

No. 242, S.]

[Published March 23, 1861.]

CHAPTER 59.

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

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

CHAPTER 1.

CITY AND WARD BOUNDARIES.

SECTION 1. All that district of country in the county of Winnebago contained within the limits and boundaries hereinafter described, shall be a city by the name of "Oshkosh;" and the people now inhabiting, and those who shall hereafter inhabit, within the district of country herein described shall be a municipal corporation by the name of the "City of Oshkosh," and by that name capable of suing and being sued in all courts of law and equity.

SECTION 2. The territory included in the following boundary and limits shall constitute the city of Oshkosh, to-wit: Commencing at a point at the intersection of the United States meander line with the north line of section eighteen, township eighteen north, of range seventeen east, on the west boundary line of Lake Winnebago; from thence west on the north line of sections eighteen, thirteen and fourteen, to the center line of Algoma street; thence northwesterly in the center of said Algoma street and the continuation thereof to the north line of lot No. four, in fractional section ten, town eighteen, range sixteen east; thence west on the north line of lot four, to the center of section ten; thence southwesterly two thousand five hundred feet, more or less, to a point at the intersection of the United States meander line,

with the north and south one-eighth line in the southwest quarter of section ten; thence south on the one-eighth line extending through the center of the west one half, of section fifteen, to the southwest corner of the southeast quarter of the southwest quarter of section fifteen; thence east on the south line of section fifteen, eighty rods more or less, to the north one-quarter post of section twenty-two; thence south on the north and south one-quarter line of sections twenty two and twenty-seven, two miles more or less, to the north one quarter post of section thirty four, town eighteen, range sixteen east; thence east on section line one and one-half miles more or less, to the northeast corner of section thirty-five, town eighteen, range sixteen east; thence south on the section line eighty rods more or less to the southwest corner of lot one, fractional section thirty-six, town eighteen, range sixteen east; thence east on the south line of lot one, three-eighths of a mile, more or less, to the United States meander line on the west boundary of Lake Winnebago; thence northeasterly along the United States meander lines of the west shore of Lake Winnebago to the place of beginning.

Ward boundaries defined.

SECTION 3. The territory included in the following boundaries and limits shall constitute the different wards of the said city of Oshkosh, to-wit: All that portion of said city lying north of Fox river, and west of the center of Main street, and south of the section line on the north side of sections twenty-three and twenty-four, shall constitute the First ward. All that portion of said city bounded on the south and east by Fox river and Lake Winnebago, and on the west by the center of Main street, and on the north by the center of Washington street, shall constitute the Second ward. All said city which lies east of a line through the middle of Minnesota street from Fox river to the north line of the southeast quarter of the southeast quarter of section twenty-six, of town eighteen north, of range sixteen east; thence east to the center of Oregon street; thence south through the center of Oregon street to the south line of the city shall constitute the Third ward. All that portion of said city

which lies west of a line running through the middle of Minnesota street from Fox river to the north line of the southeast quarter of the southeast quarter of section twenty-six of town eighteen north, range sixteen east, and south of a line running thence east to the center of Oregon street, and also west of a line through the middle of Oregon street, from Eighteenth street to the south line of the city, and south of Fox river, and south of the section line between sections fourteen and fifteen and twenty-two and twenty-three, township number eighteen north, of range number sixteen east, shall constitute the Sixth ward. All that portion north of the center of Washington street, and bounded on the west as follows: Commencing at the northwest corner of section thirteen, town eighteen north, range sixteen east; thence south to the center of Irving street; thence east to the center of Main street; thence south until it intersects the center of Washington street aforesaid, shall constitute the Fourth ward. All the residue of the said city shall be called the Fifth ward.

SECTION 4. The number and boundaries of wards of the city may be changed by ordinance when the same shall be adopted by a vote of a majority of all the members of the common council; provided, said ordinance must be introduced at a regular meeting of the council in May, June or July, and before final action is taken thereon the same shall be published in the official paper of the city once in each week for four successive weeks, and when the boundaries of any wards are fixed by such ordinance the number of wards in the city and the boundaries thereof, or of any of said wards shall not be again changed for a period of six years except by adding thereto such territory as may at any time be added to the city limits, and, provided further, that the territory of the wards shall be contiguous and compact, and that no ward shall be created having a population of less than fifteen hundred.

Ward boundaries, how changed.

CHAPTER II.

RIGHTS AND POWERS OF THE CORPORATION.

SECTION 1. The people now inhabiting, and who shall hereafter inhabit the district of country

Rights and powers of the corporation.

described in the preceding chapter, shall be a corporation of the name of the "City of Oshkosh," and shall have the general powers possessed by municipal corporations at common and statute law; and in addition thereto shall possess the rights and privileges hereinafter specifically granted.

CHAPTER III.

ANNEXATION OF ADJACENT TERRITORY.

Adjacent territory, how annexed.

SECTION 1. Territory lying adjacent to the city organized under the provisions of this act may be annexed to such city in the manner hereinafter set forth.

Petition for annexation, conditions of.

SECTION 2. A majority of the electors and the owners of at least one-fifth of the taxable property, according to the last tax roll, in territory adjacent to such city, may present a petition to the common council of such city asking for annexation thereto; provided, that if no electors reside therein, such petition must be signed by the owners of at least one half of the taxable property desired to be annexed, before the common council shall have power to act thereon.

Action upon petition, when.

SECTION 3. At any regular meeting of the common council after the filing of said petition with the city clerk, an ordinance may be introduced providing for the annexation of such adjacent territory. Final action on said ordinance shall not be taken except at a regular meeting of the council, and not earlier than thirty days after the same is introduced, and in the meantime the same shall be published at least once in each week for four successive weeks in the official newspaper of said city.

Adoption of petition.

SECTION 4. A vote of three-fourths of all the members of said council in favor of said ordinance, taken by ayes and noes, and recorded, shall be necessary for its adoption.

Validity of proceedings, how called in question.

SECTION 5. The adoption of said ordinance shall operate to annex such territory to said city, and to the ward or wards designated therein. The validity of the proceedings annexing such territory shall not be called in question collaterally in any of the courts of this state, nor shall the validity of any such proceedings be called

into question in any other manner in the courts of this state, unless the action or proceedings therefor be commenced within ninety days after such ordinance is adopted.

CHAPTER IV.

OFFICERS — THEIR ELECTION, APPOINTMENT, QUALIFICATION, VACANCIES.

SECTION 1. There shall be the following city officers elected biennially by the qualified electors of the city at large: A mayor, a city clerk and a city treasurer. City officers.

SECTION 2. There shall be elected three assessors Assessors. At the city election in 1891 one assessor shall be elected by and from the qualified electors of the Third and Sixth wards, who shall hold his office for the term of two years. The assessors now elected, whose terms of office do not expire in 1891, shall hold their office until the city election in 1893. At the city election in 1893 there shall be elected one assessor by and from the qualified electors of the First and Fifth wards, one assessor by and from the qualified electors of the Second and Fourth wards and one assessor by and from the qualified electors of the Third and Sixth wards, who shall each hold their office for the term of two years, and thereafter upon the expiration of the terms of said assessors there shall be elected for the term of two years an assessor from the district where the term of office of such assessor expires. In the event of a change in the ward boundaries in the city the assessors shall be elected in the same manner and from such wards as the common council shall by ordinance provide.

SECTION 3. There shall be elected at the charter election to be held on the first Tuesday in April A. D. 1891, and every two years thereafter, by and from the qualified electors of said city, one justice of the peace, who shall be a resident of said city and who shall hold his office in the second ward of said city. And there shall be elected at the charter election to be held on the first Tuesday in April, A. D. 1893, and every two years thereafter, by and from the qualified elect- Justices of the peace.

ors of said city, one justice of the peace, who shall be a resident of the said city, and shall hold his office in the third ward of said city. Each of said justices of the peace shall hold his office for the term of two years and until his successor is duly elected and qualified.

School commissioners.

SECTION 4. There shall be elected at the annual charter election in 1891 one school commissioner from each the second, fourth and sixth wards, who shall hold his office for the term of four years, and at the charter election in 1893, there shall be elected one school commissioner from each the first, third and fifth wards who shall hold his office for the term of four years, and so alternately thereafter; said commissioners shall be elected by and from the qualified electors of the ward for which they are elected; and there shall be appointed by the mayor and confirmed by a majority of the members of the common council voting in favor of such confirmation, three school commissioners from the city at large who shall hold their office for the term of two years and the commissioners so elected and appointed shall constitute the school board of the city. The school commissioners elected for two years at the charter election of 1890, shall hold their office for the term for which they were elected and until their successors are duly elected and qualified. In the event of a change in the ward boundaries in the city the school commissioners shall be elected in the same manner and from such territory as the common council shall by ordinance provide.

Aldermen, their election and qualifications.

SECTION 5. There shall be three aldermen elected from each ward, by and from the qualified electors thereof, for their respective wards, two elected at each charter election, one for two years and one for four years. The ballot shall designate which alderman is voted for, for each of said terms. The alderman elected for two years at the charter election in 1890, shall hold his office for the term for which he was elected and until his successor is duly elected and qualified. The mayor and the aldermen so elected shall compose the common council of the city of Oshkosh.

Supervisors.

SECTION 6. Each ward of the city shall be represented in the board of supervisors of the county of Winnebago by one supervisor; such supervisor

shall be elected biennially by the electors of the wards at the same time and in the same manner as ward aldermen are elected. The mayor of the city of Oshkosh shall be *ex officio* a member of the county board of supervisors of the county of Winnebago, and shall have and exercise the same powers and privileges in said board as other members thereof are entitled to, and shall be paid the same compensation for his services as may be paid to any other member of the board.

SECTION 7. The mayor, comptroller and assessors of said city of Oshkosh and two aldermen from different wards, appointed by the common council shall constitute the board of review of the city. The members of the board of review, except the comptroller, shall have the same compensation per day as the assessors. The time for which the members of the board of review shall receive compensation shall not exceed fifteen days. The mayor shall be chairman *ex officio* of said board. The city clerk shall be secretary of said board.

Board of review.

SECTION 8. The members of the board of assessors shall not receive compensation for a longer time than seventy days for making the assessment of the real and personal property of said city.

Compensation of board of assessors.

SECTION 9. At the first meeting of the common council or as soon thereafter as may be, there shall be the following city officers appointed by the mayor and confirmed by a majority of all the members of the common council voting in favor of such confirmation, a comptroller, a city attorney, a chief of police and a chief of the fire department, who shall hold their offices for the term of two years. There shall be the following city officers elected by the common council at its first meeting, or as soon thereafter as may be, a president of the council, a city physician, a city surveyor, a health officer, an overseer of the poor, a constable, one or more policemen, one or more firemen and such other officers as the common council may deem necessary, who shall hold their offices for the term of two years.

Appointive officers.

SECTION 10. The term of office of all city officers shall commence upon their election or appointment and qualification, and shall hold for two and four years respectively, as herein pro-

Tenure of office.

vided, and until their respective successors are elected or appointed and qualified.

Qualifications of officers.

SECTION 11. The qualification for each officer of said city mentioned in this act shall be that he is a qualified elector of said city, and to be eligible to hold any ward office, he shall also be a resident of such ward and a freeholder in the city.

Annual municipal election, when held and where.

SECTION 12. The annual municipal election shall be held on the first Tuesday in April, 1891, and biennially thereafter at such place or places in each election precinct as the common council shall designate. The polls of such election shall be open at six o'clock A. M. and close at six o'clock P. M.; ten days' previous notice of the time and place of such election and of the officers to be elected shall be given by the city clerk by publication in the official newspaper of the city; in all other respects such election shall be conducted as is prescribed by the general laws of the state; provided, however, that the failure to give such notice shall in no way invalidate such election.

Manner of conducting elections.

SECTION 13. All elections shall be by ballot, and a plurality of votes cast shall constitute an election. When two or more candidates for an office shall receive an equal number of votes for the same office, the election shall be determined by the casting of lots in the presence of the common council, at such time and in such manner as such common council shall direct. On the Tuesday following each and every municipal election, held under this act, the common council shall meet and canvass the returns, and declare the result, as it appears from the returns, and the city clerk shall, within three days thereafter, give notice to each person elected of his election. The common council, at their first regular meeting, or as soon thereafter as may be, shall fix the amount of salary which shall be received by every city officer entitled to a salary who is or may be elected or appointed in the city during the year, which salary shall not be increased or diminished during the term of office for which such officer may be elected or appointed; the salary shall be paid out of the city treasury monthly, at the end of each month. All salaries, the amount whereof have heretofore been fixed by the common coun-

cil, shall be and remain the salaries of such officers, until the common council shall fix the amounts thereof in accordance with the provisions of this section, and when so fixed they shall so remain until changed as herein provided.

