persons known to belong to different political parties as hereinbefore provided. The persons so appointed inspectors and clerks shall hold their offices one year and shall perform and discharge all of the duties and possess all of the powers conferred and imposed upon clerks and inspectors of election by chapter 389, of the laws of Wisconsin for the year 1885; shall receive the same compensation for their services as is by said chapter allowed to clerks and inspectors of election appointed pursuant to the provisions thereof. And the common council shall have power to divide by ordinance, the several wards of said city into election districts or precincts, and it shall be the duty of said common council to divide said several wards into election districts or precincts forming them as nearly as can be practically ascertained, to poll not more than five hundred votes in each such election district or precinct. The ordinance by which the common council may divide a ward, or wards into election districts or precincts, must be adopted at least ten days prior to the annual or a special municipal election, or to the annual or a special election for school commissioners, or to the first meeting of the boards of registry immediately preceding a general election. Such election districts or precincts, so established, shall be consecutively numbered, their boundaries described, and the polling places therein designated by such ordinance, and the city clerk shall within three days from the adoption of such ordinance cause to be posted conspicuously in any ward so divided, six copies of such ordinance, and additional boards of election shall at the time such ordinance is adopted, be appointed and approved in the manner hereinbefore provided for the appointment and approval of boards of election; provided, that the failure or neglect of the city clerk to cause to be posted the copies of the ordinance as hereinbefore provided, shall not invalidate any election held within such election districts or precincts.

Inspectors and
clerks.

Special election
for considering
the issuing of
bonds.

SECTION 14. The common council may by ordinance, order a special election by the people at which election shall be submitted the question of the issuance of bonds as hereafter provided. Such elections shall be conducted in the manner provided by this act for the conduct of general or annual elections.

CHAPTER III.

OFFICERS—THEIR POWERS AND DUTIES.

Officers.

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

To subscribe
oath.

Powers of
mayor.

SECTION 2. The mayor shall have power to administer oaths and affirmations, take acknowledgments of deeds and other instruments. He shall be ex-officio head of the police and of the fire department, and on the third Wednesday in April of each year or within ten days thereafter, shall appoint a chief of police, and such further number of policemen as the common council at any regular meeting may authorize; which appointments shall be approved by the affirmative vote of a majority of the members of the common council voting upon such approval before such appointees shall enter upon the duties of their office, and the compensation of the chief of police shall not exceed three dollars per day, to be determined by the common council, and the said policemen shall be paid such salary, not exceeding two dollars and twenty-five cents per day, as the common council may determine. The mayor

may also appoint as many special or temporary police on election days, or on other public or unusual occasions, as he may think proper, but no such special or temporary police shall be paid any compensation for his services out of the city treasury, unless ordered by a vote of three-fourths of all the members of the common council. The common council may by ordinance prescribe the powers and duties of the other peace officers. The mayor shall communicate in writing to the common council at the first regular meeting in each year, a message, setting forth such information as he may deem necessary and proper, and making such suggestions as he shall deem for the best interests of the city, and shall thereafter communicate to the common council such other information and make such suggestions in writing as he may deem necessary and proper, and he shall at all times give such information as the common council may require. The mayor, when present, shall preside over the meetings of the common council, and shall see that the laws of the state and of the city are duly enforced and observed within the corporation, and that all officers of the city discharge their respective duties, but he shall have no vote upon any motion or question pending in or before the common council.

SECTION 3. At the first meeting of the common council in each year after the annual election, and subsequent to the second Monday in April of each year, or as soon thereafter as may be, they shall proceed to elect by ballot one of their number president, and in the absence of their mayor, the said president shall preside over the meetings of the common council, and during the absence of the mayor from the city, or his inability from any cause to discharge the duties of his office, the president shall exercise all the powers and discharge all the duties of the mayor. In case the mayor and president shall be absent from any meeting of the common council, they shall proceed to elect a temporary presiding officer, who for the time being shall discharge the duties of the mayor. The president or temporary presiding officer, while presiding over the council or performing the duties of mayor, shall be styled acting mayor and acts performed by him shall have the same force and validity as if performed by the

President of
council.

mayor. But the the president of the council as acting mayor, shall sign no order, warrant or other proceeding whatever, which the mayor has refused to sign and has communicated such refusal to the council.

Duties of clerk.

SECTION 4. The city clerk shall keep the corporate seal and all the papers and records of the city. He shall attend the meetings and keep a record of the proceedings of the common council. The records of the common council kept by him shall be evidence in all legal proceedings, and copies of papers filed in his office, and transcripts from the records certified by him under the corporate seal, shall be evidence in like manner as if the original were produced. He shall keep a full and accurate account of all certificates of appropriations and orders drawn on the city treasurer, in a book provided for that purpose, and shall also keep an accurate account with the treasurer, and charge him with all the tax lists delivered to him for collection, and all sums of money paid into the treasury. Whenever the city clerk and his deputy shall both be absent from any meeting, the common council may appoint a clerk pro tem. The city clerk shall have power and authority to administer oaths and affirmations and take acknowledgment of deeds and other instruments. He may appoint a deputy in writing under his hand and file such appointment in his office; and such deputy, in the case of the absence or disability of said clerk, shall have full power and authority to perform all the acts and duties pertaining to said office, and the city clerk shall be responsible for all acts of such deputy.

Duties of city treasurer.

SECTION 5. The city treasurer shall receive all moneys belonging to the city and keep an accurate and detailed account thereof, together with an account of all disbursements, in such manner as the common council may direct; he shall report to the common council as often as required, and shall report annually, at least ten days before the annual election, a full and detailed account of all receipts and expenditures from the date of his last annual report, and also of the state of the treasury, which statement he shall file with the clerk; he shall also be collector of taxes, and, except as hereinafter provided, shall have the same power and be subject to the same liabilities as treasurers

of towns. At the first regular meeting of the common council in the month of March in each year, the common council may fix and determine the amount of the salary that the treasurer of said city shall receive in lieu of the fees and emoluments by law allowed him for such services; provided, however, that said salary may be fixed and determined at any time thereafter, and before the charter election then next ensuing. The salary so fixed upon and determined shall be paid out of the city treasury, and it may be paid at the end of every quarter, and the fees allowed by law to the treasurer of said city shall be collected by him and paid into the city treasury for the use of the city. He may appoint a deputy, in writing, under his hand, and shall file such appointment in the office of the city clerk, and such deputy, in case of the absence or disability of said treasurer, shall have full power and authority to perform all of the acts and duties pertaining to said office; and said treasurer may require of such deputy a bond to said treasurer, in such sum as he may deem sufficient, with such sureties as he may approve, conditioned for the faithful performance of all the duties pertaining to said office, and that he will truly account for and pay over, according to law, all moneys which shall come into his hands as such deputy, and the treasurer and his bondsmen shall be responsible for any act of said deputy.

SECTION 6. The city attorney shall conduct all the law business of the corporation, and of all departments thereof, and of all other law business in which the city shall be interested, when so directed by the common council. He shall, when requested, furnish written opinions on subjects submitted to him by the mayor or by the common council or by any of its committees, or by any other department of the municipal government. He shall keep a docket of all the cases in which the city may be a party in any court of record, in which shall be briefly entered all steps taken in such cases, and said docket shall at all times be open to the inspection of the mayor or any member of the common council, or any city officer. It shall also be the duty of the city attorney to draft all indentures, bonds, contracts, leases, conveyances, and such other instruments in writing as may be required by the business of the

Duties of city attorney.

city; to examine and inspect tax and assessment rolls, and all proceedings in respect to the levy and collection of taxes and assessments; and to perform such duties as may be provided by the the charter and ordinances of the city. He shall have power to appoint an assistant who shall be authorized to do all acts required by law to be done by the city attorney; provided, that the city attorney shall be responsible to the city for all the acts of such assistant, but the city shall not be liable for the compensation of such assistant. The city attorney shall receive for services an annual salary, to be fixed by the common council, payable quarterly.

Duties of city auditor.

SECTION 7. It shall be the duty of the city auditor to carefully examine any claim presented against the city, and determine whether the claim is properly itemized and sworn to, whether the items charged are correct, and the debt or claim incurred by proper authority, and generally to examine and determine upon the correctness of the claim, item by item. For that purpose he shall have power to swear witnesses and take testimony. If the city auditor finds no objection to the claim, he shall mark his approval thereon; if he disapproves, or approves in part and disapproves in part, he shall attach to the claim on file a report of his reasons, and in all cases he shall file with the claim all evidence taken by him. No claim shall be considered by the council or referred to any committee until it has thus been examined by the city auditor, but such examination shall in all cases be made as soon as practicable after the claim is filed with the city clerk, and in all cases the examination shall be concluded within thirty days after such filing. The city auditor shall also once in each month examine the treasurer's accounts as reported by him and as kept by said treasurer, and shall make report as to the correctness of said accounts, and also any violation of the duties of the city treasurer in the manner of keeping his accounts or disbursing the moneys of the city. If on such examination the city auditor finds the monthly report of the city treasurer correct, he shall mark his approval thereon; if incorrect he shall report the facts. For any failure on the part of the city auditor to make such examination and report he shall forfeit the sum of

twenty-five dollars, to be retained out of his salary. For any month the city treasurer shall refuse to submit his accounts and vouchers to the examination, he shall forfeit the sum of twenty-five dollars, to be charged to him in his settlement with the city. The city auditor shall, at the expense of the city, provide a proper book and enter thereon all uncanceled city orders, and all bonds, coupons and obligations of the city outstanding, and thereafter such record shall be kept by the city clerk in such a way as to show all outstanding obligations of the city, and the date of cancellation of each such obligation. The city auditor shall also at the expense of the city procure a claim book, on which thereafter all claims against the city shall be entered as fast as the same are filed. Said claim book shall be provided with an index, and shall be in such form as to require entry of the name of the claimant, number of claim, when filed, amount claimed, date of report by city auditor, whether approved, and for how much, date of allowance or disallowance by the council, amount allowed, date of issue of order on the same, number of the order, and date of payment of the order. The determination of the city auditor on any claim presented, or on the state of the city treasurer's account, shall be advisory only to the common council. The auditor shall make such other examinations as to the conduct of any of the officers of the city as the common council shall, from time to time, require.

SECTION 8. The city engineer shall be a practical surveyor and engineer, and the compensation for his services shall be fixed by the common council. He shall perform all such services for the city of Eau Claire as properly come under the direction of a civil engineer or surveyor. He shall be consulted on all matters relating to public improvements of any kind, where the advice of an engineer would be of service. He shall take charge of all such structures and public works of the city, as the common council or any committee of the common council, or commissioners appointed by the common council may direct; and under their direction he shall prepare all plans and specifications for such structures and public works and shall prepare or cause to be prepared under their direction, all

Duties of city engineer.

contracts for the same, and if required by them, he shall measure or cause to be measured all work done by contract for the city, and shall certify to the same.

Engineer to make surveys.

2nd. Said engineer shall make such surveys, plans, estimates and descriptions, and take such levels as may be required of him by the mayor, the common council or any committee of the common council. He shall prepare all such plans, statements, and estimates, and furnish all such information in relation to the grading, laying out, enlarging straightening or otherwise altering streets, as may be required by the common council; and shall, whenever required, furnish the city attorney with all necessary descriptions of lands.

Engineer to examine bridges if required.

3d. Said engineer shall annually, and oftener, if in his opinion it shall be necessary, or if required by the committee on streets, make a careful examination of all the bridges within the city limits, and make to said committee such reports respecting their condition as to safety, need of removal or repairs, as the exigency of the case may require.

Engineer to report annually.

4th. Said engineer shall annually in the month of March, present to the common council a report in relation to the city engineer's department, showing the detailed expenses of the department, the general nature of the work, the condition of all structures that have come under his supervision, that are in process of construction, or that have been completed during the year, and such other information in relation to the same as he shall deem expedient.

Engineer to have custody of plans, etc.

5th. Said engineer shall have the custody of all plans relative to all work under his charge, and shall keep the same properly classified and indexed; he shall keep a record with proper references and index of the location of all stone or other bounds which have already been or may be hereafter set for the purpose of defining the lines of any highway, street or avenue of the city; and he shall also keep a record alphabetically arranged of all streets or avenues of the city which have been or may hereafter be declared public highways, with the date of such declaration.

Engineer to inspect work.

6th. Said engineer shall, whenever he deems it expedient or is directed by the mayor or common council, inspect all work being done for the city by contract or otherwise in which the services of

an engineer or surveyor may be required, and shall carefully note any and all defects in said work, and shall report the same to the department, agent or agents of the city under whose supervision the said work is being done.

7th. Said engineer shall report to the appropriate committee of the common council, as soon as practicable, any work for the city which is not being done in accordance with the plans prepared by him for said work, and is hereby authorized to stop the prosecution thereof, and such work shall stop until the city council shall direct it to be continued.

Engineer to report when work is not done in accordance with plans.

SECTION 9. The fire warden of the city of Eau Claire shall examine as to the construction and location of all chimneys, fire places, hearths, stoves, stovepipes, ovens, smoke stacks, boilers and fire apparatus used in and about any buildings, and shall have power to prevent the improper construction thereof; and may cause them to be removed and placed in a safe and secure position; he shall prevent the depositing or keeping of ashes, or any combustible material in any place except such as is safe; and he shall perform other and such further duties as may be ordered or prescribed by the common council.

Duties of fire warden.

SECTION 10. It shall be the duty of the street commissioner to see that all ordinances of the city relating to the obstruction and cleansing of sidewalks, streets, alleys, public grounds, reservoirs, gutters, sewers, waters and water courses in said city are duly observed and kept, and direct and control the persons employed in said service. The street commissioner shall have a general supervision over all works let by contract for the improvement of streets or sidewalks in said city, unless the common council shall otherwise provide. He shall have a general supervision of all streets. The street commissioner shall receive for his services not more than three dollars for each day actually and necessarily occupied by him in the discharge of his duties.

Duties of street commissioner.

SECTION 11. It shall be the duty of the poor commissioner to keep a list of all poor persons residing in the city of Eau Claire, and to have the general charge and supervision of the care of the poor located in the city of Eau Claire, to see that they are cared for in accordance with the ordi-

Duty of poor commissioner.

nances of said city, and the general laws of the state of Wisconsin, and to make such reports as he shall be from time to time required to make by the common council, and he shall perform such other and further duties as may be ordered or prescribed by the common council, and shall receive as compensation for his services a salary to be fixed by the common council at the commencement of his term.

Compensation,
when paid
city officers.

SECTION 12. No compensation or salary shall be paid the mayor or any alderman of said city, except as an inspector of election, member of the board of registry, member of the board of review or as a member of an auditing committee appointed by the common council to audit accounts of city officers.

Official
newspaper.

SECTION 13. The common council shall, on the third Wednesday in April, designate a newspaper, printed and published in the city of Eau Claire, in which to publish their proceedings and all ordinances and resolutions, and any other publication which may be authorized by the common council, and they may let the same by contract to the lowest responsible bidder for the term of one year; but no bid therefor shall be considered unless made by the publisher of a daily or weekly newspaper, printed and published in the city of Eau Claire, and no bids therefor shall be considered which shall be higher than the rates prescribed by law for similar printing, and the printer of said newspaper shall, either in person or by his foreman, file with the clerk of the city his or their affidavits of such publication, together with a copy thereof, and such affidavit shall be prima facie evidence of the publication of such notice, ordinance, proceeding or by-law.