SECTION 14. When any officer elected or appointed shall remove from the city, or when any officer elected or appointed in any ward of the city shall remove from said ward, or when any such officer shall refuse or neglect for ten days after official notification of his election or appointment to qualify and enter upon the discharge of the duties of his office, unless prevented by sickness or unavoidable absence, the office shall be deemed vacant; and whenever a vacancy shall occur in any office to be filled by an election by the people, the common council shall, at its next regular meeting thereafter or as soon as practicable fill such vacancy by election in the same manner as other officers are elected by said common council. And whenever a vacancy shall occur in any office to be filled by an appointment, the same proceedings shall be had to fill such vacancy as are provided for in case of an appointment in the first instance.

Salaries of city officers.

SECTION 15. Every person elected or appointed to fill a vacancy, shall hold his office and discharge the duties thereof for the unexpired term or until the municipal election.

Vacancies.

SECTION 16. Every person elected or appointed to any office, shall, before he enters upon the discharge of the duties thereof, take and subscribe the oath of office provided for by the constitution, and file the same with the city clerk within ten days after notice of his election or appointment; and in case of his failure to file the same within the time indicated, the office shall be deemed vacant, unless such officer is prevented from so doing by sickness or unavoidable absence.

Officers must qualify.

SECTION 17. The city treasurer, comptroller, justice of the peace, constables and such other officers as the common council may direct, shall, before entering upon the discharge of the duties of their respective offices, execute and deliver to the city a bond in such sum as the common council may determine, with two or more sureties conditioned for the faithful discharge of the duties of their respective offices, and with such

Official bonds, of whom required.

other conditions as the council may prescribe. The common council may at any time require new and additional bonds of any city officer. All bonds must be filed in the office of the city clerk within ten days after the officer executing the same shall have been notified of his election or appointment. All bonds must be approved by the common council, and when so approved and filed shall be recorded by the city clerk in a book to be kept for that purpose; such clerk shall annex to each record a certificate that the same is a true copy of the original, and such record shall be *prima facie* evidence of the contents of such bond, and in the absence of the original may be used as evidence in all courts of this state. Justices of the peace, and constables shall also give a bond as required by statute.

Removal from
office.

SECTION 18. Every officer elected or appointed to any office may be removed from such office by a vote of two-thirds of all the members of the common council; but no such officer shall be removed except for cause, nor unless written charges are preferred against him and an opportunity given him to be heard in his own defense. The common council shall have power to compel the attendance of witnesses and the production of papers when necessary for the purpose of such trial, and shall proceed within ten days to hear and determine the case upon the merits thereof. The mayor may suspend any officer against whom charges have been preferred, until the disposition of the same. The mayor, or city clerk, upon the hearing and investigation by the council, of such charges, shall be authorized to administer the necessary oath to witnesses. Any justice of the peace of the city is authorized to issue subpoenas for witnesses to attend before said council, wherein the city shall be nominally plaintiff, and the party charged, defendant. In case of neglect or refusal of witnesses to attend and testify, the justice of the peace who issued the process of subpoena shall have the same power to issue a warrant of attachment and punish for contempt by law, as in cases of justice courts, where witnesses refuse or neglect to appear or testify.

Aldermen,
tenure of
office, new
wards.

SECTION 19. The chief of police, any of the regular police of said city, regularly employed and paid by the city, and any alderman of said

city, when elected by the common council may become a constable in and for said city by taking the oath and giving the bond required by law for the qualification of constables, the bonds to be approved by the council, said bond and oath to be filed with the city clerk. When such person shall cease to be a policeman or alderman he shall cease to be a constable.

SECTION 20. The common council shall have power to determine where the various officers provided for by this act shall hold their offices. Council to determine location of offices.

SECTION 21. In the event of an increase in the number of wards of the city no alderman shall be elected to represent the additional wards until the next charter election. At such election a complete board of aldermen shall be elected in each ward in the city. One alderman in each ward shall be elected for the term of four years and other aldermen for the term of two years; provided, that the aldermen elected for four years at the election preceding the creation of said new wards shall serve as an alderman of the ward in which he shall then reside until the expiration of term for which he was elected. Supervisor for new wards.

SECTION 22. In the event of an increase in the number of wards of the the city the council shall have power to elect a supervisor to represent each additional ward until the next charter election.

SECTION 23. The first election of officers under the provisions of this act shall be held on the first Tuesday in April, 1891, and elections thereafter shall be held biennially on the first Tuesday in April. First election first Tuesday in April, 1891.

CHAPTER V.

OFFICERS — THEIR POWERS AND DUTIES.

SECTION 1. The mayor shall be the chief executive officer, the head of the police and fire departments of the city; he shall take care that the laws of the state and the ordinances of the city are observed and enforced, and that all of the officers of the city discharge their respective duties. He shall have power to direct and command the chief of police, policemen, chief of fire department and members of the fire department of the Officers, their powers and duties. Mayor.

city at all times, and may for disobedience of his orders or misconduct of any member of the police force or fire department verbally or in writing, suspend such member of the police force or fire department and stop his pay, until the common council shall take final action on the order of suspension. He shall also have power to remove or suspend any officer elected by the common council, verbally or in writing, and stop his pay, subject to the approval of the said council. In such case he shall report the fact of such suspension and stoppage of pay to the council at the next regular meeting thereafter. He shall annually, and from time to time, give the common council such information and recommend such measures as he may deem advantageous to the city. When present he shall preside at the meetings of the common council, but shall vote in the common council only in case of a tie vote. He shall sign all bonds and certificates of indebtedness, and city orders, except as in this act otherwise provided, all agreements, contracts, licenses and permits granted by such common council, and approve or otherwise act upon all claims allowed by such council; he may in case of a riot or other disturbance, appoint as many special policemen as may be necessary. He shall have and possess the veto power. Should he refuse to approve any ordinance, rule or regulation, claim or resolution appropriating money or creating a debt or liability, he shall communicate his objections in writing to the common council within five days (Sundays and legal holidays excepted) after such ordinance, rule, regulation, claim or resolution is submitted to him for his approval. If such ordinance or resolution shall not have been returned by the mayor within five days after he shall have received it, it shall take effect in like manner as if he had signed it. If upon the return of such veto message two-thirds of all the aldermen of the common council vote for the passage of such ordinance, rule, regulation, claim or resolution, the same shall be considered legally passed notwithstanding the objections of the mayor.

President of
the council.

SECTION 2. The common council at its first meeting or as soon thereafter as practicable shall choose from its number a president, and in the

absence of the mayor the said president shall preside at all the meetings of such common council; and during the absence or inability of the mayor to discharge the duties of his office the president shall exercise all the powers and discharge all the duties of the mayor. The president while presiding at meetings of the common council or performing the duties of the mayor, shall be styled "President of the Council," and any act performed by him in such capacity, shall have the same force and effect as if performed by the mayor, but the president of the common council shall have no authority to sign or approve any ordinance, rule, regulation, claim, resolution, warrant, or other proceeding whatever which the mayor has refused to sign and communicated such refusal to the common council by filing the same with the city clerk. If both mayor and president are absent from any meeting of the council, the council may elect a temporary president, and while acting in such capacity the temporary president shall have the powers and discharge the duties of mayor, and shall be styled "President *pro tem.*"

SECTION 3. The city clerk shall have the care and custody of the corporate seal and all papers and records of the city. It shall be his duty to attend all meetings of the common council, board of education, board of public parks, and cemetery board, and to keep a full record of their proceedings, to record all ordinances and bonds in a book to be kept for that purpose; to keep a record of all licenses granted, which record shall at all reasonable times, be open to inspection by the public; to carefully preserve all receipts and papers filed with him and to draw and sign all bonds and certificates of indebtedness, and orders upon the treasury in pursuance of an order or resolution of the common council except as otherwise herein provided, and shall keep a full and correct account thereof in books provided for that purpose. He shall keep a record of all cemetery deeds issued by the city in books provided for that purpose. He shall sign all contracts made in behalf of the city, and unless they be so signed they shall have no validity. He shall have and possess the powers and authority and perform such duties as clerks of cities and villages may be required to perform under the gen-

City clerk, his
duties defined.

eral laws of this state. He shall keep an accurate account with the treasurer, and charge him with all tax lists presented to him for collection, and all sums of money paid into the treasury and credit the treasurer with all sums paid out by him. He shall be *ex officio* secretary of the board of public works, board of public parks, board of review, board of health, cemetery board and board of education. He shall report monthly to the common council in writing the condition of the several funds of the city. Within thirty days after the close of each fiscal year he shall, under the supervision of the comptroller make and cause to be published in the official paper of the city, a financial statement showing the receipts and disbursements on account of each fund during the last preceding financial year. Copies of any and all books, papers, documents or instruments filed and kept in his office and transcripts from the records of the proceedings of the common council, certified by him under the corporate seal of the city, shall be evidence in all courts and places, in like manner and with the same force and effect as if the original was produced. He shall also have power to administer oaths and affirmations authorized to be taken by and under the laws of the state, and shall perform such other duties as may be required of him by the common council. He may appoint a deputy in writing under his hand and shall file such appointment in his office; and such deputy clerk may aid in the performance of the duties of such clerk, under his direction, and in case of his absence or disability, or of a vacancy in his office, may perform all the duties of such clerk during such absence, or until such vacancy shall be filled; and every such clerk and his sureties shall be liable upon his official bond for the acts of his deputy. The salary of such deputy shall be paid by the clerk. The city clerk shall under the supervision of the comptroller keep in a general city ledger prepared for that purpose a separate account with each and every city fund representing expenditures of money in each and every city department, credit such fund with all receipts on its account and charge the same with all expenditures on its account; and shall keep a separate account with each class of expenditures

which can be classified by themselves, so as to show the annual expenditures on account of each city department and each of its component parts, and shall make a correct and complete statement of the funds as shown by said ledger ten days preceding the end of every fiscal year and ten days preceding every municipal election, which he shall verify on oath and submit the same to the council and file a copy thereof with the comptroller and shall also make a like statement whenever requested so to do by the comptroller or common council. The salary fixed for the service of said city clerk by the common council shall cover and include the compensation of that officer for all services herein enumerated. The city clerk shall under the direction of the comptroller cause the proceedings of the common council to be published in the official paper of the city and any other paper designated by the common council.

SECTION 1. The city treasurer shall collect all city, county and state taxes; and shall receive all moneys belonging to the city, keep an accurate account of the same in suitable books prepared for that purpose, and shall pay over the money in his hands according to law. He shall keep a detailed account of the money received and disbursed by him in such manner as the common council shall direct. He shall under the supervision of the comptroller keep an account with each and every fund represented on the general city ledger kept by the city clerk; and shall in all cases charge the amount paid out by him on any city order, to the fund, which said order shows it was made payable out of; his books shall at all reasonable times be open to inspection by any voter of the city. He shall make a sworn report to the common council each month, filing a copy thereof with the comptroller, and as much oftener as required by the comptroller or council, which report shall embrace a statement of the receipts and disbursements in his office; and ten days preceding the end of every fiscal year and ten days preceding every municipal election, he shall make out and file in the city clerk's office and with the comptroller a full and minute report verified on oath of all the moneys received and disbursed by him, and also when requested so to do by the comp-

City treasurer,
his duties de-
fined.

troller or common council, of all tax certificates, vouchers and other effects of pecuniary value in his possession and all other transactions of his office from the date of the like report of his predecessor to the date of the report required to be made out by him. He shall keep an accurate account of each of the separate funds in his custody. He shall receive no fees or *per diem* or other compensation for his services except the salary fixed by the common council. Except as herein otherwise provided, he shall have and possess the powers and authority and perform such duties as treasurers in villages and towns are required to perform under the general laws of the state.

The comptroller, his duties defined; deputy.

SECTION 5. The comptroller shall, on or before the first day of November each year, make to the common council a detailed statement of the expenses of the city and the several wards thereof, during the last fiscal year and such report shall also contain a statement of the estimated expenses of the current fiscal year as the same have been prepared by the common council, and an estimate of the probably income of the city for that year from sources other than taxation. He shall examine all estimates of public work to be done, made by the board of public works, and all contracts made by them, and shall countersign the same if they are legal, and if the necessary funds shall have been provided for the proposed work, and no such contract shall be valid until so countersigned. He shall keep a list of all improvement bonds for the payment of which special taxes are to be levied and shall make out and file with the city clerk a list of all the special taxes to be levied each year in time for its insertion in the tax roll, in the form of a schedule of special taxes, and shall certify the correctness of the same; and such certified schedule shall be *prima facie* evidence of the legality and regularity of the special taxes levied in pursuance thereof. He shall examine and inspect all tax and assessment rolls and all other proceedings in reference to the levying and collection of taxes. He shall report monthly to the common council the condition of the several funds of the city, and a statement of all outstanding claims and contracts which will be payable out of each fund. All claims and

demands against the city founded on contract, shall be audited and adjusted by the comptroller, and he shall make a monthly statement to the common council of such claims so audited and adjusted by him, and no such claim shall be allowed by the common council until it shall have been so certified. He shall examine and countersign all city orders before the same shall be valid except as herein otherwise provided. He shall have power to administer oaths and take testimony as to any questions which it may be his duty to decide. He shall keep a record of all his official acts and doings which shall be open to the inspection of all parties. He may appoint a deputy for whose acts he shall be responsible, and such deputy may act for his principal during his sickness or absence. The salary of said deputy shall be paid by the comptroller. The comptroller shall on or before the first day of November in each year, file with the city clerk, a detailed statement of the expenses of the city and of the wards thereof, during the last fiscal year, and such statement shall also contain a statement of the estimated expenses of the fiscal year, as provided in the chapter of this act, entitled, "assessment and collection of taxes," and the income of the city for that year from sources other than taxation. He shall countersign all contracts made with the city, if the necessary funds shall have been provided to pay the liability that may be incurred against the city under such contract, and no such contract shall be valid until so countersigned. He shall examine all claims presented against the city, whether founded on contract or otherwise and determine as to each claim, whether the same is properly itemized and sworn to; if on contract, whether the items charged are correct, whether such claim was incurred by proper authority and generally determine the correctness of such claim. For the above purposes he shall have power to swear witnesses and take testimony. If he does not find any objections to the claim he shall mark his approval thereon; if he disapproves, or approves in part and disapproves in part, he shall report his reasons therefor, and in all cases he shall report the evidence taken by him. No claim shall be considered by the council or reported to a committee till it shall have been thus examined and

reported on by the comptroller. He shall examine each month the treasurer's accounts as reported by him and kept by such treasurer and report as to the correctness of the same and also any violation of the treasurer of his duties in the manner of keeping his account or disbursing the moneys of the city. The comptroller shall procure a claim book at the expense of the city, in which 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 provide for the entry of the name of the claimant, number of claim, when filed, amount claimed, date of report of the comptroller, whether approved and for how much, date of allowance or disallowance by the council, amount allowed, date of the order issued to pay the same, number of such order and date of cancellation of the same. The comptroller shall also perform the duties of a member of the board of public works, such other duties as are required of him under the provisions of this act, and shall make such examinations as to the official conduct of the officers of the city not herein specifically provided for as may be from time to time required of him by the common council. The comptroller shall also countersign all certificates of indebtedness and bonds which may be issued by this city.

The city attorney, his duties defined.

SECTION 6. The city attorney shall conduct all the law business of the city and of the departments thereof, and all other law business in which the city shall be interested; he shall when requested, furnish written opinions upon subjects submitted to him by the mayor or common council. He shall keep a docket of all the cases to which the city may be a party in any court of record, in which shall be briefly entered all steps taken in each case, which shall at all reasonable hours be open to inspection by any of the officers or electors of such city. It shall also be the duty of the city attorney to draft all ordinances, bonds, contracts, leases, conveyances and such other instruments in writing as may be required by the officers of the city; to examine and inspect tax and assessment rolls, and all other proceedings in reference to the levying and col-

lection of taxes and assessments; and to perform such other duties as may be prescribed by the charter and ordinances of the city. He shall have authority to appoint an assistant who shall have power to do all acts required by law of the city attorney; provided, that the city attorney shall be responsible to the city for the acts of such assistant, and that the city shall not be liable for compensation to such assistant.

SECTION 7. The city surveyor shall be a practical surveyor and engineer; he shall keep his office at some convenient place within the city; the common council shall prescribe his duties and fix his fees and compensation for any service performed by him. All surveys, plans, profiles and estimates made by him for the city shall be the property of the city, and shall be carefully preserved in the office of the surveyor, open to the inspection of all parties interested; and when required by the common council he shall file copies of plans, profiles and estimates with the city clerk, and it shall be his duty to do all engineering work required by said council or the board of public works. The city engineer shall possess the same powers to make surveys and plats within the city that are given by law to county surveyors; and like validity and effect shall be given to his acts, and to all plats and surveys made by him, as are or may be given to the acts, plats and surveys of the county surveyor.

The city surveyor; his duties defined.

SECTION 8. The city surveyor shall keep on file in his office, a record of all of his official acts and doings; and shall also keep a copy of all plats of lots, blocks and sewers embraced within the city limits; also all profiles of streets, alleys and sewers, and of the grades thereof, and of all drafts and plans relating to bridges and harbors and of any public buildings belonging to the city; and shall at the same place keep a record of the location of all bench marks and permanent corner stakes from which subsequent surveys shall be started; which said records and documents shall be the property of the city and open to the inspection of parties interested and shall be delivered over by said engineer at the expiration of his term of office to his successor or to the board of public works. Whenever requested, the city surveyor shall make

Same.

a report of all doings of his department to the common council.

Chief engineer of fire department; his duties defined.

SECTION 9. The chief engineer of the fire department shall in all cases have control of the different fire companies of the city, their engines, steamers and fire apparatus, and also the direction and control thereof when called out upon duty subject only to the control of the mayor or common council; he shall see that the engines, steamers and apparatus of the fire department are kept in perfect order and readiness for immediate use, and cause all necessary repairs to be made when so authorized by the common council; he shall use his utmost endeavors in preventing and subduing fires and controlling the firemen thereat; he shall perform such other and further duties as are prescribed in other provisions of this act and by the ordinances of the common council.

The chief of police; his powers and duties.

SECTION 10. The chief of police shall attend all meetings of the common council and shall perform such duties as shall be prescribed by this act or by any ordinance of the city for the preservation of the peace, for the health of the city, and the collection of fines and license money; he shall possess the power of a constable at common law or by the laws of this state, and shall receive like fees and be subject to the same liabilities; it shall be his duty to execute and return all writs and processes to him directed, and when necessary in criminal cases, or for the violation of any ordinance of said city or law of this state, may pursue and serve the same in any part of the state of Wisconsin; he shall, under the direction of the mayor, be chief executive of the police department; he shall repair to all fires, riots and tumultuous assemblages, take charge of the police present, and use every exertion to protect property, disperse mobs, and cause to be arrested all persons engaged in disturbing the peace; to apprehend any person in the act of committing any offense against any ordinance of said city or the laws of this state, and, within a reasonable time, bring such person before competent authority for examination; he shall have the power to direct the policemen to any place where he shall deem their services necessary; he shall promptly report to the mayor

all complaints against the policemen, and cause to be obeyed all rules and regulations prescribed for the police department; and he, or some policeman appointed by him shall be the keeper of the city jail, and keep the keys thereof.

SECTION 11. It shall be the duty generally of all policemen appointed by the common council to faithfully perform such duties as shall be prescribed by the ordinances, laws and resolutions of the common council for the preservation of the public peace and health of the city, and they shall possess all common law and statutory power of constables; they shall faithfully abide by all ordinances prescribing the manner and extent of their duties, and the time in which duties are to be performed; they shall perform the duties of night watchmen for the city, if required under such regulations as the common council shall prescribe, and shall pay all fees received by them into the city treasury.

Policemen;
their powers
and duties.

SECTION 12. The mayor, each and every alderman, justice of the peace, chief of police, policeman and constable, shall be officers of the peace and suppress in a summary manner all riotous and disorderly behavior within the limits of the city, and for such purpose may command the assistance of all bystanders, and, if need be, of all citizens; if any person shall refuse to aid in maintaining the peace, when so required, every such person shall forfeit and pay a fine of fifty dollars. It shall be lawful for the mayor, any alderman, chief of police, every policeman or constable of the city to arrest forthwith any person who shall be drunk, disorderly, riotous or doing any act which shall, by this act, be construed to be a misdemeanor, or by warrant, to arrest any person whom they, or any of them, shall find committing any violation of the laws or any ordinance of the city, and to take such person before a justice of the peace of the city, or if it be out of office hours, or for any other good reason, an examination can not be had, to confine such person so arrested in the city jail until such time as an examination can be had.

Officers of the
peace; who
are.

SECTION 13. The chief of the fire department shall be the fire warden of the city with power to examine as to the construction of all chimneys, fire places, hearths, stoves, stove pipes, ovens,

Fire warden;
his powers and
duties.

smoke stacks, boilers and fire apparatus used in and about any building, and shall have power to prevent the improper construction thereof; and may cause them to be removed and placed in a safe and secure condition or 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.

Justices of the peace: their jurisdiction.

SECTION 14. The justices of the peace, elected under this act, shall have the same jurisdiction and perform all duties of justices of the peace as provided by the general laws of this state except that their official bond shall be approved by the common council; and in addition thereto they shall have jurisdiction in all cases arising under the ordinances and laws passed by said city, unless otherwise provided.

The city assessors; their powers and duties.

SECTION 15. The three assessors elected under this act shall constitute the board of assessors, and shall, in all things pertaining to their office so far as practicable, be governed by such laws as assessors in the several towns in this state. Within ten days after qualifying, it shall be the duty of the assessors of the several wards to organize into a board of assessors by electing one of their number chairman, who shall be authorized to administer such oaths as shall be authorized by this act and within such time as the common council shall designate the said assessors shall make out a complete and accurate assessment roll, and perform such other and further duties as are prescribed by this act, or shall be required by any ordinance or resolution of the common council. Any assessor who shall neglect to perform the duties of his office, or shall use any partiality in assessing the property of any individual, corporation or association, in anything pertaining to his office, shall, upon conviction, suffer and pay a penalty of not less than one hundred dollars nor more than five hundred dollars at the discretion of the court before whom conviction is had.

Aldermen not to be interested in job or contract with city.

SECTION 16. No alderman shall be a party to or interested in any job or contract with the city, and any contract in which any alderman shall be so interested shall be null and void; and in case

any money shall have been paid upon any such contract, the common council may sue for and recover the amount so paid from the parties to such contract and the aldermen interested in the same.

SECTION 17. The common council shall, at the first regular meeting of the new council in each year or as soon thereafter as may be, order the comptroller to advertise for proposals for all the printing and publication necessary to be done by the city, except as otherwise provided herein; and said printing and publication shall be let as other contracts are let under the provisions of this act. Such printer shall be styled the city printer; provided, that said printing shall be let to the printer of some daily newspaper published in the city. When any ordinance, notice, resolution or other proceeding shall have been published, a copy of such publication, together with the affidavit of the printer or his foreman stating the length of time the same has been published, shall be filed with the city clerk, and such affidavit shall be conclusive evidence of the publication of such ordinance, notice, resolution or other proceeding and the bill for such publication shall not be audited until such affidavit is so filed. In letting the city printing the common council shall have the right to reject any and all bids.

SECTION 18. All other officers elected or appointed under and by virtue of the authority of this act, shall perform such duties as are required to be performed by like officers under the general laws of the state, and also such as are prescribed by the common council.

SECTION 19. All city officers, at the termination of their office, shall immediately deliver to their successors in office, all property, money, books, papers and effects of every description in their possession belonging to the city, or pertaining to the office they may have held; any person who may have held an office neglecting or refusing so to do shall forfeit and pay to the use of said city one hundred dollars, besides all damages caused by such neglect or refusal and such successor may recover the possession of such books, papers and effects in the manner prescribed by the laws of the state for other officers.

City printing.

Duties of city officers not herein enumerated.

City officers retiring to deliver books, papers, etc., to successors.

Officers in office at time of passage of this act to hold until expiration of same.

SECTION 20. Nothing herein contained shall be so construed as to change or interfere with the term of office of any officer now holding office in said city, but the term of all such officers shall continue the same as if this act had not been passed.

CHAPTER VI.

THE COMMON COUNCIL — ITS POWERS.

Council how constituted; style of ordinances.

SECTION 1. The mayor and aldermen shall constitute the common council, and the style of all ordinances shall be: "The mayor and common council of the city of Oshkosh do ordain as follows:"

Meetings of council.