Assessing
districts.

SECTION 14. The common council shall by ordinance divide the city into assessing districts, and shall, on or before the first Tuesday in May in each year, elect an assessor for each of such districts, who shall hold their respective offices for the term of one year, and until their successors are elected and qualified. The assessors so elected shall assess all the taxable property of their said districts as required by law, and each shall complete and return his assessment roll to the city clerk on or before the first Monday in July in each year. During the last week of the month of June in each

year, the assessors shall attend at the office of the city clerk for the purpose of hearing the complaints of persons who may feel themselves aggrieved by such assessments, and shall make such alterations and amendments thereto as justice and equity may require. The assessors shall receive for their services such compensation as the common council may determine, not exceeding the sum of four hundred dollars each for the term for which they were elected. The said assessors, together with the mayor, or in his absence or disability the president of the common council, the city clerk, and the city treasurer, shall constitute a city board of review, and they shall meet in the office of the city clerk of said city, on or before the third Monday of July in each year, and proceed to review and equalize the said several assessments in the same manner in all respects as town boards of equalizers are now authorized by law to do.

SECTION 15. Any vacancy in the elective offices of said city shall be filled by the common council, and the person so appointed shall hold said office and discharge the duties thereof until his successor, who shall be elected at the next charter election, shall be qualified for said office.

Vacancy,
how filled.

SECTION 16. The common council shall have power, by a two-thirds vote of all the members thereof, to levy a tax or taxes to pay any or all judgments against the city.

Council to
have power
to levy tax.

SECTION 17. The common council shall have the power to fill any vacancies occurring in the office of supervisors, from any ward in the city, if any vacancy shall exist in said office by reason of a failure to elect, resignation, or from inability to serve.

Power to fill
vacancy.

SECTION 18. All officers except mayor and aldermen of the city of Eau Claire, shall receive as compensation for their services a salary to be determined upon by the common council, at or before the commencement of their term of office. Such salaries shall be payable at such time as the common council shall direct, and the same shall not be increased or diminished during the term of any such officer. And the common council may by ordinance define and prescribe further duties of any officer of the city and require any officer

Salaries.

to perform such further duties as may be prescribed by them.

CHAPTER IV.

THE COMMON COUNCIL — ITS GENERAL POWERS AND DUTIES.

Common council, how constituted.

SECTION 1. The mayor and aldermen shall constitute the common council, and the style of all ordinance^s shall be "the common council of the city of Eau Claire, do ordain," etc. The common council shall meet at such time and place as the rules for the government of the common council shall provide. The majority of the aldermen elect shall constitute a quorum.

Meetings of the council.

SECTION 2. The common council shall hold stated or regular meetings, and the mayor, or in case of his refusal to act, any six aldermen, may call special meetings by a notice of at least twenty-four hours, to be issued by the clerk upon written requests to be served personally on each member of the council or left at his usual place of abode, or at his regular place of business within business hours. The common council shall determine the rules of its own proceedings, and be the judge of the elections, qualifications and returns of its own members, and shall have power to compel the attendance of absent members, and to enforce its rules, to punish by fine and imprisonment, by a vote of two-thirds of its members, any member for disorderly or contemptuous conduct, and by a vote of two-thirds of its members may expel any member for cause.

Council to control finances.

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

1st. To license, suppress, regulate and prohibit the exhibition of common showmen or shows of any kind, or the exhibition of caravans, circuses or theatrical performances, billiard tables, bagatelle tables, pigeon tables, bowling saloons and other places of entertainment and amusement, and to provide for the abatement and removal of nuisances, under the ordinance or at a common law; and to grant licenses for selling strong, spirituous, malt, ardent or intoxicating liquors, and to regulate and license groceries, taverns, victualling houses and all persons vending or dealing in strong, spirituous, malt, ardent or intoxicating liquors, and to revoke the same for a violation thereof; provided, that the sum to be paid for any such license shall not be less than the amount fixed and provided by the laws of the state, and all licenses hereafter granted, shall run from the first day of May in each year, and all licenses hereafter granted shall expire on the first day of May, after the same are so granted, and if any license is granted after the first day of May in any year, the full amount prescribed therefor for one year, shall be paid. No license shall be transferred; and no money paid therefor shall be refunded except upon the affirmative vote of three-fourths of all the members of the common council.

License showmen.

2nd. The common council shall have power to license, regulate, suppress or prohibit concerts or other musical entertainments by itinerant persons or companies, exhibitions of natural or artificial curiosities, and all other exhibitions and amusements.

License entertainments.

3rd. To restrain and prohibit all descriptions of gaming and fraudulent devices and practices, and all playing of cards, dice or other games of chance, for the purpose of gaming in said city; and to restrain any person from vending, giving or dealing in spirituous or vinous liquors, unless duly licensed by the common council.

Gaming and fraudulent devices.

- Riots.** 4th. To prevent any riots, noise, disturbance or disorderly assemblages, suppress and restrain disorderly houses or groceries, or houses of ill-fame, and to authorize the destruction of all instruments used for the purpose of gaming.
- Nauseous places.** 5th. To compel the owners or occupants of any grocery, tannery, stable, barn, privy, sewer, tallow chandler's shop, soap factory, 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.
- Slaughter houses.** 6th. To direct and fix the location of slaughter houses and markets, and to establish rates for licensing the vendors of gunpowder, giant powder, nitro-glycerine, gun-cotton, and to regulate the storage, keeping and conveying the same, and of all other explosive and dangerous materials.
- Grading and improving streets.** 7th. To provide for the making, grading, improving and repairing of the streets of the city of Eau Claire, and to make such other necessary public improvements as shall be deemed necessary and proper, and for the general benefit, health and welfare of the inhabitants thereof, and to provide for the making, construction and repairing of gutters and sidewalks in said city, and to prevent the encumbering of the streets, sidewalks, lanes, highways and alleys with carriages, sleighs, boxes, lumber, firewood or other materials or substances whatsoever.
- Horse-racing.** 8th. To prevent horse racing, immoderate riding or driving on the streets or on the bridges within said city, and regulate the places of bathing and swimming in the waters within the city limits.
- Running at large of dogs.** 9th. To restrain the running at large of dogs, and to authorize the destruction of the same in a summary manner when at large contrary to the ordinances of said city.
- Horses.** 10th. To restrain the running at large of horses, cattle, swine, mules and asses, sheep, poultry and geese, and to authorize the distraining, impounding and sale of the same.
- Putrid carcasses, etc.** 11th. To prevent any person from bringing, depositing or having within said city, or placing within the waters within or adjacent to said city, any putrid carcass or other unwholesome or nauseous substances, and to require the removal of

the same by any person who shall have upon his premises any such substance, or putrid or unsound beef, pork, hides or skins of any kind, or on default, to authorize the removal thereof by some competent officer at the expense of such person or persons

12th. To make and establish 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 of the city, to regulate and license hacks, cabs, drays, carts, and the charges of hackmen, draymen, cartmen and cabmen in the city, and to erect lamps and to provide for lighting the streets, public grounds and public highways with gas or otherwise; to build such flumes, aqueducts and structures as may be necessary to use, and employ for manufacturing purposes all surplus water-power owned or controlled by said city, and for such purpose to issue the corporate bonds of said city in a sum not exceeding fifty thousand dollars. Provided, that no such bonds shall be issued unless such issue shall have been determined upon by the adoption of an ordinance authorizing such issue; and further provided, that no such bonds shall be issued until the question of the issuance thereof shall have been submitted to a vote of the qualified electors of said city, in such manner as the common council may by ordinance determine and provide, and the issuance of said bonds shall have been approved by the affirmative vote of a majority of the votes cast upon such question.

Public pounds,
etc.

13th. To establish and regulate boards of health, provide hospitals and cemetery grounds, regulate the burial of the dead and the return of the bills of mortality, and to exempt burial grounds set apart for the public use from taxation.

Boards of
health.

14th. The common council shall have power to provide for the establishment of a board of cemetery commissioners and a board of park commissioners, and to prescribe and define their duties and powers and to fix their compensation.

Cemetery com-
missioners.

15th. To establish the size and weight of bread, and to provide for the seizure and forfeiture of bread baked contrary to law.

Bread.

16th. To prevent all persons riding or driving any horse, mule, cattle or other animals on the

Driving on
sidewalks.

sidewalks in said city, or in any way doing damage to said sidewalks.

Shooting of
fire-arms.

17th. To prevent shooting off fire-arms or crackers and to prevent the exhibition of fire works in any places which may be considered by the council dangerous to the city or any property, or to the person of any citizen, or annoying to any citizen in said city.

Drunkenness.

18th. To restrain drunkenness, immoderate drinking or obscenity in the streets or public places, and to provide for arresting, removing and punishing any person or persons who may be guilty of the same.

Runners and
solicitors.

19th. To restrain and regulate runners and solicitors for boats, vessels, stages, cars, public houses and other establishments.

Government of
police.

20th. To make rules and ordinances for the government and regulation of the police of the city.

Public
markets.

21st. To establish public markets and make rules and regulations for the government of the same; to appoint suitable officers for overseeing and regulating such markets, and to punish and restrain all persons from interrupting or interfering with the due observance of such rules and regulations; to license and regulate butcher stalls, shops and stands for the sale of game, poultry, meats, fish and other articles.

Place of selling
hay.

22nd. To regulate the place or places and manner of weighing and selling hay and measuring and selling fuel, lime and other gross commodities and to appoint suitable persons to superintend and conduct the same.

Removal of
snow from
sidewalks.

23rd. To compel the owners of buildings or grounds or the occupants, where the same are occupied, to remove snow, dirt or rubbish from the sidewalks, streets or alleys opposite thereto, and to compel such owner or occupant to remove from such lot owned or occupied by him all such substances as the board of health shall direct; and, in default, to authorize the removal or destruction of the objectionable substances by some officer of the city, at the expense of such owner or occupant.

Contagious
diseases.

24th. To regulate, prevent and control the landing of persons from boats, cars and stages, or other conveyances, wherein are contagious or infectious diseases or disorders, and to make such

disposition of such persons as to preserve the health of the city.

25th. To regulate the time and manner of holding public auctions and vendues. Auctions.

26th. To appoint watchmen and prescribe their duties. Watchman.

27th. To provide by ordinance for a standard of weights and measures, and for the punishment of any person using or keeping for use, any false weights or measures. Weights and measures.

28th. The common council shall have jurisdiction over the entire waters within the city so as to prevent any deterioration of the waters or any nuisance being cast therein by which the health of the inhabitants of the city or the purity of the water shall be impaired, or for any other purpose authorized in this act.

29th. The common council shall have power to require the owner of any lot or ground, in the city to set out ornamental trees in the street or streets fronting on the same, and in default thereof to cause the same to be done, and to levy a special tax upon such lot or grounds to pay the expenses of the same. Ornamental trees.

30th. The common council of said city shall have power to authorize the building, construction and operations of street railways upon the streets and bridges in said city, for the carriage of passengers and freight through said city, and upon and over the streets and bridges therein, upon such terms and conditions as they shall impose. Provided, that such street railway or railways shall be operated by animal or electric power only. Street railways.

31st. The common council of said city shall have power to locate and authorize the construction of bridges in said city over the Chippewa river and over the Eau Claire river. Bridges.

32nd. To change the name of any street in said city, and to grant ferry licenses within the corporate limits of the city. Also to establish the grades of streets in said city, and to change and alter the same whenever in their opinion the interests of the city require it. Streets.

33rd. To establish and erect one or more pest houses, and to control and regulate the same. Pest houses.

34th. To provide for the inspection and regulation of stationary steam engines and boilers, and Inspection of steam engines.

for the storing of kerosene and all other products of crude oil, petroleum, naphtha or coal oil.

Places of egress from public buildings.

35th. To require and compel every hall, theater, opera-house, church, school-house or building of any kind whatsoever, to be used for the assemblage of people, to be provided with ample means for the safe and speedy egress of the persons therein assembled, and to prohibit the use of such buildings without such means of egress, by suitable penalties, to be enforced against any owner, occupant, lessee or other person or persons having power or control over the same.

Appropriation made by affirmative vote of council.

SECTION 4. No appropriation shall be made, nor shall any debt be created or liability incurred against the city, except by an affirmative vote of a majority of all the members of the council, and all ordinances, rules and licenses shall require for their adoption or passage an affirmative vote of a majority of all the members of the common council, and all ordinances, before the same shall be in force shall be signed by the mayor; and all resolutions or measures for the appropriation of money, or whereby a debt shall be created against or a liability incurred by the city, shall be approved by the mayor before the same shall be in force; provided, that in case the mayor shall neglect or refuse to sign any ordinance, or any ordinance or resolution for the appropriation of money, or shall neglect or refuse to approve any ordinance or any act or measure creating a debt or establishing a liability against the city, he shall within ten (10) days after the passage thereof by the council, file such resolution, ordinance or measure, together with his disapproval thereof and his reasons therefor in writing, in the office of the city clerk, who shall lay the same before the council at its next stated meeting thereafter; and in case of failure to file the same within the time aforesaid, such resolution, ordinance or measure shall be in force without his approval. Two-thirds of all the members of the council voting in the affirmative shall have power within thirty days after the passage or adoption thereof to repass such disapproved ordinance, resolution, or measure, notwithstanding the objections of the mayor. And all ordinances shall be published in the public newspaper printed in the city of Eau Claire, which may have been

In case of disapproved ordinances.

designated by the common council to do the printing of the city, and shall be in force from and after their passage and publication; and within fifteen days after publication, such publication being duly proved by the affidavit of the printer or foreman of the printers of such newspaper, and filed in the office of the city clerk, shall be prima facie evidence of the passage and publication thereof.

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

Power conferred not to hinder suits in courts.

SECTION 6. The common council shall examine, audit and adjust the accounts of the city clerk, city treasurer, chief of police, street commissioner, and all other officers or agents of the city, at such time as they may deem proper, and also at the end of each year, and before the term for which the officers of said city are elected or appointed shall have expired. And the common council shall require each and every such officer or agent to exhibit his books, accounts and vouchers for such examination and settlement, and if any such officers or agents shall refuse to comply with the orders of the council in the discharge of their said duties, in pursuance of this section, or shall neglect or refuse to render his accounts or present his books and vouchers to said council, it shall be the duty of the common council to declare the office of such person vacant; and the common council shall order suits and proceedings at law against any officer or agent of said city who may be delinquent or defaulting in his accounts, or in the discharge of his official duties, and shall make a full record of all such settlements.

Council to audit accounts.