SECTION 2. The common council shall hold its first meeting on the third Tuesday of April of the year in which the municipal election is held and shall thereafter hold regular meetings at such times as the council may direct. The mayor may call a special meeting by a notice to each of the members to be served personally or left at their several places of abode and shall call special meetings upon the written request of a majority of all the members of the common council, but no business shall be considered at a special meeting except such as is set forth in the call for the same. The last meeting of each council shall be held on the third Tuesday in April of the year in which the municipal election is held.

Council to determine rules of its own proceedings; quorum; open sessions, etc.

SECTION 3. The common council shall determine the rules of its own proceedings. A majority of the members shall constitute a quorum for the transaction of business, but a smaller number may adjourn; their session shall be open to the public; the ayes and noes may be required by any member; and on the adoption of any ordinance or resolution assessing or levying taxes or for the appropriation or disbursement of money or creating any liability or charge against the city or any fund thereof, the vote shall be taken by ayes and noes, and every such vote shall be entered at length upon the journal and the affirmative vote of a majority of all the members of the council shall be necessary to adopt such ordinance or resolution. The common council shall be the judge of the election and qualifications of its own members, and may

punish its members or other persons present by fine for disorderly behavior, may compel the attendance of its members upon its meetings, and employ the police of the city for that purpose, may fine or expel any member for neglect of duty as such member or for unnecessary absence from sessions of the council. At all elections and confirmations by the city council the vote shall be taken *viva voce* and such vote shall be recorded by the clerk in the journal; a concurrence of a majority of all the members of the council shall be necessary to an election or confirmation.

SECTION 4. The common council shall have the management and control of the finances and of all the property of the city, except as herein otherwise provided, and shall likewise in addition to all other powers herein vested in them have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify, amend and repeal all such ordinances, rules, by-laws and regulations for the government and good order of the city; for the benefit of the trade and the commerce of the city and health of the inhabitants thereof, for the prevention of crime, and for carrying into effect the powers vested in said council as they shall deem expedient; such council shall have power to declare and impose penalties and to enforce the same against any person or persons who may violate any of the provisions of such ordinances, rules, by-laws or regulations, and such ordinances, rules, by-laws and regulations are hereby declared to be and have the force of law; provided, that they be not repugnant to the constitution of the United States or of this state, or of the laws thereof, and for the aforesaid purposes such common council shall have authority by ordinance, resolution, by-laws or regulations:

Council shall have management and control of city finances.

1. To license, regulate or prohibit the exhibition of common showmen or shows of any kind, or exhibitions of caravans, circuses or theatrical performances, billiard tables, bowling saloons, nine or ten pin alleys, and to provide for the abatement and removal of the same under the ordinances of the city and the laws of the state; and may grant licenses for and regulate groceries, tavern keepers, keepers of ordinaries, saloons, victualing houses or other houses or places for

Licenses.

the selling or giving away of spirituous, vinous or fermented liquors; provided, that in case an application for a license is denied the council shall not have authority till after the succeeding first day of May, to grant any license for dealing in or vending spirituous, vinous or fermented liquors by the same person at the same place; provided, further, that the council may establish saloon limits by ordinance which said limits shall not be extended, except by a vote in favor of the same of three-fourths of all members of the common council; and provided, further, that no such licenses shall be granted except by a majority vote of all the members of the common council; and the person to whom such license is granted shall give a bond in such form, in such sum, and with such conditions as the common council may determine, with two or more sureties, and the same shall be approved by the common council.

Gambling.

2. To restrain, prohibit and suppress all descriptions of gambling and fraudulent devices and practices.

Concerts by itinerant persons.

3. 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.

Riots, etc.

4. To prevent and suppress riots, noise, disturbance or disorderly assemblages; and to suppress and restrain disorderly houses and houses of ill-fame.

Removal of nuisances.

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

Breweries, tanneries, slaughter-houses, etc.; location and management of.

6. To direct the management of and to regulate breweries, tanneries and packing houses, and to direct the location, management and construction of, and regulate, license, restrain, abate or prohibit within the city and within a distance of four miles therefrom of distilleries, slaughtering establishments, glue factories, establishments for cleaning and rendering lard, tallow, offal and such

other substances as can or may be rendered, and all establishments or places where any nauseous, offensive or unwholesome business may be carried on.

7. To direct the location and management of public markets. Public markets.

8. To regulate butchers, and to regulate and restrain the sale of game, poultry, fresh meat, vegetables, fish, butter, fruit and other provisions within the city, and to appoint an inspector or inspectors of food and to prescribe their duties and compensation, and to cause the seizure and destruction or other disposition, of tainted or unwholesome meat, butter, vegetables, fruit or provisions. Butcher's stalls and shops; sale of game, fresh meat, etc.

9. To direct or prohibit the location and management of houses for the storing of gunpowder and other dangerous and combustible materials. Storing of gunpowder, etc.

10. To regulate and restrain the keeping and conveying of gunpowder and other combustible and dangerous materials, and the use of candles and lights in barns, stables and out-houses. Conveying of gunpowder; candles in barns, etc.

11. To prohibit the shooting of fire-arms and crackers and the exhibition or use of any fireworks at any time or in any manner which may be considered by the council dangerous to the city, or to any property therein or annoying to the citizens thereof. Shooting of fire arms and crackers.

12. To prohibit the encumbering of the streets, sidewalks, lanes, alleys, public grounds, wharves and docks with carriages carts, wagons, sleighs, wheelbarrows, boxes, lumber, firewood, timber, posts, signs, awnings or any substance or material, or in any manner whatsoever. Encumbering of streets, alleys, etc.

13. To prohibit horse racing and immoderate driving or riding in the streets. Horse racing on streets.

14. To prohibit and punish the abuse of animals. Abuse of animals.

15. To compel persons to fasten their horses, oxen or other animals attached to vehicles or otherwise, while standing or remaining in any street, alley or public grounds. Fastening of horse on streets.

16. To regulate and determine the times and places of bathing and swimming in canals, rivers, harbors or other waters in and adjoining the city, Bathing and swimming.

and to prevent any obscene or indecent exposure or conduct.

Vagrants, street beggars, etc. 17. To restrain and punish vagrants, mendicants, street beggars and prostitutes; and to restrain drunkards, immoderate drinking, 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.

Running at large of dogs. 18. To prohibit 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.

Licensing of dogs. 19. To provide for licensing the keeping of dogs at a rate of not less than one dollar nor more than ten dollars a year for each dog; and to provide for a badge or token to be carried by each licensed dog; and for the secure muzzling of such licensed dogs.

License of hackmen. 20. To license and regulate hackmen, draymen, cartmen, porters, omnibus drivers, cabmen and carmen, whether in the permanent employment of any corporation or otherwise who may pursue like occupation with or without vehicles, and to prescribe their compensation and to establish and change from time to time stands for hacks and other public vehicles.

Riding of bicycles, etc. 21. To prohibit and regulate the riding of bicycles and tricycles, rolling of hoops, flying of kites, playing of ball and other amusements or practices having a tendency to annoy persons passing in the streets or on the sidewalk, or to frighten teams or horses.

Landing of person afflicted with contagious diseases from boats and vessels. 22. To regulate, control and prohibit the landing of persons from boats or vessels wherein are contagious or infectious diseases or disorders, and to make such disposition of any such person as to preserve the health of the inhabitants of said city; and also to make regulations to prevent the introduction of contagious diseases into the city, or the spread of the same therein; to make quarantine laws or regulations, and to enforce the same within the city, and not to exceed five miles beyond the city limits.

Hospitals. 23. To establish hospitals, and to provide for their regulation and support.

Preservation of health. 24. To do all acts and make all regulations which may be necessary or expedient for the

preservation of health and the suppression of disease.

25. To regulate the burial of the dead and the registration of births and deaths; to purchase and hold grounds for cemeteries within or without the city limits, and to exercise jurisdiction and control thereof; and to direct the returning and keeping of bills of mortality; and to impose penalties on physicians, sextons and others for any default in the premises.

Burial of dead; registration of births, deaths, etc.

26. To regulate and restrain or prohibit the running at large of cattle, horses, mules, swine, sheep or other animals, and to authorize the distraining, impounding and sale of the same, for the penalty incurred and the costs of proceedings; and also to impose penalties on the owners of any such animals for a violation of any such ordinances.

Running at large of cattle, etc.

27. To regulate the holding of public auctions.

Public auctions.

28. To prescribe and regulate the construction of sewers within the city.

Sewers.

29. To locate, purchase sites and let contracts for the erection and construction of public buildings. To acquire by gift, grant, devise, donation, purchase or condemnation, lands for parks, and any other public purposes, and to sell, dispose of and convey the same.

Public buildings.

30. To lay out, make, open and keep in repair, alter or discontinue any highways, streets, lanes or alleys, and to keep them free from incumbrances, obstructions and encroachments, and to protect them from injury.

Opening and repairing of streets, alleys, etc.

31. To establish and alter the grade of streets and to regulate the manner of using the streets and pavements in said city and to protect the same from injury by vehicles used thereon.

Grade of streets.

32. To name or change the name of any street.

Naming of streets.

33. To make and establish public pounds, pumps, wells, cisterns and reservoirs, and to provide for the erection, purchase and maintenance and operation of water works for the supply of water to the inhabitants of the city, and to supply such city with water for fire protection and other purposes; and to secure the erection of water-works, said city may by contract or ordinance, grant to any person, persons, company or corporation, the full right and privilege

Public pounds, water works, etc.

to build and own such water works, and to maintain, operate and regulate the same; and in doing so, to use the streets, alleys and bridges of the city in laying and maintaining the necessary pipe lines, and hydrants for such term of years and on such conditions as may be prescribed by such ordinance or contract; and may also, by contract or ordinance, provide for supplying from such water works, the city with water for fire protection and for other purposes, and also the inhabitants thereof with water for such term of years, for such price, in such manner, and subject to such limitations as may be fixed by said contract or ordinance.

Lighting streets, buildings, etc.

34. To provide for lighting the streets, public grounds and buildings with gas, electricity or otherwise; and for such purpose to contract by ordinance or otherwise, with any person, persons, company or corporation, for a term not exceeding ten years at any one time, at such price, on such terms, and subject to such limitations as may be prescribed by such ordinance or contract.

Boards of health.

35. To establish and regulate boards of health.

Abatement and removal of nuisances.

36. To provide for the abatement or removal of all nuisances under the ordinances or at common law, and the punishment of the authors thereof, or persons continuing the same, by penalties, fine or imprisonment; and to define and declare what shall be deemed nuisances; but nothing in this act shall be construed to oust any court of jurisdiction to enjoin or to direct the abatement and removal of nuisances in the streets, or any other part of the city, or within its jurisdiction, by indictment or otherwise.

Same, continued.

37. To prohibit any person from bringing, depositing or having within the limits of the city, any putrid carcass, or other unwholesome substance, and to require the removal or destruction thereof by any person who shall have upon or near his premises any such substance, or any putrid or unsound beef, pork, fish, or hides, and, on his default to authorize the removal or destruction thereof by some officer or officers of the city at the expense of such person or persons.

Ringling of bells and other noises.

38. To prohibit the ringling of bells, blowing of horns and bugles, crying of goods, and all other noises, performances and devices tending to the collection of persons on the street or sidewalks,

by auctioneers or others, for the purpose of business, amusement or otherwise.

39. To regulate or prohibit the use of steam whistles within the limits of the city.

Steam whistles.

40. To provide for sprinkling the streets at the cost of the city or of the lots or part of lots fronting thereon.

Sprinkling of streets.

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

Removal of snow, ice, etc., from sidewalks.

42. To prohibit all persons from riding or driving any horse, ox, mule, cattle or other animal or vehicle on the sidewalks in said city or in any way doing damage to such sidewalks.

Riding or driving horses, cattle, etc., on sidewalks.

43. To regulate the sale of bread within the city and prescribe the size and weight of bread in the loaf, and the quality of the same, and to provide for the seizure and forfeiture of bread baked contrary to such regulations.

Sale of bread, and regulate size and weight of same.

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

Weights and measures.

45. To regulate the weighing and sale of hay, and the places and manner thereof; to regulate the sale and cutting of ice, and to restrain the sale of such ice as is impure; to regulate the measuring and sale of wood, and the weighing and sale of coal and lime, and the places and manner thereof.

Weighting and sale of hay; cutting of ice, etc.

46. To license and regulate auctioneers, distillers, brewers and pawn brokers and keepers or proprietors of junk shops and places for the sale and purchase of second hand goods, wares and merchandise.

License of auctioneers, distillers, etc.

Licensing of
hawkers,
peddlers, etc.

47. To license, regulate, and restrain hawkers, peddlers and runners or solicitors for steamboats, vessels, cars, railroads, stages, public houses and other establishments, and other runners or solicitors for mercantile houses from other cities or towns for the sale of goods, wares and merchandise by sample, order or otherwise; and keepers or proprietors of gift book stores, gift concerts, and other gift enterprises; to fix and regulate the amount for licenses under this subdivision, to prescribe the time for which such licenses shall be granted, to provide and enforce penalties for carrying on either of said trades, kinds of business or employments without license; and to regulate the manner in which they shall be carried on; provided, that no such license shall be granted for a less term than three months, nor for a longer term than one year.

Lumber yards
and the piling
of lumber.

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

Stationary
steam engines
and boilers.

49. To provide for the inspection and regulation of stationary steam engines and boilers.

Inspectors and
gaugers.

50. To provide for the appointment of inspectors, weighers and gaugers, and regulate their duties and to prescribe their fees.

Regulation of
use of locomotive
engines.

51. To regulate the use of railway locomotive engines, and to regulate and prohibit the use of locomotive or traction engines other than railway locomotive engines within the city; to direct and control the location of railroad tracks in the streets, to regulate the speed of railway trains within the city and to require railway companies to construct and maintain at their own expense, such bridges, viaducts, tunnels, gates, barriers or other conveniences at public railroad crossings as the common council may deem necessary; also to regulate the running of street railway cars, the laying down of tracks for the same, the transportation of passengers thereon and the kind of rail to be used.

Watchmen
and policemen.

52. To provide for the appointment of watchmen and policemen, and to regulate the police and to prescribe their duties.

Numbering of
buildings.

53. To compel the owners and occupants of all houses, stores and other buildings to number the

same, in such manner as the common council may from time to time prescribe.

54. To declare the weed commonly called the Canada thistle, and other noxious plants and weeds in the city a public nuisance and provide for the abatement of the same, as the city is authorized by law to abate other nuisances.

Canada thistle
and other
noxious weeds.

55. To direct and regulate the planting, preserving or removal of ornamental trees in the streets and public grounds, and to provide for the protection of the parks and public fountains.

Ornamental
trees.

56. Exclusively to erect and construct, or to permit, cause or procure to be erected and constructed, float, pivot or draw bridges over the navigable or other waters within the jurisdiction of the city, and keep the same in repair and regulate the use thereof; said bridges to have draws of suitable width when necessary for the purposes of navigation.

Float, pivot or
draw bridges.

57. To provide for the preservation of any harbor within or of the city; to prevent any use of the same, or of such part of any lake, river, stream, spring, or pond as is within the city, or any act in relation thereto, inconsistent with or detrimental to the public health, or calculated to render the water of the same, or any part thereof, impure or offensive, or tending in any degree to fill up or obstruct the same, to prohibit and punish the casting or deposition therein of any earth, dead animals, ashes or other substance, or filth, logs or floating matter; to prohibit and remove all obstruction therein, and punish the authors thereof; to regulate and prescribe the mode and speed of vessels entering and leaving the harbor, of passing the bridges and of coming to and departing from the wharves and streets of the city by steamboats, canal boats and other crafts and vessels; and the disposition of the sails, yards, anchors and appurtenances thereto, while entering, leaving or abiding in the harbor, and to regulate and prescribe, by such ordinances, or through their harbor master or other authorized officer, such location of every canal boat, steamboat or other craft afloat and such changes of situation in and use of the harbor as may be necessary to promote order therein, and the safety and equal convenience, as near as may be, of all such vessels, boats, crafts and floats;

Preservation
and control of
harbors within
the city.

and to impose penalties, together with such expenses as may be incurred by the city in enforcing this section, upon the steamboats, canal boats, or other vessels, craft or float.

Dock lines,
piers; price of
pierage and
wharfage.

58. To establish dock lines, regulate the construction of piers and wharves extending into any lake or navigable waters; and to prescribe and control the prices to be charged for pierage and wharfage thereon; and to regulate, prescribe and control the prices to be charged for dockage and storage within the city.

Leasing of
wharfing
privileges.

59. To lease the wharfing privileges of the rivers and navigable waters at the ends of streets, upon such terms and conditions as may be reserved in the leasing of other real estate, reserving such rent as may be agreed upon, and employing such remedies in case of non-performance of any covenants in such case as are given by law in other cases; but no building shall be erected thereon. The owner or owners of the adjoining lot or lots shall in all cases have preference in leasing such property, and a free passage over the same for all persons, with their baggage, shall be reserved in such lease.

Care of desti-
tute children.

60. To authorize the taking up and to provide for the safe keeping and education, for such periods of times as may be deemed expedient, of all children who are destitute of proper parental care and growing up in mendicancy, ignorance, idleness and vice.

Vagrants,
beggars,
tramps, etc.

61. To authorize the arrest, fine and imprisonment of vagrants, or persons who, not having visible means to maintain themselves, are without employment, idly loitering, or rambling about or staying in groceries, drinking saloons, houses of ill-fame, houses of bad repute, gambling houses, railroad depots, fire-engine houses, or who shall be found trespassing in the night time upon the private premises of others; or begging or placing themselves in the streets or other thoroughfares, or public places to beg or receive alms; also keepers, exhibitors or visitors at any gaming tables, gaming house, house of fortune telling, or place of cock fighting, and all persons who go about for the purpose of gaming or who shall have in their possession any article or thing used for obtaining money under false pretenses or who shall disturb any place where public or private schools are held

either on week day or Sabbath, or places where religious worship is held.

62. To prohibit the carrying of concealed weapons, and to provide for the confiscation or sale of such weapons.

Carrying of concealed weapons.

63. To control and regulate the construction of buildings, chimneys and smoke stacks; and to prohibit the erection or making of an insecure or unsafe building, stack, wall or chimney, in the city, and to declare them to be nuisances, and to provide for their summary abatement.

Control and regulation of construction of buildings, chimneys, etc.

64. To regulate or prohibit the use of any hall, theater, opera-house, church, school house or building of any kind whatsoever to be used for the assemblage of people, unless the same is provided with ample means for the safe and speedy egress of the persons therein assembled in case of alarm.

Regulation of use of opera houses, theaters, churches, etc.

65. To improve such portions of any lake or river as is within the city and to establish the shore lines thereof so far as existing shores are marsh.

Improvement of lake or river.

66. The common council shall also have power to impose a tax, or license in such sums as it may deem proper, upon all sales of goods, wares and merchandise, within the limits of the city; and further, it may tax, license and regulate assignee's sales, fire sales and any and all such sales of goods, wares and merchandise of any kind as may be conducted by transient firms or non-residents of the city.

License of dealers in goods, wares, and merchandise.

67. The common council shall have no power to permit the running at large upon the streets or public grounds of the city, of any cattle, horses, mules, asses, hogs, sheep, goats, geese, or poultry.

Not to permit the running at large of cattle, horses, etc.

68. Laws, ordinances, regulations and by-laws, shall be adopted by an affirmative vote of a majority of all the members of the common council, and shall within fifteen days after their passage, be published in the official paper or papers of said city before the same shall be in force.

Adoption of ordinances, laws, regulations, etc.

69. To direct the summary removal of trees, signs, poles, posts, fences or any other encumbrance from the streets, alleys and sidewalks of the city, and to define and declare what shall be deemed an encumbrance.

Removal of encumbrances from streets and alleys.

Abatement and removal of nuisances.

70. To abate and remove all nuisances under the ordinances or at common law, and punish the authors thereof by penalties, fine and imprisonment, and to define and declare what shall be deemed nuisances, and authorize and direct the summary abatement thereof; but nothing in this act shall be so construed as to oust any court of its jurisdiction to abate and remove nuisances in the streets, or any other parts of said city or within its jurisdiction by indictment or otherwise. The powers conferred upon the said common council to provide for the abatement or removal of nuisances, shall not bar or hinder suits, proceedings or prosecutions in the courts according to law. Depots, houses or buildings of any kind wherein more than ten pounds of gunpowder are deposited, stored or kept at any one time, gambling houses, houses of ill-fame, disorderly taverns, and houses and places where spirituous, vinous or fermented liquors are sold without the license required therefor, within the limits of said city, are hereby declared and shall be deemed public or common nuisances.

Filling up and digging down of lots.

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

Stringing or laying of wires.

72. To direct and compel the placing of all telegraph, telephone, electric light or other wires within the city upon one line of poles, and to direct and compel the laying of all such wires under ground.

May compel prisoners to work out fines on streets, etc.

73. The common council shall have authority by ordinance to provide that any and all persons who shall be found guilty of the violation of any city ordinance for drunkenness, or for being an inmate or frequenter of a house of ill-fame, or for disorderly conduct, and shall neglect or omit to pay any fine or costs imposed therefor, that such person or persons shall work out such fine and costs upon the public streets of said city, or shall do any other work that said city may have or

wish to be done, and the compensation therefor, to be fixed by the council, shall be deducted from such fine and costs thereon, and the council may pass the necessary ordinance to carry out the provisions of this section.

SECTION 5. The common council shall examine and adjust the accounts of the clerk, treasurer and all other officers or agents of the city after the same shall have been audited by the comptroller.

Adjustment and examination of accounts of city officers.

SECTION 6. The corporate authority of the city shall be vested in the mayor and common council.

Corporate authority, where vested.

SECTION 7. The common council may provide for the printing of its proceedings in a newspaper published in the city in the German language.

Printing of proceedings may be in German paper.

CHAPTER VII.

FINANCE AND EXPENDITURES.

SECTION 1. The fiscal year shall commence on the first day of October in each year and close on the thirtieth day of September next succeeding.

Fiscal year.

SECTION 2. All funds in the city treasury except school funds, funds created and set apart for the payment of interest and principal of the debt of the city and for park purposes, and funds collected on special assessments shall be under the control of the common council, and shall be drawn out upon the order of the mayor and clerk, duly countersigned by the comptroller and authorized by a vote of the common council. All orders drawn upon the treasurer shall specify the purpose for which they were drawn and shall be payable out of any funds in the city treasury not otherwise appropriated. All orders shall be payable to the person in whose favor they may be drawn or to the bearer thereof. No city order shall be delivered except to the person in whose favor it shall be drawn or upon the written order of such person.

What funds under control of council; how drawn out.

SECTION 3. The city treasurer shall not pay out of the funds in his hands which shall be appropriated by law or by resolution of the common Council for any special purpose except for the

City treasurer to pay funds out only for purposes for which appropriated.

purpose for which such funds are specially appropriated.

When the ayes and noes required to be called on resolution, law, etc.

SECTION 4. No debt shall be contracted against the city, or certificate of indebtedness drawn upon the city treasurer unless the same shall have been authorized by a vote of a majority of all the members of the common council on a call of the ayes and noes, and no money shall be appropriated for any purpose whatever except such as is expressly authorized by this act.

Orders to be issued only when funds in treasury to pay them.

SECTION 5. The common council shall not authorize the issue of orders on the city treasurer unless the money to pay the same is in the hands of the treasurer to the credit of the funds upon which the orders are drawn.

Treasurers' monthly statement to comptroller to be delivered to city clerk and then to council.

SECTION 6. The treasurer shall, on the first day of each month, deliver to the comptroller a statement showing the condition of the treasury and amount in each fund at the close of the preceding month, and a statement of all disbursements since the last report. The comptroller shall examine said report and vouchers for the disbursements referred to and shall attach thereto a report of his examination thereof and file the same with the city clerk. The city clerk shall place the same before the common council for its consideration at its next meeting. When said report shall have been approved the city clerk shall preserve the same with the vouchers referred to therein in his office.

Council may borrow money when.

SECTION 7. The common council may borrow money to pay the ordinary expenses of the city to such an amount not exceeding in any one year one *per cent.* of the total assessed valuation of the city as in the opinion of the common council the interest or safety of the city may require. Certificates of indebtedness may be issued therefor, signed by the mayor and clerk, and countersigned by the comptroller, bearing interest not exceeding the legal rate *per annum.* and payable not later than the first day of March after the same are issued; provided, however, that no such loan shall be made unless authorized by a vote on call of the ayes and noes of at least a majority of all the members of the common council at a regular meeting thereof.

Designation of city depositories.

SECTION 8. The city council may designate by resolution the bank or banks where the money

belonging to the city shall be deposited. The security to be given by such bank or banks shall be approved by the common council, and when the money is so deposited the treasurer and his bondsmen shall not be liable for the loss of such money by reason of the failure of such bank or banks.