SECTION 7. The common council is authorized to borrow money and for that purpose, to order and require to be issued, bonds of the city with

Council may borrow money.

interest coupons annexed thereto in such amount and for such length of time as they may deem proper, the rate of interest not to exceed six per centum per annum; such bonds may be issued for the building of bridges, or public parks or buildings or for the constructions and maintenance of sewers or pavements or renewal of any outstanding bonds of said city or for the purpose of funding, taking up or making payments of or upon the floating indebtedness and liabilities of the city, or for the construction and maintenance of any public improvement of whatever nature or for any other lawful municipal purpose; all such bonds shall be of the denomination of one hundred dollars, or some multiple thereof and shall be signed by the mayor and countersigned by the clerk of said city and shall be issued under the corporate seal of the city, and in the hands of a bona fide holder, said bonds shall be full and complete evidence of the indebtedness of said city according to the tenor and effect of said bond; and the common council of said city shall, in the month of September in each year, levy a tax upon the taxable property of said city, sufficient in amount to pay the interest for one year, upon all the bonds lawfully issued by said city, and said tax shall not be used for any other purpose; provided, that no bonds of said city, excepting improvement bonds, as provided by chapter V, of this act, shall be issued until such issue shall have been determined upon by the adoption of an ordinance authorizing such issue; and provided further, that no bonds of said city, excepting improvement bonds as aforesaid, and bonds issued to refund or renew outstanding bonds of said city, shall be issued until the question of the issuance of such bonds shall have been submitted to a vote of the qualified electors of said city, in such manner as the common council may, by ordinance, determine and provide, and the issuance of such bonds shall have been approved by the affirmative vote of a majority of the votes cast upon such question.

May effect
temporary
loans.

SECTION 8. The common council may, by resolution, authorize the mayor and city clerk to effect temporary loans of money for the use of the city, and for this purpose the mayor and city clerk shall draw orders on the city treasurer, payable at

such time or times, of such aggregate amount and drawing such rate of interest, not exceeding seven per centum per annum, as the council may prescribe. Such orders shall be accepted by the city treasurer, and at their maturity shall be paid by him out of the proper funds in the city treasury.

SECTION 9. The common council shall have power to establish a public library or reading room, and annually to levy a tax for the maintenance thereof as provided by chapter XLI, of the revised statutes and the acts amendatory thereof. On the first Wednesday of June each year or within ten days thereafter, the mayor shall appoint three directors of such public library or reading room as provided by law, whose term of office shall commence on the first day of July succeeding such appointment, and such appointment shall be confirmed by the common council by the affirmative vote of a majority of the aldermen present and voting upon such confirmation. Public library.

SECTION 10. On the third Wednesday of April, in each year, or within ten days thereafter, the mayor shall appoint wholly or partially from the members of the common council, three persons as members of the board of health, who shall organize as a board of health in the manner provided by chapter 167, of the laws of Wisconsin for the year 1883, as amended by chapter 291, of the laws of Wisconsin for the year 1887. The term of office of the persons so appointed shall commence on the first Tuesday of May succeeding such appointment, and such appointments shall be confirmed by the common council by the affirmative vote of a majority of the aldermen present and voting upon such confirmation. Board of health.

CHAPTER V.

OPENING AND IMPROVEMENT OF PUBLIC GROUNDS, STREETS AND ALLEYS.

SECTION 1. The common council shall have power to take for the use of the city, in the manner hereinafter provided, any lots or any lands for public squares, grounds, streets and alleys, and to widen or straighten the same, or for the purpose Improvements.

of erecting a public hall, market house, fire engine house, or any building in the construction of water works, or for flowing the same, for supplying the city water, or any other lawful municipal purpose, or for erecting hospitals or pest houses for the prevention of contagious or infectious diseases within the city, or for any needful or convenient purpose in connection with, or to execute and accomplish any other power, right or privilege conferred on or granted to the city by its charter, or any act amendatory thereof, or by any act of the legislature, and may take the same, and whether within or without the city, by conveyance from the owner upon a bargain and sale, or upon donation thereof, or in any manner as follows:

Power to take land for public use.

Whenever it shall, in the opinion of the common council, be necessary, said council shall declare by resolution that it is necessary to take any such lots or lands for any of the purposes above set forth, giving description of the premises, defining separately each parcel thereof separately owned, and the purpose for which they are to be taken. The common council shall thereupon cause a written notice, as prescribed in the next section, to be served upon the occupant or occupants of such lands and the owner or owners of the same, if the place of residence of such owner or owners is known or can be ascertained by reasonable diligence, when such residence is within this state, and in case such owner or owners are non-residents of the state, or their place of residence after due diligence by the city attorney of said city, cannot be ascertained, which fact shall be made to appear by his affidavit, then the common council shall cause service of such notice to be made on such non-resident owner or owners, or the owner or owners, the residence of whom cannot be ascertained, by causing the same to be published for six weeks in the official paper of the city, at least once in each week, and by causing such notice to be mailed postpaid to the address of such owners within five days from the time of the first publication of such notice, when the post-office address of such owner is known.

Notice to be served on owner.

Notice, how served.

SECTION 2. Such notice shall be signed by the city clerk or city attorney, and shall state the adoption of the resolution and embrace a copy thereof, and further, that at a time and place

therein named, not less than ten days after the service of such notice, or the expiration of such publication, as the case may be, application will be made to the judge of the circuit court for said county of Eau Claire, for a jury to inquire and determine whether it is necessary to take the lands or any part thereof, described in such resolution for the purpose therein specified. Such notice shall further state the time and place at which such jury will be applied for to meet and discharge such duty; and the judge aforesaid shall fix the time and place so named in the precept hereinafter mentioned, and no notice thereof shall be necessary.

SECTION 3. At the time fixed in said notice for the appointment of such jurors, the judge named in said notice, upon proof of the service of the same on the owner or owners of the premises described in such notice, which proof shall be made in the same manner as is now required to make proof of the service of a summons in civil actions in courts of record in this state, shall appoint twelve competent persons having the qualifications of jurors in and for the county of Eau Claire, and not residents of the ward in which such premises are situated, not interested in such application, but residents of the city shall not be disqualified; provided, that if the owner of the lands sought to be taken shall, before said judge shall appoint such persons, demand in writing that the jury be taken from another county in such judicial circuit, then said judge shall appoint such jury from persons having the qualifications of jurors in such other county in the circuit as shall be designated by such land owner in his demand for the inquiry to be made respecting the lands. The same rights of challenge peremptorily, or for favor, or cause, may be exercised by the city attorney, and by such land owner whose land is sought to be taken, or by his agent or attorney, as a party to a civil action in the circuit court is entitled to have, and the judge shall decide the same in like manner, and replace the name of any juror successfully challenged by the name of some other competent person until a jury of twelve shall be chosen. The said judge shall thereupon issue his receipt directed to such jurors, requiring them and each of them to ap- ^{Appointment of jurors.}

pear before him, on the day named in the notice for such jurors to meet, for the discharge of their duties under such appointment. The precept so issued may be served by the sheriff of said county, or by any public officer of said city. The jurors so chosen shall, before entering upon the performance of their duty, take an oath before such judge faithfully and impartially to discharge their duty as such jurors and a true verdict give, whether it is necessary to take such land or any part thereof mentioned in such resolution for the purpose therein specified.

In case a juror is disqualified.

SECTION 4. If any of the jurors so appointed shall be disqualified from acting, or shall refuse to act, the judge shall appoint others in their places, and a memorandum of such substitution shall be indorsed upon the precept.

Jury to view premises.

SECTION 5. The said jurors shall, forthwith, under direction of said judge, proceed in a body to view the premises in question, and shall hear such testimony as shall be offered by any party interested, which testimony shall be reduced to writing by said judge, and either of the jurors shall be authorized to administer the necessary oaths to witnesses.

Report of jury to be filed.

SECTION 6. After having made such view and heard such testimony as shall have been produced the jury shall, under the direction of said judge, deliberate apart and return their unanimous verdict in writing, signed by them, in which they shall find and state whether it is necessary to take the whole of the lands described in such resolution for the purpose therein specified, or any part thereof, describing particularly the part to be taken, if they find only a part thereof so necessary. Such verdict with all the papers, proceedings and testimony had before him and said jury, shall then be forthwith filed by said judge with the clerk of the circuit court for Eau Claire county, together with a certificate by said judge that the same are the originals, and the whole thereof, which shall have the same force and effect as the originals. In case any jury called under the provisions of this charter shall disagree, another jury shall be forthwith selected in like manner, and all the like proceedings thereafter had as hereinbefore provided for the first jury, except that the said judge shall fix a reasonable time for the assembl-

ing of such jury, in the precept thereof, but no other notice shall be necessary to any party; and the like steps shall be taken in case of any further disagreement until a verdict shall be found.

SECTION 7. Should the necessity for the taking of the premises, or any part thereof mentioned in the resolution of the council, be so established by the verdict of a jury, then the common council may enter an order directing the city attorney to proceed to procure to be assessed and appraised the damages to the owner or owners of the premises so found necessary to be taken by reason of the taking of the same for the purpose specified. The city attorney shall thereupon make application to the judge of the circuit court or judge of the county court of Eau Claire county, briefly setting forth the fact that the necessity of taking such premises has been so established by the verdict of the jury, and praying the appointment of three commissioners to appraise the damages of each and all of the several owners of such lands, and showing the amount of land, giving the metes and bounds thereof, the purpose for which the same is to be taken, and the names of the several owners so far as same are known to the city attorney. Five days' notice of the time and place when such application will be presented to said judge, accompanied with a copy of said application, shall then be served on each owner in the case, when required and in the manner provided in section 1, of this chapter 5. At the time and place designated such judge shall hear all parties interested who appear, and shall appoint three disinterested and reputable freeholders of said county as such commissioners, by his order in writing, to ascertain and appraise the compensation to be made to the owners or persons interested in the land so found to be taken, and fix the time and place for the first meeting of such commissioners.

Appraisal of damages.

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

In case of buildings on land to be taken.

Ten days' notice to be given.

SECTION 9. At least ten days' personal notice of such determination shall be given to the owner or his agent, if known and a resident of the city, or left at his usual place of abode. If not known, or a non-resident, notice to all persons interested shall be given by publication in the official paper three successive weeks; such notice shall specify the building and award of the commissioners. It shall also require the parties interested to appear by a day therein named, or give notice of their election to the common council, either to except the award of the commissioners and to allow such building to be taken with the land appropriated, or their intention to remove said building at the rate set thereon, by the commissioners to remove. If the owner shall agree to remove such building he shall have such time for this purpose as the common council shall allow.

When council to direct sale of building.

SECTION 10. If the owner refuse to take the building at the value to remove, or fail to give notice of his election as aforesaid, within the time prescribed, the common council shall have power to direct the sale of such building at public auction for cash, giving ten days' notice of such sale. The proceeds shall be paid to the owner or deposited for him in the city treasury.

Commissioners to subscribe oath.

SECTION 11. The commissioners shall take and subscribe the oath prescribed by the twenty-eight section of the fourth article of the constitution before entering on the discharge of their duties. A majority of them may adjourn the proceedings before them from time to time, in their discretion. They shall cause notice to be given to each party interested of the time when, and the place where, they will meet to consider the amount of compensation to which he is entitled, which notice shall be personally served on such party, or his authorized agent or attorney, or by leaving the same at his residence or place of business, with a person of suitable age and discretion at least six days before the time of such meeting. If such a party is a non-resident of this state, or his residence is unknown, and he has no authorized agent or attorney in this state, such notice shall be published in a newspaper as aforesaid, for such length of time as the court or judge appointing said commissioners shall direct. The commissioners shall file proof of such notices, or

of the appearance of such parties before them, either personally or by attorney, with their report. But it shall not be necessary to serve or publish notice of any subsequent meeting held pursuant to adjournment.

SECTION 12. The commissioners shall view the premises described in the petition, and hear the allegations of the parties, and shall appraise, ascertain and determine the value of each tract or parcel of land proposed to be taken, with the improvements thereon, and of each separate estate therein, and the damages sustained by the owner by reason of the taking thereof, and fix the amount of compensation to be made to each of such owners therefor; and in fixing the amount of said compensation, said commissioners shall not make any allowance or deduction from the value of the real estate taken on account of any real or supposed benefits which the parties in interest may derive from the construction of the proposed improvement for which such real estate may be taken; but special benefits to the real estate adjoining the land so taken shall be allowed in deduction of any damages sustained by the owner to any adjoining real estate. In case of any building on the land, and proceedings shall have been taken as provided in sections 8, 9 and 10, the said commissioners shall include the value of such building as estimated by them, less the proceeds of the sale thereof, or, if taken by the owner at the value to remove, in such case they shall only include the difference between such value and the whole estimated value of such building. A majority of the commissioners, all being present, shall be competent to determine all matters before them. The commissioners shall, within twenty days after viewing any of the lands so taken, make and file in the office of the clerk of the circuit court of such county, a report of their proceedings concerning such lands, setting forth the award made for each tract or parcel thereof, or separate estates therein, to the owner or owners thereof. The commissioners shall be entitled to such compensation as the court may direct, which shall be paid by the city.

Commissioners
to determine
value of land.

SECTION 13. If the lands or buildings belong to different persons, or if the land be subjected to lease, judgment or mortgage, or if there be any

In case land
and buildings
belong to dif-
ferent persons.

estate in it less than an estate in fee, the injury done to such person or interest respectively may be awarded to them by the commissioners, less the benefits resulting to them respectively from the proposed improvement.

Council to be liable for compensation.

SECTION 14. Whenever the commissioners shall have completed their duties and filed the report of their proceedings and determination as before provided, the common council may, if they shall deem it expedient, by resolution or ordinance, order such improvement to be made and the land which has been found necessary to be taken therefor to be taken and used, and in such case the city shall be absolutely liable to the owner or owners, or parties entitled thereto, for all compensation that may be established against said city therefor, and the council may also in that case make an assessment of the compensation to be paid therefor with the cost of proceedings, or such part thereof, as they shall determine to be just, upon the lands found by them to be directly benefited by such improvement in such proportions to the benefits enjoyed as they shall determine, but no such assessment shall be made upon any land except upon at least ten days' notice to the owner of such lands, of the time and place of making such assessment, at which time such owner may appear and be allowed to produce any proofs he may desire in relation to the assessment to be made. If the council shall not deem it expedient to make such improvement, they may, by resolution, order all further proceedings to be discontinued.

May appeal to circuit court.

SECTION 15. Within ten days after the filing of the report of the commissioners in the office of the clerk of the circuit court, any party may appeal to the circuit court of Eau Claire county from any award made by the commissioners, by filing in the office of said clerk a written notice of appeal. Upon receiving such notice, the appeal shall be considered an action pending in court, for trial there as other actions, and shall be entered by the clerk upon the records of the court by setting down the owner or owners of the land for which such award was made, and who are parties to the appeal as plaintiffs, and the city as defendant. Such appeal shall be tried by jury, unless a trial by jury is waived by both parties; costs

shall be allowed to the successful party on such appeal, and if in favor of the plaintiff, be added to the amount of the verdict; if in favor of the defendant, be deducted therefrom; and judgment shall be rendered thereon according to the rights of the parties.

SECTION 16. The report of the commissioners shall be recorded by the clerk of the court in whose office the same is filed, in the judgment book of such court, and at any time after the making of such award, the city may set apart in its treasury, to the order of the owner or owners of the land so taken, or pay the same to such owner or owners, or to the clerk of said court for the use of such owner or owners, the amount awarded by the commissioners, and thereupon may enter upon, take and use the land for the purpose for which it was condemned, and may obtain from either of said judges, upon twenty-four hours' notice, a writ of assistance to put its officers or agents into possession of the same. If such city be in possession or put in possession of such land, pending an appeal the owner or parties entitled thereto, shall be entitled to receive the money paid into court or set apart in the city treasury on account of the award appealed from, without prejudice to the appeal taken, but if the city shall have appealed, such money shall only be so withdrawn by leave of court, upon filing a bond in such sum and with such surety as shall be approved by the court or judge to repay the amount by which such award shall be abated on such appeal, with costs. If any defect of title to or incumbrance upon any parcel of the premises shall be suggested in said petition, or if any party to said proceedings or any person not a party shall petition to the said court, setting up a claim adverse to the title set out in said petition, to said premises, and to the money or any part of it to be paid as compensation for the property so taken, the court shall hear, and determine the right of the parties to said money, and for that purpose may order a reference or an issue to be tried by a jury. Either party may except to the decisions of the court and may appeal to the supreme court in like manner as in actions. Either court may award costs to the prevailing party,

Report to be recorded.

and render judgment therefor against the other party.

Contracts on land taken to be discharged.

SECTION 17. When the whole of any lot or tract of land or other premises, under lease or under contract, shall be taken by virtue of this act, all the covenants, contracts or engagements between landlord and tenant or any other contracting parties touching the same or any part thereof, shall, upon the confirmation of such report, respectively cease and be absolutely discharged.

When part of land is under contract.

SECTION 18. When only a part of a lot or tract of land or other premises so under lease or contract shall be taken for any of the purposes aforesaid, all the covenants, contracts or agreements respectively, the same, upon the confirmation of such report, shall be absolutely discharged as to the part thereof so taken, but shall remain valid as to the residue thereof, and the rents, considerations and payments reserved, payable and to be paid for and in respect to the same, shall be so proportioned that the part thereof justly and equitably payable for such residue thereof and no more, shall be paid or recoverable for in respect to the same.

In case owner is an infant.

SECTION 19. When any known owner of lands or tenements affected by any proceedings under this charter shall be an infant, or labor under any disability, the judge before whom the proceedings are pending, may, upon the application of the common council or such party, or his next friend, appoint a guardian for such party, in the same manner as in a civil action in a court of record, and all notices required by this charter shall be served on such guardian.

Judge may amend informality.

SECTION 20. The judge or court before whom proceedings are pending, shall have power at any time to amend any defect or informality in any of the special proceedings authorized by this act as may be necessary, or to cause new parties to be added, and to direct such further notices to be given to any party in interest as he deems proper, and also to appoint other commissioners in place of any who shall die, or refuse or neglect to serve, or be incapable of serving.

In case of adjacent lands.

SECTION 21. Whenever any improvement chargeable to the property adjacent thereto shall have been determined upon, the proportion of the

costs properly chargeable to each lot, part of lot or parcel of land subject to contribute to the payment of the same, shall be ascertained by the council, and the city clerk shall forthwith issue to each person occupying such premises liable to contribute, a certificate stating the amount assessed and chargeable to the premises occupied by such person, and the amount so chargeable to any lot or parcel of land shall be from time it is so ascertained, a lien and charge thereon, and upon no other property, and the said amount shall be entered against such lot or lots in the tax warrant for the year in which the assessment is made, and collected in the same manner as other taxes.

SECTION 22. Whenever any public grounds, streets or alleys shall be laid out, widened or enlarged, or other public improvements made, under the provisions of this chapter or this act, the city engineer shall make an accurate survey and profile thereof, duly certified by such city engineer, as prescribed by the laws of this state, for the certificate of the county surveyor, and when so certified shall be filed in the city clerk's office as a public survey, and shall be admitted as legal evidence in any court within this state, but the same may be explained or rebutted by other evidence. The city clerk shall make a copy of all surveys of any public street or highway so filed in his office, and shall attach his certificate to the same, that he has carefully compared the same with the original on file in his office, and that the same is a true copy of said original, and cause the same to be recorded in the office of the register of deeds for Eau Claire county.

Relating to streets and alleys.

SECTION 23. Provided, that this chapter shall not be so construed as to prevent the common council of said city from laying out any highway over or through any land not included in any recorded plat of said city, in the same manner and with like effect as now provided by law for laying out of public highways by the town board of supervisors of the several towns of this state. The common council shall have all the powers conferred upon the town board of supervisors to lay out and open a highway in their respective town, which power is hereby conferred upon the common council to lay out and open highways

Highways through land not platted.

through any lands in said city not included in any recorded plat therein, and the common council may delegate such power to a committee of any number of its members; and the common council or any committee thereof, shall be governed in examining the land, deciding upon the application to lay out such highway, or refusal so to do, giving notice to owners or occupants of such lands through which such highway may pass, and the owners or occupants shall have the same rights as provided by law for laying out highways by the town board of supervisors in the several towns of this state.

Streets and alleys to correspond in width and general direction.

SECTION 24. In all cases where lands in the city shall hereafter be subdivided into lots and blocks or where streets or alleys or public grounds shall be donated by or granted to the public, the owner or owners thereof shall, in platting the same, cause the streets and alleys in such plat to correspond in width and general direction with the streets and alleys through the lots and blocks in said city adjacent to the lots and blocks so platted, and if such plat or map shall be approved by the common council, it shall be lawful for the party or parties making such plat to record the same, and the evidence of such approval in the manner prescribed in the revised statutes of the state concerning town plats; but except such plat shall be approved by said council by resolution, and a copy of such resolution duly certified by the city clerk, shall be annexed to said plat, it shall not be lawful for the register of deeds of Eau Claire county to receive such plat or map for record, or to record the same, and the same shall have no validity. And the person or persons neglecting or refusing to comply with the requirements of this section shall forfeit and pay a sum not less than one hundred dollars nor more than five hundred dollars. And the register of deeds who shall record such plat, without such approval of the common council, certified and annexed thereto as hereinbefore provided, shall forfeit and pay a sum not less than fifty dollars, nor more than two hundred dollars. All forfeitures and liabilities which may accrue or arise under and by virtue of this section, shall be prosecuted for and recovered in the name of the city of Eau Claire, and be paid into the treasury for the use of the city.

SECTION 25. Sidewalks shall be constructed, reconstructed or repaired upon the proper established grade of any street in said city, of such width, in such manner, of such materials and in such time as the common council by ordinance, resolution or order shall direct, by the owner or owners of any lot or piece of ground in front of which said sidewalk shall be ordered. If the owner or owners of any such lot or piece of ground shall not construct such sidewalk as aforesaid, in the manner, of the material, or at the time as so directed, the common council may cause the same to be constructed forthwith at the expense of such owner or owners. The contract for the construction of any such sidewalk shall be let to the lowest reasonable responsible bidder, and notice shall be given by publication in the official paper of the city for at least three days, of the time, place and manner of receiving such bids. The common council shall levy a special tax upon each lot or piece of ground in front of which any sidewalk shall be constructed by contract, sufficient to pay the cost of constructing the same; provided, that no such contract shall be let until ten days after notice shall have been given to such owner or owners of the ordinance, resolution or order requiring the construction of such sidewalk, by the publication of the same at least three days in the official paper of the city.

SECTION 26. The common council shall have power, by vote of two-thirds of all the members of the common council, to order the building, construction, reconstruction or repair of sidewalks in the city of Eau Claire, in such manner as they may deem proper. The city clerk shall receive all proposals for constructing and repairing sidewalks, and shall open them in the presence of the council, which shall award the contract to the lowest responsible bidder; provided, such bid is a reasonable one, subject to such provisions, in case of violation of contract, and as to such other particular provisions as the council may prescribe. The proceedings for ordering the repair of sidewalks, and levying and collecting special taxes on the respective lots to pay for the same, shall be the same as herein provided as in case of contracting a new sidewalk, except as otherwise provided in this section. No contractor

Sidewalks to be repaired upon established grade.

Council may order repair of sidewalks.

for building or repairing sidewalks shall receive any pay therefor from the city, under any circumstances, until the said sidewalks so constructed or repaired have been inspected and approved by the street commissioner, and report relative thereto made by said commissioner to the common council. Whenever a sidewalk shall be out of repair and so remain for the space of twenty-four hours, which in the opinion of the street commissioner will not cost to exceed the amount of ten dollars in front of any one lot to repair the same, he shall be authorized and it is hereby made his duty to cause the same to be immediately repaired, and when the same is completed he shall make out an itemized bill of the cost of such repair, specifying the lot and block, or piece or parcel of land in front of which said work was done, verified by his oath, and shall deliver the same to the city clerk, and said clerk shall forthwith present the same, or cause the same to be presented to the owner of such lot, piece or parcel of land, if a resident of the city of Eau Claire, for payment; and if the owner of such lot, piece or parcel of land shall refuse or neglect to pay the same for ten days, then the clerk shall report the fact to the council, and the council shall thereupon levy a special tax upon said lot, piece or parcel of land to pay the same, in the same manner as special taxes are levied for the construction of sidewalks. In case the owner of said lot, piece or parcel of land does not reside in the city of Eau Claire the said commissioner shall return said account to the common council, with his certificate stating that fact, and the council shall thereupon levy a special tax to pay the same, in the manner in this section provided.

Work to be let
to the lowest
bidder.

SECTION 27. The common council of said city shall have the power, and may, in its discretion, by a vote of two-thirds of all the members, advertise and let to the lowest responsible bidder, whose bid it shall deem reasonable and proper, the construction of any sidewalk or gutter, or the making of improvement on or along any street or highway in said city limits, which shall have been ordered, and levy a tax upon each lot or piece of ground in front of which said sidewalk, gutter or improvement shall have been ordered and constructed under such contract, suffi-

cient to pay the costs of constructing the same, without giving notice requiring the owner or owners of such lot or lots or piece of ground to construct the same.

SECTION 28. The common council of the city of Eau Claire shall have the power, by an affirmative vote of two-thirds of all its members, to order and contract for the making, grading, paving and repairing and cleansing of streets, and parts of streets, alleys, public grounds, reservoirs, gutters and sewers in the manner hereinafter mentioned, and direct and control the persons so employed.

Power to contract for improvements.

SECTION 29. The costs and expenses of surveying streets, alleys, sewers and gutters, and of estimating work thereon, in the execution of any public improvement, shall be chargeable to and payable by the city. The costs and expenses of opening, grading, graveling, planking, paving or repairing of streets and alleys, shall be chargeable to and payable wholly or in part by the lots or land fronting on such street or alley, so that each lot and parcel of land shall pay for work between the front of each lot or parcel of land and the center of such street or alley, or such portion thereof as the common council shall determine. Sewers and gutters may be ordered by the common council, and built at the expense of the lots or parts of lots benefited thereby, and fronting upon the side of the street along which said sewers or gutters shall be constructed; provided, however, that when sewers or gutters are constructed through alleys, no lots shall be assessed therefor except those situated in the block through which such sewer or gutter may be constructed; and provided further, that in all cases when improvements or work of any kind are chargeable, by virtue of this section, upon lots benefited, all such improvements across streets, alleys and public grounds shall be made and paid for by the city in proportion to the width of the streets alley or public grounds. And provided further, that whenever any one of the wards of said city shall, through its representatives in the common council of said city apply for permission and authority to construct a sewer, wholly within the limits of said ward, to be paid for by a special ward tax, to be levied and assessed upon the taxable property, real and personal, in said ward, the said common council

Expense of surveying streets, etc., chargeable to city.

may thereupon, by resolution or ordinance, grant permission and authority to said ward to construct such sewer wholly at the expense of said ward, and upon such further conditions as the said common council may prescribe. And if said common council shall so authorize the construction of any such sewer, it shall and hereby is authorized and empowered to levy and collect by tax upon the taxable property, real and personal, in said ward, a sum sufficient to pay for such construction, and all cost and expense incurred in relation to such sewer and the construction thereof; which tax shall be levied, assessed and collected as a special ward tax, at the same time and in the same manner as the taxes for general city purposes in said city of Eau Claire, for the next ensuing year, are now authorized by law to be levied, assessed and collected; and when collected the same shall be set apart and held in the treasury of said city as a special ward fund for the ward in which it may have been collected, and to be applied and paid out upon the order of the aldermen for such ward, for the purpose for which the same was so levied and assessed.

Estimate of
public im-
provements to
be filed.

SECTION 30. Whenever the common council shall determine to make any public improvement, as authorized by this chapter, they shall cause to be made an estimate of the whole expenses thereof, to be assessed and charged to each lot and parcel of land, and in case of grading, of the number of cubic yards to be filled in or excavated in front of each lot and the proportion thereof across each street, alley or public grounds as aforesaid; and such estimate shall be filed in the office of the city clerk, for the inspection of parties interested, before such work shall be ordered to be done. The common council may authorize the letting of such work by contract to the lowest bidder, at the expense of the lots upon which such work is chargeable, in whole or in part, as aforesaid, all bids for doing the same to be approved by the council; and the said council shall have power to reject any and all bids, and may require such contractors to perform such contracts within such time and under such conditions, and to give such security for the performance of such work as they shall direct; such contract when approved by the council, to be executed on the part of the

city by the mayor and countersigned by the city clerk, notice of the time and place of receiving such bids to be published for ten days in the official paper of said city. The common council, instead of letting work by contract to the lowest bidder, may by an affirmative vote of three-fourths of all the members of the common council, order grading, repairing or improving of any street, or the making of any public improvements to be done directly by and under the supervision of the street commissioner, at the uniform expense in whole or in part, of the lots or parcels, of land abutting or fronting on such street or public improvement.

SECTION 31. Whenever the general interests of the city require deep cutting or extraordinary filling in any street, and the owners of the lots or lands fronting on such deep cutting or filling shall feel themselves aggrieved thereby, and shall present to the council in writing that the expense of such excavation or filling will exceed the proportion that should be justly or equitably charged upon the property assessed therefor, the council shall require the chief of police to summon five freeholders, not residents of the ward, nor interested in said lots or lands, who, after being sworn faithfully and impartially to discharge the trust reposed in them, shall examine the premises within five days therefrom, and if in their opinion the cost of such work will exceed the amount that should be justly and equitably chargeable upon said premises, it shall be their duty to determine what proportion of such work shall be chargeable to such lots or parcels of land respectively, and what lots and parcels of land on the streets so to be improved will be benefited by such deep cutting or filling, and how much or what portion shall be chargeable to them, and to make a report thereof in writing as soon practicable, but within ten days after such examination, to the common council; and such proportion as shall be reported as properly chargeable to the lots or parcels first mentioned, shall be assessed upon and collected from the same in the same manner as herein provided, in case such owner shall not do such work, and the remainder shall be assessed upon the lots benefited by such improvement in proportion to their respective benefit as determined by such jury; the

When five freeholders shall be appointed to view premises.

sum so assessed shall become a lien upon the premises assessed and shall be collected therefrom as a special assessment in the same manner as other special assessments for improvements are collected; provided, that should said jury find that said petitioners were not entitled to any division of the expenses so assessed upon their lots or parcels of land, then the expense of all proceedings under this section shall be paid by said petitioners, and the common council may require a bond for the payment of the same upon the filing of the petition; provided, also, that the petition of no owner feeling himself aggrieved shall be received unless the same be presented within twenty days of the publication of the notice requiring the same to be done; and provided, further, that when it shall appear to the council that any such lands belonging to non-residents, infants or persons laboring under legal disability who shall not be represented by any agent or guardian, or not be benefited by the making of streets in front of such lots or lands to the amount of the costs and expenses thereof, it shall be the duty of the said council to cause to be summoned a jury as herein provided.