SECTION 9. The common council may contract with a bank receiving the city deposits for the payment of interest thereon.

Interest on deposits.

SECTION 10. The council may so provide that all the moneys in the hands of the treasurer at the end of each month, not exceeding the sum to be specified, shall be deposited in the bank or banks selected for that purpose in a special account, and no money shall be drawn from said account except on a check or order signed by the treasurer and countersigned by the comptroller. Whenever any balance in the general account falls below such specified sum the comptroller shall have authority to countersign a check for a sufficient amount to increase the balance in such general account to such specified sum. No change in this regard shall be made in any year after the treasurer shall have filed his bond which will increase the liability of his bondsmen.

Deposit of funds in treasurer's hands.

SECTION 11. All temporary loans shall be paid out of the taxes levied for the ensuing year unless sooner provided for.

Temporary loans, how paid.

SECTION 12. The common council shall have authority to issue bonds for the following purposes only:

Bonds may be issued. Must be issued upon a vote of two-thirds of all members of council.

First. Building school houses.

Second. Building bridges.

Third. Building public buildings for the use of the city.

Fourth. Purchase of apparatus for fire protection.

Fifth. Construction of main sewers.

Sixth. Purchase or construction of water works.

Seventh. Purchase of public parks and their improvement.

Eighth. Purchase and operation of electric light or gas plant.

Provided, that no such bond shall be issued unless authorized by ordinance or resolution adopted by a vote in favor of the same by at least two-

thirds of all the members of the common council. Said vote to be taken at a regular meeting not less than one week after the proposed ordinance or resolution shall have been published in the official paper of the city; and, provided further, that no such bond shall be issued so that the amount thereof, together with all the other indebtedness of the city shall exceed five *per cent.* of the assessed valuation of the city at the assessment preceding the issue of said bonds; and, provided further, that all such bonds issued shall be payable at the pleasure of the city after five years and absolutely in not more than twenty years after their date, and shall bear interest not exceeding six *per cent. per annum.* payable annually. Provided, further, that when such bonds are issued the ordinance or resolution authorizing the same shall contain a provision for the levying of an annual tax sufficient for the payment of the interest on said bonds and the principal thereof when the same shall become due. Provided further, that all such bonds issued shall be signed by the mayor and clerk, and countersigned by the comptroller.

Limit of annual expenditure in any ward for lighting, repairing of streets, etc.

SECTION 13. There shall not be expended by the city in any one ward in any one year an amount in excess of one *per cent.* upon the total assessed valuation of said ward as shown by the assessment roll of the preceding year for the purpose of street lighting, opening, paving, cleaning, maintenance, construction and repair of streets, and the construction, repair and maintenance of sewers and crosswalks, unless such additional expenditure be authorized by resolution adopted by a vote of at least three-fourths of all the members of the common council at a regular meeting thereof on a call of the ayes and noes.

CHAPTER VIII.

ASSESSMENT AND COLLECTION OF TAXES.

All property subject to taxation; limit of assessment.

SECTION 1. All property in the city, subject to taxation under the laws of this state, shall be subject to taxation for all purposes, authorized by this act. Provided, that the taxation for all city purposes shall not exceed three *per cent.* of the

assessed valuation of the city at the assessment preceding the levying of such tax.

SECTION 2. The assessors elected under this act shall within the time and in the manner prescribed by law for making the assessment of property for taxation under the revised statutes of this state, make an accurate assessment of all property in the city subject to taxation. Provided, that the assessment roll for the entire city or the roll for each ward of the city shall be made as the council may direct.

Assessment
of taxes.

SECTION 3. When the assessment roll or rolls shall have been completed and inspected by the comptroller, the same shall be delivered to the city clerk, who shall thereupon give notice by publication in the official newspaper of the city for ten days, that on a certain day or days therein named said assessment roll or rolls will be open for examination by the taxable inhabitants; which said notice may assign a day or days certain for each ward where there are separate assessment rolls for such wards, for the inspection of such assessment rolls. On such examination the assessors may make such changes as may be necessary to perfect the assessment roll or rolls, and after the corrections are made the said roll or rolls shall be inspected by the comptroller and shall be submitted by the city clerk to the board of review.

Assessment
rolls to be de-
livered to city
clerk.

SECTION 4. The mayor, comptroller and two aldermen as herein before provided and the assessors shall constitute such board; provided, that the common council may by ordinance provide for an increase of the membership of said board, by adding thereto not exceeding four members of the common council.

Board of
review, how
composed.

SECTION 5. The board of review shall meet on the first Monday of July of each year, and proceed as such board as prescribed by the laws of this state.

Meetings of
board.

SECTION 6. When the roll or rolls shall have been examined and completed by the board of review and inspected by the comptroller the assessors shall deliver the same as completed and verified as required by the statutes of this state, together with all statements of valuation to the city clerk who shall preserve the same in his office.

Delivering of
assessment
rolls to city
clerk.

Heads of departments to certify to city clerk estimates of money necessary to carry on affairs of department for ensuing year; action of council thereon.

SECTION 7. On or before the first day of November, in each year, the board of public works, board of public parks, board of cemeteries and the board of education shall each certify to the comptroller, who shall examine and certify to the city clerk, a detailed statement of the amount of money that will be required for the ensuing fiscal year in their respective departments. And the city comptroller shall likewise certify to the city clerk a statement of the amount required by the police department, fire department, the general fund, for the purpose of paying interest for the ensuing year on the public debt, and five *per cent.* of the principal thereof, and all other purposes not above enumerated. The city clerk shall place such estimates before the common council for their consideration; and the council shall thereupon, by resolution, levy such sums of money as may be sufficient for the several purposes for which taxes are authorized, not exceeding the limit provided by law, and in making such levy they shall take into consideration the estimated amount that will be received by the city during the fiscal year from licenses. Every resolution levying taxes shall specify the amount to be raised for each separate purpose.

Preparation of tax roll; form of warrant for collection of tax.

SECTION 8. It shall be the duty of the city clerk under the supervision of the comptroller, to make out a complete tax roll in the manner and form provided by law, and as soon as practicable after the levy shall have been made by the common council, as prescribed in the preceding section, and the certificate of the county clerk showing the amount of state and county taxes apportioned to the city shall have been received to cause the same to be extended upon such tax roll upon a uniform percentage by setting opposite the description of each lot, tract or parcel of land, and to the name of each person named in said roll, in proper columns, such proportionate share of the sums of taxes so levied as may be chargeable upon such lot, tract or parcel of land or against such person, and also enter and extend upon such tax roll all special assessments required to be entered therein. To such tax roll shall be appended a warrant signed by the mayor and clerk, substantially in the following form:

To, city treasurer of the city of Oshkosh. You are hereby required to collect from each of the persons and corporations named in the annexed tax roll, and from the owners or occupants named, of the real estate described therein, the taxes set down in such roll opposite to their respective names, and to the several parcels of land therein described; and in case any person or corporation upon whom any such sum or tax is imposed, shall refuse or neglect to pay the same, you are to levy and collect the same by distress and sale of the goods and chattels of the person or corporation so taxed, and out of the moneys so to be collected, after deducting your fees, you are first to pay to the treasurer of said county on or before the last Monday of January next, the sum of for state taxes, you are to retain and pay out as city treasurer, according to law, the sum of, and the balance of said moneys you are required to pay to said treasurer for county purposes on or before the day specified above; by which day you are further required to make return to said treasurer of this warrant, with said roll annexed, together with your doings thereon as required by law.

Dated the day of
, Mayor.
, Clerk.

SECTION 9. The tax roll and warrant thereto attached, shall be *prima facie* evidence in all courts that the land and person therein named, were subject to taxation and to the special assessments therein entered, and that the assessment was just and equal, and the same shall be delivered to the city treasurer on or before the fifteenth day of December in each year.

Tax roll and warrant to be prima facie evidence of correctness of assessment.

SECTION 10. After the tax roll shall have been delivered to the treasurer, as provided in the preceding section, it shall not be lawful for the common council to remit, annul or cancel any tax specified therein, except in the following cases:

Council not to remit or cancel any tax except in certain cases.

First. When a clerical error has been made in the description of the property, or in the extension of the tax.

Second. When improvements on lots were considered in making the assessment roll where

the improvements did not exist at the time fixed by law for making the assessment.

Third. When the property is exempt by law, from taxation.

Fourth. When a person has been assessed the same year for the same property in more than one ward or place.

Special assessments, how carried out on tax roll.

SECTION 11. All special assessments shall be carried out on the tax roll in a separate column or columns, opposite the lots or tract upon which the same may be a lien, and the treasurer shall have the same authority, with reference thereto, as if the amount of such lien was a general tax. The tax roll shall be open to the inspection of the comptroller at all times.

Publication of notice of time when tax payable.

SECTION 12. On receipt of such tax roll, the treasurer shall give one week's notice thereof in the official paper; such notice shall specify that the taxes must be paid before the tenth day of January, following.

Collection of taxes.

SECTION 13. On the expiration of the time specified, the treasurer shall proceed to enforce the collection of such taxes in the manner provided by law; provided, however, that the treasurer may issue his warrant directed to the chief of police of the city, requiring him, within a time specified in such warrant, to collect the taxes on personal property as shall then remain unpaid, and the chief of police receiving such warrant shall possess all the powers given by the law to town treasurers for collection of such taxes, and be subject to the liabilities of town treasurers and entitled to same fees as town treasurers in such cases.

Chief of police to give bond for taxes collected by him.

SECTION 14. Before the treasurer shall sign his warrant to the chief of police, as provided in the preceding section, such chief of police shall give a bond to the city, in such sum and with such sureties as the council may prescribe for the payment to the city treasurer of all taxes by him collected or received by virtue of such warrant.

When chief of police to return warrant.

SECTION 15. Within the time required by the statutes of this state in the case of town treasurers for the return to the county treasurers of the delinquent taxes on personal and real property, the said chief of police shall return his warrant for the collection of taxes of personal property to the treasurer.

SECTION 16. Out of the taxes collected the treasurer shall first pay the state tax to the county treasurer and shall then set aside all sums of money levied for school taxes, then moneys levied for the payment of judgments, then all sums raised as special taxes in the order in which they are levied; then taxes for the payment of principal and interest on the public debt, then taxes for bridge purposes, then for fire, park and cemetery purposes, then for streets, then other public improvements, and lastly county taxes. Delinquent returns shall be made to the county treasurer, the same in all respects as required by the general laws of this state, and thereafter such proceedings shall be had with reference to the delinquent taxes so returned to the county treasurer as are provided for in case of delinquent returns from towns.

Taxes collected, how distributed.

SECTION 17. The city treasurer shall be entitled to receive and collect as fees for the collection of taxes, in case of distress and sale made by him of goods or chattels for the payment of taxes such fees as are allowed to constables for similar services. The city treasurer shall keep in a book to be provided for that purpose true accounts of all fees by him received as city treasurer, from any source, and such book shall be kept open for inspection at all reasonable times, and such treasurer shall have on file and make return to the common council, duly certified on oath of all fees or other moneys received and paid out by him as treasurer, and shall receive no further compensation for his services as treasurer than as hereinbefore specified; provided, however, that where the treasurer receives a salary, the fees collected shall belong to and be paid into the city treasury.

Fees of city treasurer.

SECTION 18. The directions hereby given for the assessing of lands and personal property, and levying and collecting taxes, shall be deemed directory only, and no error or informality in the proceedings of any of the officers intrusted with the same, not affecting the substantial justice of the tax, shall vitiate or in anywise affect the validity of such tax or assessment.

Directions herein given not mandatory. Errors disregarded, if they do not go to the justice of the tax.

CHAPTER IX.

ALLOWANCE OF CLAIMS.

Claims, how
verified, filed
and allowed.

SECTION 1. All claims and demands against the city except for salaries shall be itemized, verified by oath of the claimant or some one in his behalf, and filed with the city clerk, who shall endorse thereon the name of claimant, amount and nature of claim, date of filing and proper number of claim and within one week deliver the same to the comptroller for examination, who shall examine such claims presented against the city and so delivered to him, whether founded on contract or otherwise, and determine as to each claim whether the same is properly itemized and sworn to, or if on contract, whether the items charged are correct, whether such claim was incurred by proper authority, and generally determine the correctness of such claim. For the above purposes he shall have power to swear witnesses and take testimony. If he does not find any objection to the claim, he shall mark his approval thereon; if he disapproves, or approves in part and disapproves in part, he shall report his reasons therefor, and in all cases he shall report the evidence taken by him. No claim shall be considered by the council or reported to a committee till it shall have been examined and reported on by the comptroller. The comptroller shall so examine said claims and demands and return the same to the city clerk within two weeks after he shall have received them with his report thereon in writing. The city clerk shall thereupon place such claims or demands before the proper board or common council, as shown by the nature of the claim, at the next meeting of such board or common council for allowance; if a claim arising on account of the public parks, before the board of public parks; if a claim arising on account of the schools, other than the erection and repair of school buildings and maintenance of school grounds, before the board of education; and all other claims before the common council.