Work to be done under the supervision of.

SECTION 32. All work provided for in this chapter shall be done under the supervision of the mayor, street commissioner and city engineer, and shall be approved by them before it shall be accepted by the council.

Contractor entitled to a certificate for work done.

SECTION 33. Whenever any work has been done under contract as provided in this chapter and the work shall have been approved by the mayor, street commissioner and city engineer, such contractor shall be entitled to a certificate therefor, stating the amount of work done by such contractor and the nature thereof, and the description of the lots or parcels of land upon which the same is chargeable, which said certificate may be transferred by endorsement thereon; and if the amount is not paid before the time of making out the annual assessment roll, the same may be filed with the city clerk, and the common council shall order the same assessed upon the said lots of land respectively as a special tax, and to be collected therefrom for the benefit of the holder of said certificate, as other taxes on real estate are collected by virtue of the laws of this state, except that personal property shall not be seized

or sold for the payment thereof, and if the notice to do the work required shall have been given as herein prescribed, no informality or error in the proceedings shall invalidate or vitiate such assessment; provided, that in no event where work is ordered to be done at the expense of any lot or parcel of land, shall the city be held responsible for, or on account thereof or for any proceedings for the collection of the pay thereof; and, further provided, that when any contract is let for doing any work herein specified chargeable to the abutting real estate, lots, or parcels of ground, such contract may provide that the amount so chargeable may be paid with certificates against the lots or parcels of ground as herein above specified, or in improvement bonds, or that payment may be made partly in certificates and part in cash or improvement bonds, or both.

SECTION 34. As soon as the amount chargeable to the abutting real estate, lots or parcels of land has been determined, whether it shall be before or after the completion of such contract and improvement, the common council may cause a notice to be published in the official paper of the city, substantially in the following form:

City improve-
ment notice.

CITY IMPROVEMENT NOTICE.

Notice is hereby given that a contract has been let (or is about to be let) for — (describe the work and street), and that the expense of said improvements chargeable to the abutting land and real estate, has been determined as to each parcel of said real estate, and a statement of the same is on file with the city clerk. It is proposed to issue bonds chargeable to the abutting real estate, lots or parcels of land, to pay the special assessments, and such bonds will be issued, covering all said assessments, except in case where the owner of the property shall file with the city clerk within thirty days after the date thereof, a written notice that he elects to pay the special assessment on his property, describing the same, on presentation of the certificates.

SECTION 35. After the expiration of thirty days the common council may issue improvement bonds covering all of the assessments except such as the owners have filed notices of election to pay

Council may
issue improve-
ment bonds.

as stated in the preceding section. Said bonds shall be signed by the mayor and city clerk, be sealed with the corporate seal of the city and contain such recitals as may be necessary to show that they are chargeable to particular property, and specifying the number and amount of said bonds.

Bonds how,
payable.

SECTION 36. Said bonds shall be semi-annual interest coupon bonds, payable at such time or times, at such place or places as the common council shall determine, and may be paid at any time within five years, but must be paid at or before the expiration of seven years from their date, and shall draw interest at a rate not exceeding six per cent. per annum.

Clerk to pre-
pare state-
ments.

SECTION 37. The city clerk shall carefully prepare a statement of the special assessments on which the bonds are issued, and record the same, together with a copy of such bonds, in his office.

City treasurer
to pay interest
and principal.

SECTION 38. The city treasurer shall pay the interest on, and principal of, said bonds as the same become due and charge the amount to the proper funds.

Certain sums
to be extended
on tax roll.

SECTION 39. In each year after the issuing of said bonds, when the tax roll of the year is prepared, one-fifth of the special assessment on each lot or parcel of land or property covered by said bonds, with six per cent. interest on said special assessment then unpaid, shall be extended on the tax roll as a special tax on such property, and thereafter these taxes shall be treated in all respects as any other taxes, and when collected, the same shall be credited to the funds against which payments on said bonds are charged.

No action to be
maintained to
avoid special
assessment.

SECTION 40. No action shall be maintained to avoid any special assessment, or taxes levied pursuant to the same, after bonds have issued, covering such special assessments, and such bonds shall be conclusive proof of the facts and of the legality of all the proceedings on which the same are based.

CHAPTER VI.

POLICE DEPARTMENT.

Police
department.

SECTION 1. The mayor, sheriff of Eau Claire county, each and every alderman, justice of the peace, policeman and watchman, shall be officers

of the peace, and suppress in a summary manner all rioting and disorderly behavior within the limits of the city; and for such purposes may command the assistance of all by-standers, and, if need be, of all citizens. If any person, by-stander, military officer or private shall refuse or neglect to aid in maintaining the peace when so required, every such person shall forfeit and pay a fine of fifty dollars; and in case the civil power may be required to suppress riots or disorderly behavior, the superior or senior officer present, in the order above mentioned in this section, shall direct proceedings.

Who to be officers of the peace.

SECTION 2. The mayor of Eau Claire shall be ex-officio head of police of said city, and together with such a number of police officers as the common council shall determine and confirm, constitute the police force. One of said policemen shall be designated and appointed as chief of the police, and shall be confirmed as such by the council. He shall, under the supervision of the mayor, have charge of, and direct, the other police officers, and see that the ordinances of the city are enforced. Within the scope of this provision the common council may, by ordinance, more fully define the powers of the chief of police.

Mayor to be head of police force.

SECTION 3. The mayor may direct or detail any of the police officers to perform such official duties as he may deem proper, and no extra compensation shall be allowed therefor.

Extra compensation for extra service.

SECTION 4. The members of said police force shall perform such duties as shall be prescribed by the common council for the preservation of the public peace and good order and health of the city; they shall possess all of the powers of constables at common law or by the laws of this state, provisions of this act or any ordinance, by-law, resolution or regulation of the common council of said city, passed in accordance herewith, or which are now in force in said city, and to make complaint before the municipal judge against any such offenders, but they shall not serve any civil or criminal process outside the corporate limits of said city; provided, that when any person is arrested, as heretofore provided, it shall be lawful for such arresting officer to take and convey such person to the common jail of said county, or city prison of said city, there to re-

Duties of police officers.

main for a period not exceeding twenty-four hours, within which time it shall be the duty of said officer to take such person before the municipal judge or court aforesaid, to be tried in the manner aforesaid; provided, however, that in computing the said period of twenty-four hours, Sundays shall be excluded.

Trial.

SECTION 5. In all cases of conviction in actions brought or prosecuted to recover a penalty, fine or forfeiture under any of the provisions of this act, or for the violation of any ordinance of said city, the court shall enter judgment against the defendant for the fine and cost of prosecution, and if the defendant shall neglect or refuse to pay such fines and costs, the court shall enter a judgment that the defendant be imprisoned in the county jail of Eau Claire county, or city prison, for such term as may be prescribed by this act or the ordinance violated, not exceeding three months, and shall forthwith commit the defendant for the term fixed by said judgment; or the court may, in its discretion, in case of the non-payment of such fines and costs as aforesaid, enter judgment that said defendant be imprisoned as aforesaid, and kept at hard labor for the benefit of the city of Eau Claire, within said city, unless the judgment and expenses of imprisonment are sooner paid, and all persons so committed and kept at labor shall be allowed one dollar per day for each day's labor rendered exclusive of board, and the amount so earned shall be applied in liquidation of the judgment until the same shall be fully paid by such labor, at which time the judgment shall be satisfied and the defendant discharged from custody, and that whenever any person, on conviction and sentence by the municipal court of the city of Eau Claire, shall be adjudged to be kept at hard labor for any time as such punishment or part of such punishment as provided by section 14, chapter 6, of the private and local laws of 1872, and as amended by section 9, chapter 106, of the laws of 1874, it shall be the duty of the chief of police to at once give personal notice of such conviction to the street commissioner of the city, and when such notice shall have been received by said street commissioner, he shall at once make provision for, and place such convicted person at work on the public streets or highways,

under the charge or supervision of a policeman to be detailed by the chief of police for that purpose, and who shall be held responsible for the safe-keeping of such prisoners. Should any officer above named, neglect or refuse to perform the duties herein imposed, they, or any of them so neglecting or refusing to perform such duties, they shall be subject to fines, suspension or removal from office, as the common council may direct. It shall be the duty of the chief of police to give notice of the refusal or neglect of an officer above named, to perform their several duties as above provided, to the common council at its next regular meeting.

Neglect of duty, how punished.

SECTION 6. The term of service of all special police officers shall not last longer than the next meeting of the common council after they are appointed. The action of the mayor in making the appointment shall be acted on by the council, and if not confirmed, the mayor shall not again during his term of office re-appoint the same person, if the failure to confirm is on account of the person appointed, and if the failure to confirm is not on account of the person, shall not therefore during his term of office appoint special police in a like emergency.

Terms of service of police officers.

SECTION 7. The mayor or chief of police shall have power, and it shall be their duty, to suspend from office any policeman for incompetency, misconduct or neglect in the discharge of his official duties, or for refusing or neglecting to perform such acts as are required of him by law; and whenever the mayor or chief of police shall have so suspended any policeman it shall be their duty to report such fact to the common council at its next regular meeting, with their reason therefor. And the said common council shall thereupon consider the cause assigned for such suspension. If a majority of all the members of said council shall decide that said reasons are insufficient, then such policeman shall thereupon be restored and reinstated to said office. And if said council shall not decide that such reasons were insufficient grounds for such suspension, then said policeman shall not thereafter perform any duties or exercise any functions of his office until said council shall restore him to his office, which they may do by the affirmative vote of a majority of all the alder-

When officers may be suspended.

men a majority vote at any regular meeting or a special meeting called for such purpose.

When chief of police may be suspended.

SECTION 8. For the reasons and in the manner provided in the foregoing section the mayor may suspend the chief of police and the council shall consider and decide upon such suspension and may restore to office such suspended officer.

CHAPTER VII.

FINANCES AND TAXATION.

Finances and taxation.

SECTION 1. All funds in the city treasury, except school, state and county funds, shall be under the control of the common council, and shall be drawn out upon the order of the mayor, countersigned by the clerk, duly authorized by the vote of the common council, and in no other manner; and all orders drawn upon the treasurer shall specify the purpose for which they were drawn, and shall be payable generally out of the funds in the treasury belonging to the city, against which such orders are properly chargeable.

Funds to be under control of the common council.

SECTION 2. 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 said city; provided, that the sum or sums so levied in any one year shall not exceed one-half of one mill for every dollar of the assessed valuation of all the taxable property in the said city over and above the amount levied in said city for the current expenses of the previous year.

School tax.

SECTION 3. 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; provided, that the amount so levied in any one year shall not exceed the sum of ten thousand dollars.

Tax for school-houses.

SECTION 4. 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 for the building of the same, shall, after they are so collected, constitute one fund, subject to the control of the board of education for school purposes of the said city. All moneys raised by this act for school purposes shall be paid to the city treasurer, who shall be accountable therefor in the same manner as for other moneys of the said city.

School fund.

SECTION 5. All moneys coming into the hands of the city treasurer by any provisions 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 the president of said board and countersigned by the clerk thereof; and no such order shall be drawn except by resolution of said board, which order shall be made payable to the person or persons entitled to receive the same.

School money,
how drawn out.

SECTION 6. No ordinance or resolution for the appropriation of money shall have any force or effect, nor shall any debt be contracted against the city or certificates of indebtedness drawn upon the city treasury unless the same shall have been passed and authorized by a majority of all the members of the common council, and the vote on the passage of the same shall be entered by ayes and noes upon the journal of the council, and no money shall be appropriated for any purpose whatever, except such as is expressly authorized by this act. All resolutions adopted by the common council or the board of education, authorizing the expenditure of money, shall appropriately specify the amount to be expended, the purpose for which the same is to be expended, and no extra or additional compensation shall be allowed or paid on any contract or to any officer, person or persons for any services or work done, or materials furnished to or for the city.

Appropriations

SECTION 7. All forfeitures or penalties accruing to the city for any violation of this act or of any of the ordinances, by-laws, rules or regulations of the city, and all fines recovered for any cause in any criminal proceeding in the municipal court of said city, shall be paid into the city treasury by the municipal judge, before whom the same are recovered, and shall become a part of the general

Fines to be
paid into city
treasury.

fund; and all moneys received for licenses shall be paid into the city treasury and become a part of the general fund, except as otherwise provided by this act.

Highway districts, how constituted.

SECTION 8. Each ward in the city of Eau Claire shall by itself constitute one highway district, and each of said districts, respectively, shall be known by its number, which number shall correspond with and be the same as the number of the ward comprising the same.

All property subject to taxation.

SECTION 9. All property, real or personal, within the city, except such as may be exempt by the laws of the state, shall be subject to annual taxation for the support of the schools in said city, the city government and the payment of its debts and liabilities, and the same shall be assessed in the manner hereinafter provided. The assessors elected under this act shall have and possess the same powers that are or may hereafter be conferred upon the township assessors, except so far as they may be altered by this act; provided, however, that the common council may prescribe the form of assessment rolls and more fully define the duties of assessors and make such rules and regulations in relation to revising, offering or perfecting such rolls as they may, from time to time, deem advisable.

Fiscal year.

SECTION 10. The fiscal year of the city of Eau Claire shall commence on the first day of September, on which day or within thirty days thereafter, the common council shall by resolution determine what amount of money, exclusive of the estimated resources of the city not derived by direct taxation, will be required for the next ensuing year for general city purposes, and the common council shall thereupon be empowered to levy, and shall by resolution levy a tax for general city purposes, not exceeding an amount of one per centum of the assessed value of the real and personal property of the city for that year. The common council shall in the month of September of each and every year, determine and levy the amount of highway tax in each highway district of said city for the ensuing year according to the necessities of each highway district, respectively, for the purpose of constructing and repairing streets and highways in said city, which amount shall not on any highway dis-

tract exceed three mills on the dollar upon all taxable property in said highway district as the same shall appear by the last assessment roll, which shall be collected in the same manner and at the same time as the general taxes of said city. The city treasurer shall credit each highway district in said city with the amount of highway tax collected by him therein, and the same shall be expended on the streets and highways in the highway districts where collected, under the supervision of the street commissioner and aldermen residing in the ward or highway district where work is being done. The common council shall have power to levy a tax upon the taxable property of said city equal in amount to the interest for one year, not otherwise provided for, on all bonds lawfully issued by the city of Eau Claire, and such special tax shall not be used or applied for any other purpose whatever. No city order of any kind shall be received in payment of any school or school-house tax, but the same shall be paid in money and shall be paid over to the city treasurer upon the order of the president of the board of education countersigned by the clerk thereof. All resolutions for the purpose of levying a tax shall require for their passage the affirmative vote of two-thirds of all the members of the common council. The common council may, by an affirmative vote of all the aldermen at any regular meeting of the common council subsequent to the fifteenth day of April, 1889, erect highway districts throughout the city. Upon the erection of each or any of said highway districts the unexpended highway funds of the wards constituting such districts respectively, shall be and become a common highway fund for such districts, to be expended as may be directed, from time to time, by the common council.

SECTION 11. All taxes or assessments, general or special, levied under this act shall be and remain a lien upon the lands and tenements upon which they may be assessed, and upon all personal property of any person or body politic assessed for personal taxes from the date of the warrant for the collection thereof, until such taxes shall be paid; and no sale or transfer of such real or personal property shall affect such lien. Any personal property belonging to the person taxed may

Taxes to be a
lien.

be taken and sold for the payment of taxes upon personal property.

Poll tax.

SECTION 12. Every male inhabitant of the city of Eau Claire, being over the age of twenty-one years and under the age of fifty years, excepting all disabled soldiers or sailors who served in the late war, firemen holding certificates of membership in any regularly organized fire company, and all other persons exempt by law, paupers, idiots or lunatics, shall pay into the city treasury annually the sum of one dollar and fifty cents as a poll tax. It shall be the duty of each of the assessors of the city of Eau Claire during the month of May, 1889, to make out duplicate lists of all persons liable to said tax in his assessing district of the city of Eau Claire, and said assessor shall, on the first Monday in June, 1889, deliver one of said lists to the city clerk and one to the city treasurer of the city of Eau Claire. The city treasurer shall thereupon immediately proceed to collect or cause to be collected the same; and all persons liable to pay such tax who shall not have paid the same after demand, either personal or by written notice left at their usual place of abode, on or before the first day of July, 1889, shall be liable to and shall pay a penalty of two dollars, together with the costs of prosecution, to be prosecuted for by said treasurer in the name of the city of Eau Claire. The process in such case shall be by warrant, and in case judgment shall be rendered against the defendant in such action, and he shall refuse or neglect to pay such judgment he shall be imprisoned in the county jail not to exceed ten days. The assessors shall also at the time of assessing annual taxes in each year, after the year 1889, make out such duplicate lists of persons liable to pay such tax as aforesaid and deliver one of such lists to the city clerk and one to the city treasurer at the time he returns to the city clerk his assessment roll of real and personal property of the city of Eau Claire, and the city treasurer shall within fifteen days after receiving such lists proceed to collect the same in the same manner as hereinbefore in this section provided, and in case such taxes are not paid to said city treasurer, he shall prosecute for them in the manner hereinbefore provided. The said assessors in making such list shall designate the ward in

which said person on said list resides and the city treasurer shall credit each ward of said city with the amount thus collected from the inhabitants of such ward. The moneys collected as above shall be kept as a distinct fund, and shall be expended under the direction and supervision of the street commissioner on the repair and improvement of streets in the respective wards in which said tax is paid, and to be drawn out on itemized accounts of the street commissioner, certified to by the alderman of the ward in which said work is done, and audited by the common council. The mayor, city clerk and city treasurer shall constitute a board to determine the liability of persons to pay such tax, and all persons claiming to be exempt from such tax must apply to said board within ten days from the time when said lists must be delivered to the city treasurer as aforesaid. The city treasurer shall receive as fees for collecting said tax three per cent. of the amount so collected; provided, that if any person may desire to, he shall be permitted to perform one day's work on the streets of the city in the ward in which he resides, under the direction of the street commissioner, and at such time as he shall direct within the months of July or August of each year, and the certificate of the street commissioner that such person has performed one full day's labor shall be received by the city treasurer in full discharge of such tax.

SECTION 13. Before the annual meeting of the board of supervisors of the county of Eau Claire, and by the time required by the laws of the state for the return of assessments from the several towns, the city clerk shall transmit a copy of the assessment roll to the county clerk of said county, who shall lay the same before said board at their annual meeting.

Assessment
returns.

SECTION 14. The board of supervisors shall have the right to regard the city of Eau Claire as a town in equalizing the assessment rolls of the several towns in said county, as provided by law, but in such equalization, shall consider the assessment roll of said city as the entire roll, and shall not change the relative valuation of the different wards.

City regarded
as a town in
being assessed.

SECTION 15. The board of supervisors may levy a tax or taxes, as now is or may hereafter be pro-

City to be regarded as a whole in the levy of taxes.

vided by law in relation to towns, but shall proceed therein without regard to the division of the city into wards, and shall cause the amount of taxes so levied to be certified to the city clerk, in the manner provided by law, in relation to towns or town clerks, and in all transactions with the board of supervisors of said county, said city shall be regarded as a town, except as herein otherwise provided.

Tax list, how made out.

SECTION 16. Upon receiving a statement of the amount of taxes so levied, the city clerk shall make out upon the assessment roll, in a column left for that purpose, or upon a copy thereof, a complete statement of the several amounts of the taxes levied for the state, county, city or other purpose, and all special taxes levied by the common council since the making out of the last annual tax list, in such separate columns as may be necessary, with the total footings carried out opposite each tract or lot of land or person named therein; which statement shall be preserved by said clerk as a record in his office, and shall have the same legal force and effect as the records of the common council. The said city clerk may calculate the state, county and city taxes together, and carry the amount thereof into one column, but in such case he shall specify the percentum upon one dollar of valuation of state tax, county tax and city tax separately in his warrant to the treasurer for the collection of such taxes.

To be prima facie evidence.

SECTION 17. The tax list made out and approved as aforesaid shall be prima facie evidence in any court of record in this state that every act or thing required by law to be done relating to or assessing or levying taxes from the election of the officers to the completion of the tax list, inclusive, has been done regularly, correctly and as required by law.

Treasurer to collect taxes.

SECTION 18. Immediately after making out the tax list aforesaid, the clerk shall make out a duplicate copy thereof to which shall be appended a warrant signed by the mayor and clerk and sealed with the corporate seal of said city directed to the treasurer requiring and commanding him to collect the taxes and assessments specified in the said duplicate copy of the tax lists in the manner provided by law; and the said clerk shall on or before the second Monday of December of the said year,

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

SECTION 19. The city treasurer, upon the receipt of such duplicate copy of the tax list, shall proceed to collect the same in like manner and shall have like powers and be subject to like requirements, liabilities and restrictions as town treasurers, except as otherwise provided in this act. The city treasurer shall receive one per centum fees upon all taxes paid to him before the first day of January, and three per centum fees upon all taxes collected after that time, to be added to the amount of taxes and collected with the same, and two per centum upon all other moneys paid into the treasury, which shall be in full for all services performed by said treasurer under this act or the ordinances of the city. Provided, that the common council may fix the salary or compensation which said treasurer may receive, and all fees shall thereupon belong to the city.

Fees of treasurer.

SECTION 20. On or before the first day of March of each year, unless the time be extended as provided by law, the city treasurer shall make out and return to the treasurer of Eau Claire county, a list of all lands, lots, and personal property upon which taxes have not been paid, and shall settle with and pay over all moneys properly payable to said county treasurer in like manner as now is or may hereafter be required of town treasurers; and all the provisions of sections 81 to 87, inclusive, of chapter 18, of the revised statutes, as modified by acts amendatory thereof, shall extend to and may be enforced to collect any delinquent personal property tax of whatever year, now due to said city.

Delinquent returns.

SECTION 21. All real estate exempt from taxation by the laws of this state shall be subject to all special taxes for the building of sidewalks and improvements of streets in front of the same.

Exempt.

SECTION 22. No suit of any kind, or any claim or cause of action either ex contractu or ex delictu, shall be brought against said city, but the claimant shall file his claim with the city clerk for the action of the common council thereon, and if he feels aggrieved by their determination,

In case claimant feels aggrieved.

he may appeal to the circuit court in the manner hereinafter provided. If the council neglects to take final action within sixty days after the same is filed, the same for the purposes of an appeal by the claimant, may be taken as disallowed. In case an appeal is taken the city clerk shall immediately notify the city attorney, and shall make and deliver to him a copy of all papers and proceedings relating to the matter in his possession. He shall notify the common council of such appeal at its next meeting. And no appeal shall be taken, entertained or allowed from the determination of such council unless the cause of action accrued within six months immediately prior to the time when such claimant shall have filed his said claim with the clerk as aforesaid.

Action of council to be final unless appealed from.

SECTION 23. The determination of the common council disallowing in whole or in part any claim or causes of action of any person, company or corporation, shall be final and conclusive, and a perpetual bar to any action in any court founded on such claim, unless such person, persons, company or corporation, shall appeal from such action disallowing the same, to the circuit court as provided in this chapter.

Claimant may appeal to circuit court.

SECTION 24. In case any person, company or corporation shall present his or their claim or demand or cause of action to the common council, and the said council shall disallow the said claim, demand or cause of action, in whole or in part the said council shall not thereafter entertain such claim again, and such claimant or claimants may prosecute his said claim by appeal to the circuit courts as provided herein and not otherwise.

Appeal, how taken.

SECTION 25. When any claim of any person, persons, company or corporation against the city shall be disallowed, in whole or in part by the common council, such person, persons, company or corporation may appeal from the decision of the council disallowing such claim to the circuit court of the county of Eau Claire by causing a written notice of such appeal to be served on the clerk of said city within twenty days after the action of said council in disallowing such claim, and executing a bond to the said city with a sufficient surety, to be approved by the clerk, or a court commissioner of Eau Claire county, conditioned for the faithful prosecution of such appeal, and

the payment of all costs that shall be adjudged against the appellant by the court. The clerk, in case such appeal is taken, shall make a brief statement of the proceedings had in the case before the council, with its decision thereon, and shall transmit the same, together with the bond and all the papers in the case, to the clerk of the circuit court of Eau Claire county, and thereupon such appeal shall be entered, tried and determined in the same manner as cases originally commenced in the circuit court, and costs shall be awarded thereupon in like manner.

SECTION 26. The city shall not be liable nor shall any action be maintained against said city by any person, company or corporation for any damages or claims, or as the result of any hurt or accident, founded upon any injury caused by reason of any defects or any insufficiency or want of repairs of any bridge, sluiceway, road, sidewalk or street in said city to any person, company or corporation, unless an action for the recovery of the same shall be commenced within ninety days from the time of the alleged accident or injury for which such damages are claimed, accrued, by filing a claim therefor as required in section 16, of this chapter, with the city clerk of the city. And provided further, that the city shall in no case be liable for any damages, claim or claims to any person for any costs or expenses accruing by reason of sickness or injury caused or alleged to have been caused from any defects, insufficiency or wants of repairs of any bridge, sluiceway or road, sidewalk or street as aforesaid, in procuring physicians, surgeons, nurses or other expenses of sickness, unless such person shall give or cause to be given in addition to the notice required by section 1339, of the revised statutes of Wisconsin for the year 1878, also notice to the mayor or city clerk of the city, of such alleged injury, and that said person is under medical treatment, and the name of his or her attending physician; provided, that nothing in this section shall be construed to affect any action now pending against the city.

City shall not be liable for damages from accident, caused by defects in highways, etc., except.

SECTION 27. All moneys derived from licenses granted by said city for selling strong, spirituous, malt, ardent or intoxicating liquors shall be credited by the city treasurer to the poor fund, and

License money to be paid into poor fund.

shall be so far as is necessary for that purpose expended in defraying the expenses of the support of the poor in said city, and the common council shall, at any regular meeting in the month of August of each year, estimate the amount of such fund which will be required for the care and support of the poor until the succeeding first day of May, and by resolution direct the city clerk to transfer from such poor fund to the general fund any amount therein in excess of the amount so estimated.

CHAPTER VIII.

DISQUALIFICATIONS AND IMPEACHMENTS.

Disqualifications and impeachments.

Bribery.

SECTION 1. Every member of the common council of the city of Eau Claire, who shall directly or indirectly vote to himself, or knowingly to any other person any sum of money for any purpose whatever in violation to the city charter or any amendment thereto, or be engaged in prosecuting any claim against the city, or shall ask or receive any compensation for doing any official act, except as an inspector of elections, member of the board of registry, and as a member of the board of equalization, and any member of the common council or other city officer, and commissioner of common schools or other school officers, who shall be directly or indirectly interested in any contract made with or in behalf of the city, and any member of said council or other city officer, who shall directly or indirectly purchase or be interested in the purchase of any order or city indebtedness for less than the full amount thereof, shall be deemed guilty of a misdemeanor in office, and may be prosecuted either by indictment or complaint, before any court of competent jurisdiction, and upon conviction thereof 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 thirty days nor less than ten days, or both at the discretion of the court, and any contract made in violation of the provisions of this section shall be void.

Malfeasance in office.

SECTION 2. An affirmative vote of two-thirds of all the members elect of the common council shall have power to dismiss from office, for mal-

feasance or non-feasance in office, or for any misdemeanor or offense against the laws of the state of Wisconsin, any person elected or appointed to office in said city, except justices of the peace and members of the board of education. And the common council shall provide by ordinance the manner of hearing and disposing of complaints against such officers; provided, that no person shall be dismissed from any office without trial, wherein he be heard in person or by counsel in his own defense.

SECTION 3. Whenever any charge of official misconduct shall be preferred against any member of the common council of the city of Eau Claire, or any officer of said city, the common council shall appoint a committee to investigate such charges; and it shall be the duty of the committee, as soon as practicable after their appointment, to investigate the matter of any charges which may have been so preferred, and to report the results of their investigation to the said common council; and in case such a committee shall deem it necessary or proper, for the purpose of their investigation, they may examine witnesses on oath in relation to any such charges, and the several members of such committee are hereby authorized and empowered to administer oaths to witnesses to be examined for the purpose of such examination.

Official misconduct.

SECTION 4. Subpoenas may be issued for the purpose of securing the attendance of witnesses before any committee appointed pursuant to the preceding section. Each subpoena shall state when and where, and before whom the witness is required to appear and testify, and may require such attendance forthwith, or on a future day named, and on the production of books, records, documents and papers therein to be designated, without payment of fees in advance or a tender thereof. All such subpoenas shall be signed by the city clerk of said city, and shall be issued under the seal of said city, and may be served in the same manner and shall have the same force and effect as subpoenas issued out of the circuit court. Any willful or corrupt false swearing by any witness or person giving testimony before such committee, or any member thereof, or making deposition to any material

Witness may be subpoenaed pursuant to preceding section.

facts relating to the matter under investigation before such committee, shall be deemed perjury, and shall be punished as such in the manner provided by law. The provisions of law in respect to the attachment of witness subpoenaed before justice of the peace and compelling the attendance of such witnesses to appear and testify before them, are hereby applied to the case of witnesses subpoenaed before such committees, and such committees may exercise the powers of arrest, fine and imprisonment, on conviction in circuit or justice court, in such cases. Writ of attachment and commitment for contempt shall be signed by the chairman of such committee.

CHAPTER IX.

FIRE DEPARTMENT.

Fire department.

Fire limits.

SECTION 1. The common council, for the purpose of guarding against the calamity of fire, shall have the power to prescribe the limits within which wooden buildings, or buildings of other materials that shall not be considered fire-proof, shall not be erected or repaired, and to direct that all and any buildings within the limits prescribed shall be made and constructed of fire-proof materials, and to prohibit the repairing of wooden buildings within the fire limits when the same shall have been damaged to the extent of fifty per cent. of the value thereof, and to prescribe the manner of ascertaining such damages.

Constructions of chimneys etc.