Allowance of
claims; orders
for payment of
same, how
drawn.

SECTION 2. When a claim is allowed by the common council or either of the said boards, the city clerk shall so endorse it, specifying the date

of allowance, amount allowed at, and fund allowed out of. Within one day after each meeting of the common council or either of said boards, the city clerk shall place all claims allowed at such meeting, before the comptroller for his inspection. The comptroller shall thereupon and within two days prepare a statement of all claims so allowed and placed before him showing number of claim, name of claimant, nature of claim, amount allowed at, fund allowed out of and date of allowance; shall verify the same on oath and present it to the city clerk with the claims. The comptroller shall keep a copy of said statement but the original together with the claims shall be kept on file in the office of the city clerk. On receiving said statement from the comptroller the city clerk shall immediately make out a city order for amount of each claim, as shown thereon, and sign the same. Each order shall show the purpose for which it was drawn and the fund it shall be chargeable to by the city treasurer when paid. The city clerk shall then immediately place the orders so made out by him before the comptroller, who shall immediately compare them with his records and countersign the same if found to be correct and return them to the city clerk.

SECTION 3. The superintendent of schools, the park superintendent, the president of the board of public works, the cemetery superintendent, the chief of police, the chief of the fire department and the head of each other department now existing or that may hereafter be created, shall on the first day of each month certify to the city comptroller on oath a statement containing the names of all persons in his department entitled to monthly salaries from the city, and the sum to which each person is entitled. The comptroller shall examine all claims for salaries so certified to him, and if he approves thereof he shall endorse his approval thereon; if he disapproves in whole or in part he shall endorse thereon the reason for such disapproval. In all cases the comptroller shall file such statements with the city clerk, retaining a copy thereof. The city clerk shall thereupon draw orders for such amounts contained in said statements as are approved by the comptroller, and submit such orders to the comptroller for his examination. The comptrol-

Pay roll of city,
how made up.

ler shall compare such orders with his records, and if he finds them correct he shall countersign them and return them to the city clerk.

City orders to be issued on verified statement of comptroller.

SECTION 4. The city clerk shall make out no city order except upon the presentation to him of a verified statement of the comptroller in due form as hereinbefore provided, authorizing the issuance of an order, unless ordered so to do by a written resolution adopted by a majority of all the members of the common council on a call of the ayes and noes.

Appeal to council from disallowance of claim by comptroller.

SECTION 5. Whenever any claim shall have been disallowed in whole or in part by the comptroller, the claimant may appeal from such action of the comptroller to the common council.

Appeal from action of council disallowing claim.

SECTION 6. When the common council shall have taken final action upon any claim or demand and shall have disallowed any portion thereof, the claimant may appeal from such action in the manner provided in this act.

CHAPTER X.

BOARD OF PUBLIC WORK.

Board of public works, how composed.

SECTION 1. There shall be a department known as the board of public works, to consist of the city comptroller and two commissioners. One of the members of said board shall be a resident of that portion of the city north of Fox river east of Main street; one shall be a resident of that portion of the city north of Fox river west of Main street; and one shall be a resident of that portion of the city south and west of Fox river.

Appointment of commissioners.

SECTION 2. At the first meeting of the common council or as soon thereafter as may be, said commissioners shall be appointed by the mayor, subject to confirmation by the common council as other officers are confirmed. Said commissioners shall be appointed for the term of two years. The mayor shall designate one of said commissioners who shall act as and be styled president of the board of public works.

Duties of president of board.

SECTION 3. The president of the board shall, in addition to his other duties acting under the authority and with the advice and consent of the board, personally direct, supervise and have charge

of all public work, and the other members of the board shall assist him in such duty when necessity requires it.

SECTION 4. The president of the board shall receive an annual salary and the other commissioner a *per diem* salary for the time actually devoted to the discharge of his duties as commissioner, each to be fixed by the council at the time other salaries are fixed under this act, but the comptroller shall receive no additional salary by reason of his being a member of the board.

Salaries of members of board.

SECTION 5. The common council may make such rules from time to time as they may deem proper, not contravening any of the provisions of this act, for the government of the board of public works and the manner in which the business of said board shall be conducted.

Council may make rules for government of board.

SECTION 6. A majority of the board shall constitute a quorum for doing business. They shall keep a record of all their proceedings which shall be open at all reasonable times to the inspection of any elector of the city. They shall make a report to the council on or before the first day of March in each year, and oftener if required.

Records to be kept. Reports.

SECTION 7. It shall be the duty of the board, under the direction of the common council, to superintend all public works; and to keep the streets, alleys, sewers and public works and places in repair, except as otherwise provided in this act.

To superintend all public works.

SECTION 8. All repairs and alterations of school buildings and premises shall be under the charge of the board of public works; but such repairs or alterations, except ordinary repairs costing not more than fifty dollars, shall first be directed to be made by the common council.

Repairs and alterations of school buildings to be under charge of board of public works.

SECTION 9. No building shall be moved through the streets or obstructions be placed therein without a written permit therefor granted by the board of public works; said board shall have power to determine the time and manner of using the streets for laying or changing water or gas pipes, or placing and maintaining electric light, telegraph and telephone poles and wires. Provided, however, that the decision of said board in this regard may be appealed from to the council.

Permit to move building through streets.

Street, alley or sidewalk to be restored to its former condition by person making improvements.

SECTION 10. In case any corporation or individual shall neglect to repair or restore to its former condition any street, alley, or sidewalk, excavated, altered or taken up, within the time and in the manner directed by the board, said board shall cause the same to be done at the expense of said corporation or individual.

Public works to be let by contract.

SECTION 11. All public works, the estimated cost of which shall exceed two hundred dollars, shall be let by contract to the lowest reliable and responsible bidder, and all other public works shall be let as the common council may direct. When the work is directed to be let to the lowest reliable and responsible bidder, or when such work is required to be so let under the provisions of this section, the board of public works shall advertise for proposals by publishing a notice in the official newspaper of the city, at least once in each week for at least two successive weeks. Before such proposals are advertised for, a profile of the work to be done, together with the specifications therefor and a form of contract with sureties, as the same will be required to be executed by bidders, shall be prepared, and a copy of the same placed on file in the office of the city clerk for the inspection of bidders. No bid shall be received when not accompanied by a contract with sureties, executed on the part of the bidders, which sureties shall justify as to their responsibility and by their several affidavits show that they are worth in the aggregate at least the amount mentioned in the contract, in property situated within the state of Wisconsin, not by law exempt from execution.

Advertisements for bids, etc.

Recommendations of board on bids.

SECTION 12. Whenever any bidder shall be in the judgment of said board, incompetent or otherwise unreliable for the performance of the work on which he bids, the board shall report to the common council of the city a schedule of all the bids for such work, together with the recommendation to accept the bid of the lowest reliable and responsible bidder for such work, with their reasons for such recommendation; and thereupon it shall be lawful for the said common council to direct the said board either to let the work to such competent and reliable bidder, or to re-advertise the same, and the failure to let such contract to the lowest bidder in compliance with this pro-

vision, shall not invalidate such contract or any special assessment made to pay the liability incurred under such contract.

SECTION 13. All contractors doing any work which shall in any manner obstruct the streets or sidewalks, shall put up and maintain barriers and lights to prevent accidents, and shall be liable for all damages caused by failure so to do. All contracts shall contain a provision covering this liability; and shall also contain a provision making the contractor liable for all damages caused by the negligent digging up of streets, alleys or public grounds, or which may result from any carelessness of such contractor in the prosecution of said work.

Barriers and lights to be placed by contractor at places where work is being done.

SECTION 14. All contracts shall be signed by the mayor and clerk unless otherwise provided by resolution or ordinance. Provided, however, that no contract shall be executed on the part of the city until the city comptroller shall have countersigned the same and make an endorsement thereon showing that sufficient funds are in the city treasury, or that provisions have been made to pay the liability that will accrue under such contract.

Contracts how executed.

SECTION 15. All contracts shall contain a provision authorizing the board of public works, in case the work under such contract is not completed within the time therein required, to take charge of the work and finish it at the expense of the contractor and his sureties.

Board of public works may take charge of work when contractor fails to complete same within contract time.

SECTION 16. All work contracted to be done for the city when finished shall be accepted by the board of public works before final payment shall be made to the contractor or contractors. The contract may provide for the payment of not more than eighty *per cent.* of the cost of the work, upon estimates of the city surveyor or other authorized persons, as the work proceeds, but at least twenty *per cent.* of the cost of the work shall be retained until the work shall have been completed and accepted by the board of public works.

Acceptance of work by board of public works.

SECTION 17. At the expiration of fifteen years after the passage and publication of this act the common council may by ordinance provide for a board of public works constituted otherwise than as provided in this act. Provided, that such board

After fifteen years council may provide for board constituted otherwise than as provided herein.

shall in no case consist of more than three members, neither of whom shall be a member of the common council.

CHAPTER XI

SCHOOLS.

Board of education how constituted.

SECTION 1. The board of education shall consist of one commissioner from each ward and three commissioners from the city at large as hereinbefore provided. Each commissioner shall receive a salary of one dollar *per annum*, and shall hold his office for the term designated and until his successor shall have been elected or appointed and qualified. After that all commissioners elected by the people shall hold their offices for the term of four years, and until their successors shall have been elected or appointed and qualified.

Meetings of board; duties of officers.

SECTION 2 The first meeting of the board each year shall be held on the first Monday in May, or as soon thereafter as may be. At its first meeting each year the board shall elect one of its members president and another vice-president. The president shall preside and preserve order at every meeting of the board at which he shall be present, and he shall perform such other duties as the board shall, by rule, by-law or resolution, from time to time require of him. It shall be the duty of the vice president to discharge the duties of the president in his absence.

Superintendent of schools to be elected by board.

SECTION 3. The board shall in like manner, annually at its first meeting, or as soon thereafter as may be, elect a superintendent of schools for the city who shall not be a member of the board. The officers elected by the board shall hold their respective offices for one year and until their successors shall have been elected, unless sooner removed by a resolution adopted by the board by a vote of two-thirds of its members. The city clerk shall be *ex-officio* secretary of the board. The board shall keep a correct record of its proceedings, which shall be open to inspection by the public at all proper times.

Powers of board of education.

SECTION 4. The board of education shall have authority:

1. To establish and organize such high schools and so many district schools and branches of the same, primary schools, night schools, schools of manual training and kindergartens as they may deem expedient.

2. To establish and change, from time to time, such and so many school districts as shall include all the territory of the city; and to afford to the people of the city such district school facilities as the circumstances of the city and its various parts may from time to time require.

3. To purchase and preserve such school apparatus as may from time to time be required.

4. To grade the schools and prescribe the course of study to be pursued therein, and to prescribe the text books to be used; provided, that such text books shall not be changed oftener than once in three years.

5. To employ teachers of all grades and fix their salaries.

6. To prescribe rules of order for the regulation of their own meetings and deliberations, alter and repeal the same from time to time as they may see proper.

7. To appoint all necessary standing and special committees.

8. To enact, amend and repeal all necessary rules, regulations and by-laws for the government of the schools, teachers and school officers.

9. To prescribe the duties of the superintendent of schools not inconsistent with the provisions of this act and to fix his salary.

10. To contract for and purchase all necessary fuel for the schools and school offices, and to provide for lighting the same, and to appoint janitors for the school buildings and school offices, and to fix their salaries.

11. To estimate the expenses of the public schools of the city as hereinafter provided.

12. To exercise all powers necessarily incident to the powers herein conferred, except as herein otherwise provided.

SECTION 5. It shall be the duty of the board of education to hold meetings at least once in each month at such times as the board shall from time to time prescribe, and special meetings of the board may be held under such rules and regulations as such board may prescribe. Meetings.

Board of public works to erect and keep in repair school buildings, etc.