SECTION 2 The common council shall have power to regulate the building, construction and condition of chimneys, fire-places, hearths, stoves, stove-pipes, ovens, boilers and apparatus used in or about any building, and to cause the same to be removed or placed in a safe and secure condition, when considered dangerous; to prevent the deposit of ashes in unsafe places; to require the inhabitants to provide as many fire buckets, and in such manner and time as they shall prescribe, and to regulate the use of them in time of fire and to regulate and prevent the carrying on of any manufactures dangerous in causing and promoting fires; to compel the owners and occupants of buildings to have scuttles in the roof,

and stairs and ladders leading to the same; to authorize the mayor, aldermen, fire-warden and other officers of the city to keep away from the vicinity of a fire all idle and suspected persons, and to compel the 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 3. The common council shall have power to purchase fire engines, hose carriages, hook and ladder trucks, 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 such companies to be disbanded and their meetings to be prohibited and their apparatus to be delivered up. The fire department shall consist of one chief of the fire department and such assistant chiefs and such other members as the common council may by ordinance determine; and the common council may make such rules and regulations concerning the government and control, qualifications and compensation of members of the fire department as they shall deem to be for the interests of the city. The chief of the fire department shall be the chief executive officer of the department, except as in this act otherwise provided.

Fire engines,
hose carts,
etc.

SECTION 4. On the first Wednesday in July in each year, or within ten days thereafter, the common council shall elect one chief of the fire department.

Chief of fire
department.

SECTION 5. The chief of the fire department shall, before entering upon the discharge of his duties, take and subscribe an oath, to faithfully perform the duties of said office, and shall give such bond to the city for the faithful performance and discharge of his duties as the common council shall require, and except as otherwise provided in this act shall be the head and chief executive officer of the fire department; he shall appoint such number of assistants as shall be authorized by the common council, and shall see that all ordinances relating to the regulation of the fire department, the care and management of fire apparatus, and the extinguishment of fires, are

Chief to sub-
scribe oath and
give bond.

properly executed and enforced, and he shall perform such other duties as shall be required, and possess such other powers as shall be conferred upon him by the common council.

CHAPTER X.

School district.

SECTION 1. All territory within the present corporate limits of the city of Eau Claire, together with all territory which may hereafter be attached to and incorporated in said city, on and after the first Monday in July, 1889, shall constitute one school district, which shall be known as "the school district of Eau Claire." The school commissioners herein provided for shall be styled, "the board of education of Eau Claire," a majority of whom shall constitute a quorum. On the first Monday in July, 1889, each ward in said city shall elect one school commissioner, who shall be a resident of said city and of the ward by which he is elected, and shall be chosen at an election to be held on said day in the same manner that municipal elections are held in said city, at which election any person who shall be a qualified voter for school officers under the existing law may vote, and any person who is eligible as a school officer under the existing law, shall be eligible as a school commissioner, and at such elections the polls shall be kept open until sun down. And on the first Monday in July, 1890, and biennially thereafter, a similar election shall be held in each of the even numbered wards of said city; and on the first Monday in July, 1891, and biennially thereafter, a similar election shall be held in each of the odd numbered wards of said city; and all school commissioners so elected shall hold office for two years and until their successors are elected and qualified, except those elected on the first Monday in July, 1889, by the even numbered wards, who shall hold for one year and until their successors are elected and qualified.

President of board of education.

SECTION 2. The board of education may elect one of their number president of the board of education and prescribe his duties.

Secretary.

SECTION 3. They shall elect a secretary of the board of education, whose duty shall be to keep a record of the proceedings thereof and perform

such other duties as the board may prescribe, which record, or a transcript thereof, certified by the secretary, shall be received in all courts as prima facie evidence of the facts therein set forth. The compensation of the said secretary for such services shall be fixed by the board of education and shall be paid from the school fund. It shall be the duty of the secretary, within ten days after the election of any person as a school commissioner, to notify him in writing of his election; and, if any such person shall not, within ten days after receiving such notice, take and subscribe the constitutional oath and file the same with the clerk of said city, the said board may consider this a refusal to serve, and may proceed to fill such vacancy.

SECTION 4. They may elect a superintendent, who shall have the superintendence of all public schools, school-houses, books and apparatus; he shall visit all schools as often as his duties will require, and pay special attention to the classification of the pupils in the several schools, and to the apportionment among the classes of prescribed studies; he shall carefully observe the conduct, teaching and discipline of all teachers employed in the public schools, and report to the board whenever he shall find any teacher unfit for, or 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; and it shall be the duty of said superintendent to examine and license teachers in said district, and to annul certificates, as provided by law, and he shall have the powers in respect thereto of a county superintendent.

School superintendent.

SECTION 5. The title of all property, of whatever name, kind or description, real, personal or mixed, that shall on said first Monday in July, 1889, be vested in either of the school districts wholly or partly within the present corporate limits of the city of Eau Claire, including all moneys, funds, revenue, debts, and demands due and owing to either of the said school districts shall become and hereby is vested on said day in said school district of Eau Claire; and the treasurer of each of said school districts shall then forth-

Property belonging to school district.

with pay all moneys in his hands, as such treasurer, to the treasurer of the city of Eau Claire, who shall place the same to the credit of the board of education, subject to the order of said board, and he shall pay the same out on the written order of the president of said board countersigned by the secretary thereof; provided, however, that the treasurers of the three school districts now wholly or partly within the said city, shall be, and they are hereby made, an equalizing committee with full power, at any time prior to September 1st, 1889, to equalize and adjust and settle, on any basis that they may think equitable and just, any and all conflicting property and monetary interests of said three school districts, and their decision thereon shall be reduced to writing, signed by each member of said committee and filed with the city clerk, and said decision, so made and filed, shall be final and binding, and the property liable to taxation in any or all the said several districts shall be liable for the amounts that may be found due therefrom by said committee, which amount shall be levied on said property and collected as a part of the school tax as herein provided for the year 1889, and paid into the school fund of said district; but, provided, further, that if said committee shall fail to make a decision as to any or all of said matters and file the same as aforesaid prior to September 1st, 1889, then all the powers of said committee are to be deemed revoked, and any and all acts of theirs as such committee theretofore or thereafter done, shall be null and void.

School property, how sold.

SECTION 6. Whenever said board of education shall deem it advisable to sell any of the school-houses or sites or property of any kind, now belonging, or which may hereafter belong, to said district, such board may sell and convey the same to the highest bidder, after giving such a notice of the sale thereof as sheriffs are required to give of the sale of real estate on execution.

Duties board of education.

SECTION 7. The board of education shall have power and it shall be their duty:

Establish schools.

1st. To establish and organize such schools in said city as they may deem expedient and necessary, and in their discretion to discontinue the same.

Purchase school houses.

2nd. To purchase or lease school-houses or lots,

or sites for school-house, and to improve the same as they may deem proper upon such lots and upon any sites now owned by either of said school districts, to build, enlarge, improve and repair school-houses, outhouses and their appurtenances as they may deem proper.

3rd. To purchase, exchange, repair or improve school apparatus, furniture and books for pupils; to purchase and provide for a school library for the children and teachers of the public schools, and provide rules for the government of the same, and to provide fuel for the schools, and to defray their expenses of all kinds. School apparatus.

4th. To have the custody and safe-keeping of all school-houses, outhouses, books and furniture and other property belonging to the said school district. Custody of school property.

5th. To employ and contract with the superintendent and all teachers in the schools to whom the necessary certificate shall have been given by the superintendent, if a superintendent shall have been elected or employed by said board of education, but if no superintendent shall have been employed by the said board of education, then said board of education may employ and contract with teachers to whom the necessary certificate shall have been given by the county superintendent of Eau Claire county, and at their pleasure remove them; provided, that no contract for the employment of any superintendent or teacher shall extend beyond the first Monday of July next succeeding the date of such contract; to have in all respects the supervision and management of the schools in said city, and from time to time to make, alter, modify and repeal as they may deem expedient, rules and regulations for their organization, government and instruction, for the reception of pupils from other districts, and the transfer of pupils from one department to another, and for their good order and utility generally. Teachers.

6th. To make such orders and regulations in regard to the examination and qualifications of the teachers as may be proper; provided, that such examinations shall be conducted by the superintendent or in his presence, and further provided that if no superintendent shall have been employed by the board of education, then such examinations shall be conducted by the county superin- Examination of teachers.

tendent of Eau Claire county or in his presence, and none but the said superintendent or said county superintendent shall be authorized to issue and give certificates of qualification.

Non-resident children.

SECTION 8. The said board shall have power to allow children of parents not residents of the city to attend any of the schools in said city and to fix the terms upon which they may attend such schools.

Vote required for appropriations.

SECTION 9. All appropriations, salaries, and estimates for defraying current expenses made by said board shall require a two-thirds vote of all the members of the board of education.

Statement to be published.

SECTION 10. The said board shall each year prepare a correct statement of all receipts and disbursements of school moneys during the preceding year, specifying from what source received and for what purpose expended, which statement shall be published at least ten days before the annual election of school commissioners in the official newspaper of said city.

Board to certify to council sum of money necessary.

SECTION 11. The said board of education shall determine and certify to the common council of said city such sums of money as they may deem necessary for defraying the current expenses of the public schools, but such sums so certified in any one year shall not exceed one-half of one mill for every dollar of the assessed valuation of all the taxable property in the said city over and above the amount levied in said city for the current school expenses of the previous year.

Board to file with the city clerk statement of money to be raised.

SECTION 12. It shall be the duty of the board of education to certify to the common council of said city such sums of money as they may deem necessary for the purchase of school-houses and sites, or for the building of school-houses, provided the amount so certified shall not exceed in any one year the sum of ten thousand dollars (\$10,000). It shall be the duty of the board of education to file with the city clerk of said city, on or before the first day of November of each year, a certificate or certificates in writing, stating the amount of money to be raised, as determined by them, either for building or general fund purposes, which certificate or certificates shall be signed by the president of the board, and it shall be the duty of the city clerk to place the same on the tax roll for that year, and the common council

shall cause the sum therein provided for to be levied and collected annually, in the same manner that other taxes are levied and collected in said city.

SECTION 13. All money raised pursuant to this act, and all moneys belonging to the school district of Eau Claire, or to which said school district shall be entitled, shall be paid to the city treasurer, who shall be accountable therefor in the same manner as for other money received in his official capacity. And all such moneys shall be placed to the credit of the board of education and subject to the order of said board, and the city treasurer shall pay the same out on the written order of the president of said board, countersigned by the secretary thereof.

Money to be paid to city treasurer.

SECTION 14. The said board of education may cause a suit or suits to be commenced and prosecuted in its name upon the official bond of the treasurer of said city for any default, delinquency or official misconduct in relation to the collection, safe-keeping and disbursement of any school moneys or property that may come into his hands.

Board may bring suit.

SECTION 15. In case any school commissioner shall purposely vote for any appropriation or for the payment or expenditure of any money not authorized by law, or in case the board of education shall authorize any expenditure for any purpose not authorized in this act, or exceeding the amount which the board of education are authorized to certify to the common council to be raised for any purpose in any one year, the school commissioners, or any one of them voting for any such expenditure or appropriation, or for the contracting of any such debt or debts, shall be personally liable to said school district of Eau Claire, or to any person or persons who may sue for the same for the benefit of said district, in an action in a court of competent jurisdiction, for any damage the school district may sustain in consequence of such illegal payment, expenditure or appropriation.

In case of illegal appropriation.

SECTION 16. For the purposes of this act and for the holding and using of the property herein mentioned, said, "The School District of Eau Claire," is hereby made and constituted a corporation with all powers usual to such corporations, and it may transact business, sue and be sued, by

School district to constitute a corporation.

said name and adopt a corporate seal; it may receive gifts and bequests of property for school purposes and shall hold such property and all other property to which it may obtain title for school purposes only, and all its said property shall vest in it and its legal successors forever; said board of education, composed of said commissioners, shall be the officers of said district and its only officers, its members shall hold office until their successors are elected and qualified; and it may fill vacancies in its own body until the next succeeding first Monday in July after such vacancy shall occur, at which time such vacancy shall be filled by the ward from which such vacancy shall occur by the election of a commissioner for the remainder of the unexpired term; it may adopt a code of by-laws for its own government. All laws relating to school districts in this state, so far as they are applicable, shall apply to said school district of Eau Claire, if not in conflict or at variance with anything in this act.

Certain territory to be included in school district No. 6.

SECTION 17. From and after the first Monday in July, 1889, that portion of joint school district No. 3, of the town of Union and the city of Eau Claire lying in the town of Union shall be school district No. 6, of the town of Union; and all property, including all moneys, funds, revenue, claims and demands, belonging to said joint school district at that time shall be appraised immediately by said board of education at its actual cash value to said school district of Eau Claire, and said board shall pay to said school district No. 6, of the town of Union such a proportion of the value thereof as the taxable property in that portion of said joint school district within the town of Union bears to the taxable property in that portion of said joint school district within the city of Eau Claire, according to the then last assessed valuation thereof.

CHAPTER XI.

MUNICIPAL COURT.

Municipal court.

SECTION 1. The jurisdiction of the municipal court of the city of Eau Claire shall be co-extensive with said city, and said municipal court shall

have jurisdiction concurrently with the circuit court to hear, try and determine all misdemeanors and all other offenses which are punishable only by fine or imprisonment in the county jail, or by both such fine and imprisonment, and the municipal judge shall be judge of said court. Jurisdiction.

SECTION 2. When any person or persons shall be tried and convicted in said municipal court of any such offense, the punishment of such offense shall be such as is now prescribed by law, except as otherwise provided in this act, and the judge of said court is hereby empowered to sentence such offenders, when so convicted, to such punishment either by fine or imprisonment in the county jail, or by both such fine and imprisonment, at his discretion. Punishment of offenders.

SECTION 3. The municipal judge shall have exclusive jurisdiction of all misdemeanors and other offenses arising within the city of Eau Claire, as provided in section 2, of this act, and exclusive jurisdiction to conduct all examinations of offenders against any laws of this state, or person accused of committing any criminal offense, when such offense shall be committed within the limits of said city, and of all actions arising by reason of the violation of any of the provisions of the charter of the city of Eau Claire, or of any of the ordinances or by-laws passed in pursuance thereof. Judge to have exclusive jurisdiction.

SECTION 4. Said municipal court shall have and possess all the rights, powers and jurisdiction of a justice's court, and the municipal judge shall have and possess all the rights, powers and jurisdiction of a justice of the peace, and all laws of this state relating to justices' courts shall apply to said municipal court of the city of Eau Claire, except so far as such laws may conflict with the provisions of this act. Powers of justice court.

SECTION 5. Said municipal court shall have jurisdiction concurrently with the circuit court in all cases of larceny where the amount alleged to have been stolen shall not exceed the sum of eighty dollars; provided, that nothing herein contained shall be so construed as to give said municipal court jurisdiction of offenses punishable by imprisonment in the state's prison. Jurisdiction concurrent with circuit court.

SECTION 6. The punishment for such larceny shall be by fine not exceeding one hundred dollars (\$100) or by imprisonment in the county jail not Punishment for larceny.

exceeding one year, or by both such fine and imprisonment in the discretion of the court.

Court to have jurisdiction in actions for assault, etc.

SECTION 7. Said municipal court shall have jurisdiction of actions for assaults, batteries and affrays committed within said city, which trials, in such cases, shall be conducted according to the general laws of the state of Wisconsin, and the laws of said state relating to the trial of cases in justices' courts, except so far as such laws shall conflict with any of the provisions of this act.

Laws of the state to apply.

SECTION 8. The provisions of all laws of this state relating to justices' courts shall apply to said municipal court so far as the same are not inconsistent with this act, and the jurisdiction and powers of the municipal court in both civil and criminal proceedings shall be the same as is now provided by law for justices' courts, except as enlarged and modified by this act. The judge of said court shall be allowed the same fees for his services as are now allowed by law to the justices of the peace, and in addition to such fees he shall also be allowed the further sum of one dollar for each civil action commenced in said court, which is hereby imposed as a tax for entering such action upon the docket of said judge, which last sum shall be taxed and recovered as a part of the costs in such action in the same manner as other fees allowed by law are taxed and recovered.

Attorney's fees.

SECTION 9. In all civil actions brought in said municipal court, attorney's fees shall be allowed and taxed against the losing party when an attorney of a court of record has appeared therein for the party obtaining judgment either for damages or costs, or both, and in all cases when the amount of judgment shall be fifty dollars (\$50) or less, the attorney's fees taxed in favor of the prevailing party shall be five dollars (\$5); and when the amount of judgment shall exceed the sum of fifty dollars, (\$50) the attorney's fees taxed in favor of the prevailing party shall be ten dollars (\$10); provided, that no more than five dollars (\$5) attorney's fees shall be taxed when there has been no appearance by the party against whom judgment shall be rendered; and provided further, that there shall be no attorney's fees taxed upon a confession of judgment.

Documents when sealed to be evidence.

SECTION 10. The municipal judge may provide a seal for said court, and all papers, depositions,

certificates, acknowledgments, examinations and other documents executed or signed by said judge, when sealed with the seal of said court, shall be evidence in all courts and places in this state, and shall have the same effect as the seal of a court of record.

SECTION 11. All summons, executions and other suits and process, both civil and criminal, may be attested in the name of the municipal judge. In all criminal trials in said municipal court, and in all cases in which the city of Eau Claire shall be a party, the judge thereof may instruct the jury (when a jury trial is had) upon matters of law in relation to the case.

Judge may
instruct jury.

SECTION 12. In case of the absence, sickness or temporary disability of said municipal judge, he may, by order in writing, to be filed in said court, appoint a justice of the peace of said city to discharge the duties of such judge during such absence, sickness or disability, and in case of a vacancy in the office of municipal judge, the mayor may, by an order in writing, to be filed in the office of the city clerk of said city, appoint a justice of the peace of said city to discharge the duties of municipal judge during the continuance of such vacancy. And any justice of the peace discharging the duties of municipal judge shall have all the powers of such judge, and be entitled to the same fees for his services, while administering such office.

Justice of the
peace may
serve in
absence of
judge.

SECTION 13. The qualified electors of the city of Eau Claire, shall on the first Tuesday of April, A. D. 1890, and once in four years thereafter, elect a suitable person to the office of judge of said municipal court, to be called the municipal judge, who shall hold his office for the term of four years, and until his successor is duly elected and qualified, and the said judge shall, before entering upon the duties of his office, take and subscribe an oath to support the constitution of the United States and the state of Wisconsin, and to faithfully, honestly and impartially discharge the duties of his said office, which oath shall be filed in the office of the city clerk of the city of Eau Claire, and a duplicate oath in the office of the clerk of the circuit court of the county of Eau Claire, and shall execute a bond to the city of Eau Claire with such security and conditions as

Election of
judge.

the common council of said city may direct and approve.

Relating to
appeals.

SECTION 14. Appeals from the municipal court shall be made to the circuit court of Eau Claire county, and appeals shall be allowed in all cases tried in said court, under the laws of this state, whenever appeals are allowed from justices' courts, and the manner and form of taking such appeals may be the same as appeals from justices' courts, and all the laws of this state relating to justices' courts shall be construed so as to apply to the municipal court of the city of Eau Claire, so far as the said laws do not conflict with this act.

Jury trials.

SECTION 15. Jury trials in said municipal court may be conducted in the same manner as in justice court, until otherwise provided. The common council of the city of Eau Claire may by ordinance provide for a different manner of selecting jurors for said court, and any ordinance providing for the drawing or selecting of jurors for the said municipal court shall have the force and effect of law. Any juror when duly summoned to attend said court, and who shall not attend at the time he is summoned, shall be adjudged to be guilty of a contempt, and shall be fined in a sum not less than two nor more than ten dollars.

Penalty for
non-attendance
of juror.

Judge to have
same power as
circuit court to
punish con-
tempt.

SECTION 16. The judge of the municipal court shall have the same power to punish contempts in the same manner and for like causes, and to the same extent, that the judges of the circuit courts are or may be authorized by law to punish for contempts.

Nothing herein
to abridge
jurisdiction.

SECTION 17. Nothing herein contained shall be so construed as to abridge or impair the jurisdiction of the circuit court, or in any way affect any action or proceeding, order or judgment heretofore had or now pending in the municipal court of said city, but the municipal court hereby created shall have the same jurisdiction and powers in relation thereto as the municipal court of the city of Eau Claire now has, and the municipal judge of said city shall be and continue the judge of the municipal court until a successor shall be elected and qualified as herein provided.

CHAPTER XII.

MISCELLANEOUS.

SECTION 1. All ordinances, resolutions, regulations and by-laws passed and adopted by the common council of the city of Eau Claire prior to the passage and publication of this act, shall be continued in full force as valid ordinances, by-laws and regulations of said city, the same as though this act had not been passed, and no provision of this act shall be deemed to have repealed or impaired any such resolution, regulation, ordinance or by-law of said city. An ordinance passed and adopted by the common council of the city of Eau Claire on the ninth day of January, 1889, entitled, "An ordinance relating to the revision of the ordinances of the city of Eau Claire," and each and every chapter of said ordinance, and each and every section of any such chapter of said ordinance, and each and every provision thereof and ordinance therein referred to, is hereby legalized and confirmed and declared to be a valid ordinance of said city, and shall, from and after the passage of this act, have the force of law. Provided, that the common council may by the adoption of an ordinance in the manner hereinbefore provided for the adoption of ordinances of said city amend or repeal the ordinance entitled, "An ordinance relating to the revision of the ordinances of the city of Eau Claire." The title of such amendatory or repealing ordinance shall be, "An ordinance to amend (or repeal) chapter (designate the chapter to be amended or repealed) of the revised ordinances."

Ordinances continued in force.

SECTION 2. Any printed book, printed and published, or purporting to be printed and published by authority of the common council of the city of Eau Claire, and containing any ordinance of said city, shall be prima facie evidence of the passage and publication of any and all such ordinances, and shall be received as presumptive evidence of the passage, publication and legality thereof, in all courts, actions and proceedings, and in all other cases when it shall be requisite or necessary to prove the same.

Printed ordinances to be prima facie evidence.

SECTION 3. If any person having been an officer

Penalty for not delivering to successor.

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

Judge to report quarterly.

SECTION 4. The municipal judge shall quarterly report to the common council a list of all proceedings instituted before him in behalf of the city, and the disposition thereof, and shall at the same time account for and pay over to the treasurer the amount of all penalties and fines collected which may by law accrue to the city. The city shall not be liable for or pay any costs for violations of any law of this state, and such justice shall pay to the county treasurer all fines collected for offenses against the laws of this state, in the same manner that justices of the peace are required by law to do.

Work to be let by contract to lowest bidder.

SECTION 5. All work for the city or either ward thereof, shall, except as otherwise provided by this act, be let by contract to the lowest reasonable responsible bidder, and due notice shall be given of the time and place of letting such contract; provided, that the council by a vote of two-thirds of all the members thereof, may otherwise provide for work.

Actions to be brought in the corporate name.

SECTION 6. All actions brought to recover any penalty or forfeiture under this act, or the ordinances, by-laws, or police or health regulations made in pursuance thereof, shall be brought in the corporate name of the city. It shall be lawful to declare generally for such forfeiture, stating the clause of this act or by-law or ordinance under which the forfeiture is claimed, and to give the special matter in evidence under it. All prosecutions may be commenced by summons or warrant as the exigency of the case may require. In all cases where an action might be brought by the city of Eau Claire against any person, company or corporation, such action may be commenced and prosecuted in the name of the city by any elector of said city; provided,

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

SECTION 7. In all cases of conviction in actions brought or prosecuted to recover a penalty, fine or forfeiture under any of the provisions of this act, or for the violation of any ordinance of said city, the court shall enter judgment against the defendant for the fine and costs of prosecution, and if the defendant shall neglect or refuse to pay such fines and costs, the court shall enter a judgment that the defendant be imprisoned in the county jail of Eau Claire county for such term as may be prescribed by this act or the ordinance violated, not exceeding three months, and shall commit the defendant for the term fixed by said judgment, or the court may, in its discretion, in case of the non-payment of such fine and costs as aforesaid, enter judgment that the defendant be imprisoned as aforesaid, and kept at hard labor for the benefit of the city of Eau Claire, in the said jail or upon the public streets, or elsewhere within the said city, under the supervision of the chief of police or such of the police force as may be detailed by him for that purpose, for the period of time for which said person or persons shall have

In case of conviction in actions.

been so committed, unless the judgment and expenses of imprisonment are sooner paid, and all persons so committed and kept at hard labor shall be allowed one dollar per day for each day's labor rendered, exclusive of board, and the amount so earned shall be applied in liquidation of the judgment until the same shall be fully paid by such labor, at which time the judgment shall be satisfied and the defendant discharged from custody.

Competency of witness, jurors, etc.

SECTION 8. No person shall be incompetent to act as 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.

If election is not held as herein prescribed not to abolish corporation.

SECTION 9. If any election by the people or common council shall not from any cause be held at the time or in the manner herein prescribed, it shall not be considered reason for arresting, suspending or abolishing said corporation, but such election may be held on a subsequent day as hereinbefore provided; and if any of the duties enjoined by this act or the ordinances or by-laws of the city, to be done by any officer, at any time specified, and the same are not done and performed, the common council may appoint another time at which said acts may be done or performed.

City may hold real estate.

SECTION 10. Said city may lease, purchase or hold real or personal property sufficient for the convenience of the inhabitants thereof, and may sell and convey the same, and the same shall be free from taxation, while owned or held by said city.

Use of county jail granted to city.

SECTION 11. The use of the jail of Eau Claire county until otherwise provided shall be granted to said city for the confinement of offenders, and every such offender shall be delivered to the sheriff of said county, for whose custody, safe-keeping and delivery the said sheriff shall be responsible as in other cases, but the said county shall not incur or pay any liability or expense on account of any person committed to said jail for a violation of any ordinance, by-law, rule or regulation, but such expenses shall be paid by the city; provided, however, that the common council of said city may, by ordinance, designate a place or places within the limits of said city for the confinement of offenders violating any of the ordinances or by-laws of said city of Eau Claire.

SECTION 12. No real or personal property of any inhabitant of said city or town, individual or corporation, shall be levied upon or sold by virtue of any execution issued to satisfy or collect any debt, obligation or contract of said city.

No private property to be levied upon.

SECTION 13. When a judgment shall be recovered against any officer of said city in any action prosecuted by or against him, in his name of office where the same should be paid by the city, no execution shall be issued or awarded upon such judgment except as hereinafter provided; but the same, unless reversed, shall be levied and collected as other city charges, and when so collected shall be paid by the city treasurer to the person to whom the same shall be adjudged, upon the delivery of a proper voucher therefor; but if the payment thereof be not made within sixty days after the city treasurer is required to make his return of city or ward taxes, next after the rendition of such judgment, execution may be issued thereon upon the order of the court authorized to issue such execution on special application therefor.

In case judgment is recovered against officer.

SECTION 14. The mayor shall have power to grant pardons or commutations, after conviction for all offenses against the ordinances of the city, upon such conditions as he may deem proper; he shall communicate any such action to the council at its next meeting, with his reasons therefor. All fines imposed by the municipal court of the city of Eau Claire, for violation of this act, or ordinances, by-laws or regulations made in pursuance thereof, shall be paid by the officer collecting the same, into the city treasury, and a separate account made thereof; and in the months of March and September, in each year, the city clerk shall report to the council the amount so received during the preceding six months, and also the expenses attending such prosecution in the city during the same year.

Mayor may grant pardons

SECTION 15. Any person who shall be guilty of drunkenness, or immoderate drinking, improper revelling, obscenity, or noisy, boisterous and disorderly conduct in the streets or public places of the city of Eau Claire, shall be deemed guilty of a misdemeanor, and on conviction thereof before the municipal judge of said city, shall be punished by a fine not less than one or more than one hun-

Drunkenness, boisterous conduct.

dred dollars, or by imprisonment in the county jail of Eau Claire county for a term of not less than two days nor more than three months.

Relating to
complaint that
ordinance has
been violated.

SECTION 16. Whenever any complaint is made to the municipal judge of said city by any police officer, sheriff, policeman or other person, that any offense has been committed within the said city against the provisions of the charter of said city, or of the by-laws or ordinances passed in pursuance thereof, whether such offence is made punishable under such charter or ordinances, by fine, penalty, or imprisonment, the said municipal judge shall examine the complainant on oath, and reduce the complaint to writing, and cause the same to be subscribed by the complainant; and if it shall appear that any such offense has been committed, the said municipal judge shall issue his warrant, reciting the substance of the complaint, requiring the officer forthwith to arrest the accused and bring him before such municipal judge to be dealt with according to law. All the laws of this state relating to the manner of conducting criminal actions before justices' courts shall be applicable to all trials before the municipal judge under this act so far as the same do not conflict with the provisions of this act; provided, when the complaint is made by any person other than a police officer of said city or sheriff of Eau Claire county, the said municipal judge before issuing his warrant, may require security as provided in section 13, of chapter 10, of this act.

Conflicting acts
repealed.

SECTION 17. All acts and parts of acts inconsistent with and conflicting with the provisions of this act are hereby repealed. But the repeal of said acts and parts of acts shall not in any manner affect, injure or invalidate any contracts, acts, suits, claims or demands that may have been entered into or that may exist under, by virtue or in pursuance of said acts or any of them. But the same shall exist and be in force and carried out as fully and effectually to all intents and purposes, as if this act had not been passed. And nothing contained in this section shall be construed to repeal or in any manner affect the following acts, to-wit: Chapter 281, of the laws of Wisconsin of 1876; chapter 181, and chapter 263, of the laws of Wisconsin of 1880; chapter 149, of the laws of Wisconsin of 1885, and chapter 6, of

the laws of Wisconsin of 1885, which are hereby declared to be and remain in full force and effect. And section 8, of chapter 328, of the laws of 1885, is hereby repealed.

SECTION 18. This act shall take effect and be in force from and after its passage.

Approved March 28, 1889.

[No. 342, S.]

[Published March 29, 1889.]

CHAPTER 188.

AN ACT to amend the charter of the city of Milwaukee and fixing the duties of assistant city attorney in certain cases.

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

SECTION 1. In case of a vacancy in the office of city attorney of the city of Milwaukee, the assistant city attorney shall have full power and authority, and it is hereby made his duty to exercise the office and perform the duties of city attorney until such vacancy shall be filled in the manner provided by law at the ensuing general municipal election.

Vacancy of
city attorney,
how filled.

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

Approved March 28, 1889.