SECTION 6. It shall be the duty of the board of public works, under the direction of the common council to erect and keep in repair all school buildings and school grounds and to provide suitable offices for the board of education, and the city superintendent of schools. In the absence of permanent school buildings, or proper offices for the transaction of school business, the common council may authorize the board of public works to procure suitable rooms, temporarily, for schools or offices, or either, provided, that no school building or addition thereto shall be constructed, or system of heating provided therefor and that no alteration or repairs therein shall be made until the plans for the same shall be adopted and approved by the board of education.

Expense of maintaining public schools; estimate to be made and filed with comptroller and city clerk; action of council thereon.

SECTION 7. The board of education shall as early as the first day of November each year, make an estimate of the expense of the public schools in the city for the ensuing year, including all necessary incidental expenses, and the amount thereof which it will be necessary to raise by city taxation, and certify the same to the comptroller, who shall examine and certify the same to the city clerk. The city clerk shall lay the same before the common council, who shall include the same or so much thereof as they shall approve in the annual budget, to be raised by a tax called the city school tax, which shall be collected the same as other taxes. It shall be the duty of the city treasurer to set aside and keep all moneys raised in any way for school purposes, whether by the state, the county, or the city, coming into his hands, in a separate fund to be called the school fund, and to pay out the same only upon the orders of the board of education, signed by the president and clerk of that board and countersigned by the comptroller.

Superintendent of schools to have control of school property, etc.; other duties.

SECTION 8. The superintendent of schools shall have the superintendence of all public schools, 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 appointment among the classes of the prescribed studies; he shall carefully observe the teachings and discipline of all teachers employed in the public schools, and shall report to the board whenever he shall find any

teacher deficient or incompetent in the discharge of his or her duties; he shall attend all meetings of the board of education, when required, and shall keep the board constantly informed of the condition of the public schools, and changes required in the same, and shall perform such other duties, not in this act provided, as may be by resolution, required by the board.

SECTION 9. The said board shall have power to allow children of parents not residents of the city, to attend any of the schools of said city, and to fix the amount of tuition to be paid by them, and the terms upon which they may attend such schools.

Board of education may admit non-resident pupils to school on payment of tuition.

SECTION 10. All territory within the present corporate limits of the city of Oshkosh, and all territory which may hereafter be attached to and incorporated in the limits of said city, shall constitute one school district. The commissioners of schools herein named, shall be styled "Board of education, of the city of Oshkosh," a majority of whom shall constitute a quorum.

All territory in city shall be one school district.

SECTION 11. The title of all the school houses, sites, furniture, books and apparatus shall become and be vested in the city of Oshkosh, and the same, while used for school purposes, shall not be levied upon or sold by virtue of any warrant or execution, nor be subject to taxation for any purpose whatever.

Title to school property shall be vested in city, and property shall be exempt from levy and taxation.

SECTION 12. The city of Oshkosh is hereby exempt from the provisions of the revised statutes in relation to the office of county superintendent of schools, except in the matter of making reports to the state superintendent.

City exempt from provisions of R. S. 1878, relating to office of county superintendents, except as to reports.

SECTION 13. 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, the school commissioner, or any of them, voting for any such expenditure or appropriation, or for the contracting of any such debt or debts, shall be personally liable to the city of Oshkosh, or to any person or persons who may sue for the same, in an action in a court of competent jurisdiction, for any damage the city may sustain in consequence of such illegal payment, expenditure or appropriation.

Commissioners voting for unauthorized appropriation personally liable to city for damage sustained.

CHAPTER XII.

PUBLIC PARKS.

Board of public parks how constituted.

SECTION 1. There shall be a department known as the board of public parks to consist of six commissioners, and the mayor, who shall be *ex-officio*, the president of the board.

Commissioners appointed under ordinance of February 25, 1890, to hold for term for which appointed.

SECTION 2. The commissioners appointed under and by virtue of an ordinance adopted by the common council, February 25, 1890, shall hold their respective offices for the term for which they were appointed, or until their successors have been duly appointed and qualified.

Commissioners how appointed; term of office.

SECTION 3. The mayor shall, on the first day of June, A. D. 1891, or as soon thereafter as may be, nominate, and by and with the advice and consent of the council, appoint one commissioner for six years, to fill the office of the commissioner whose term of office expires under the ordinance referred to in section 2, of this chapter, on the first day of July, 1891; and shall on the first day of June each year thereafter (or as soon after the first day of the month as may be) appoint in the same manner one commissioner for the term of six years from the first day of July succeeding such appointment. All commissioners so appointed shall hold their respective offices from and after appointment and qualification, and until their respective successors are duly appointed and qualified. All vacancies caused by death or resignation or otherwise, shall be filled in the same manner as the commissioners are appointed in the first instance.

Powers and duties of board of public parks.

SECTION 4. The board of public parks shall have full control of all parks now established or that may hereafter be established in the corporate limits of the city of Oshkosh. They shall have full power to expend moneys for the improvement and maintenance of said parks to an amount not to exceed in any one year the sum set apart by the common council for that year for such purpose. All moneys so set apart for park purposes, whether from levy and collection of taxes, sale of bonds, or otherwise, shall be kept by the city treasurer in separate funds to be known as the North Park fund and South Park

fund, and be paid out by him only upon the orders of the board of public parks, signed by the president of the board and the city clerk and countersigned by the comptroller.

SECTION 5. The board shall have full power to improve, extend and lay out avenues and driveways, so long as they conform to such park plans or plats, as are adopted or may hereafter be adopted by the common council. The compensation for the said commissioners shall be, and is hereby fixed at one dollar *per annum* each.

Laying out of avenues and driveways.

SECTION 6. The board of public parks having in charge the maintenance and improvement of any public park or parks, boulevards or driveways, under and by virtue of this act, shall, on the first Tuesday of November, 1891, and annually thereafter, or as often as the common council may require, submit to the common council a written or printed report of all their doings in relation to the parks, and any improvements that may have been made during the preceding year, or that they contemplate making the ensuing year, and shall include in such report their estimates of amount of money necessary for the care, maintenance and improvement of the parks for the ensuing year.

Reports.

SECTION 7. The board shall keep a record of all its proceedings which shall be open to the inspection of any tax payer at any time and its proceedings shall be published in the official paper of the city. They shall elect such officers, and establish such rules and regulations to govern said parks as they may deem necessary. The city clerk shall be *ex-officio* secretary of the board.

Shall keep a record of all their proceedings, etc.

CHAPTER XIII.

CEMETERIES.

SECTION 1. There shall be a department known as the cemetery board, to consist of three commissioners who shall be appointed by the mayor and confirmed by the common council. Said board shall at their first meeting and biennially thereafter, elect one of their own members who

Cemetery board, how constituted.

shall act as and be styled president of the board.

Appointment
of commission-
ers; term of
office.

SECTION 2. The mayor shall at the first meeting of the council, under this act or as soon thereafter as may be, nominate and by and with the advice and consent of the council, appoint one of said commissioners for the term of two years, one for the term of four years, and one for the term of six years; biennially thereafter the mayor shall appoint one commissioner for the term of six years. All commissioners so appointed shall hold their respective offices from and after appointment and qualification and until their respective successors are duly appointed and qualified. All vacancies caused by death, resignation or otherwise shall be filled in the same manner as appointments are made in the first instance.

To have
control of all
cemeteries
established by
city.

SECTION 3. The cemetery board shall under direction of the common council have full control of all cemeteries established by the city of Oshkosh.

Powers and
duties of
board.

SECTION 4. The board shall have full power to expend moneys for the improvement and maintenance of such cemeteries to an amount not to exceed in any one year the sum set apart by the common council for that year for such purpose. All moneys set apart for cemetery purposes, whether from levy and collection of taxes, sale of bonds, or otherwise, shall be kept by the city treasurer in a separate fund to be known as the cemetery fund and be paid out by him only on city orders duly issued payable out of the cemetery fund.

Same
continued.

SECTION 5. The board shall have full power to improve, extend and lay out avenues and driveways so long as they conform to such cemetery plans or plats as are now or may hereafter be adopted by the common council, and to adopt and enforce all proper rules and regulations for the government and the use of said cemeteries. They shall annually on the first day of April elect a superintendent of cemeteries who shall act under the direction of said board and shall be paid a salary out of the cemetery fund. Said superintendent shall collect all charges and fees provided for by the rules of the cemetery board and make a monthly return and verified statement thereof

to said board. The president of said board shall file said statement with the comptroller and pay the money so received to the city treasurer who shall credit the same to the cemetery fund and give his receipt therefor, which shall be filed with the comptroller. The comptroller shall thereupon make a record of the same and file said statement and receipt with the city clerk and direct him to charge such amount to the city treasurer, and credit same to the cemetery fund.

SECTION 6. The cemetery board shall on the first Tuesday of November, 1901, and annually thereafter or as the common council may require, submit to the council a written or printed report of their doings in relation to the cemeteries, improvements made therein, or that they contemplate making, and shall include in such report their estimates of the amount of money necessary for the care, maintenance and improvement of the cemeteries for the ensuing year.

Report to be submitted to council.

SECTION 7. The board shall keep a record of all its proceedings which shall be open to the inspection of the public at all proper times. The compensation of said commissioners shall be and is hereby fixed at one dollar *per annum* each. The city clerk shall be *ex-officio* secretary of the board.

Record of all proceedings to be kept.

CHAPTER XIV.

THE HEALTH COMMISSIONER.

SECTION 1. The common council shall at its first meeting or as soon thereafter as may be, elect a regularly licensed physician as commissioner of public health, who shall hold his term of office for two years and until his successor shall be elected or appointed and qualified.

Commissioner of public health to be elected by council.

SECTION 2. It shall be the duty of the commissioner of public health to provide such rules and regulations as shall be requisite and necessary for the preservation of the health of the people of the city, to prevent the spread of contagious diseases, and to cause the removal of all objects detrimental to the health of the people of the city, and to enforce such rules and regulations as hereinafter provided.

To provide necessary rules and regulations.

Same to be submitted to council and if approved to have the force of ordinances.

SECTION 3. All rules and regulations prepared by the commissioner of public health shall be by him reported to the common council, and if the common council shall confirm the same by a vote of a majority of its members, such rules and regulations shall have the force and effect of ordinances, and the violations thereof may be prosecuted and punished as in the case of ordinances.

Commissioner shall recommend sanitary measures.

SECTION 4. The commissioner of public health shall also from time to time recommend to the common council such sanitary measures to be executed at the public expense, as shall seem to him to be necessary for the preservation of the public health.

Powers of commissioner.

SECTION 5. The health commissioner shall have the power to order the removal of any object or the cleaning of any premises as hereinbefore provided. Whenever the health commissioner shall order the removal of any object or the cleaning of any premises in compliance with the provisions of this act, he shall cause a notice thereof to be served upon the owner or occupant of said premises which notice shall be substantially in the following form:

HEALTH NOTICE.

Form.

You are hereby notified forthwith to (here insert what is required to be done). In case of your failure so to do within five days after the service hereof said work will be done by the city and the expense thereof charged as a special improvement tax against the property.

Dated this day of

Health Commissioner.

Service of notice.

SECTION 6. Said notice shall be served personally when the owner or occupant of the premises can be found within the city; in all other cases said notice shall be served by publication in the official paper of the city at least five days before said work is required to be done. No informality in said notice shall invalidate any special assessment herein provided for.

Cost of work to be charged against lots and collected as other special assessments.

SECTION 7. The cost of said work shall be charged against the lots, pieces or parcels of land upon which said work was done, and shall be assessed against said property and collected in the

same manner as provided in this act for the assessment and collection of other special assessment taxes.

SECTION 8. The health commissioner shall in each year certify to the comptroller in time for insertion in the tax roll, a list of all the special taxes to be levied by reason of work done in his department; such certified list of special taxes shall be *prima facie* evidence of the legality and regularity of said special taxes, and they shall be included in the list of special taxes filed by the comptroller with the city clerk.

Commissioner to certify to comptroller list of special taxes to be levied.

SECTION 9. It shall be the duty of the common council to provide an office for the commissioner of public health, and to fix his salary, which shall be paid out of the city treasury, as the salaries of other city officers are fixed and paid, and to provide for him such assistants as may be necessary, and to fix their salaries.

Office for commissioner.

SECTION 10. The commissioner of public health shall also discharge such duties not herein enumerated as may from time to time be imposed upon him by the common council by ordinance or resolution; and he shall make such reports to the state board of health, and generally perform such duties as are or may be required of health officers by the general laws of the state.

Additional duties may be imposed by city council.

CHAPTER XV.

FIRE DEPARTMENT.

SECTION 1. It shall be competent for the common council to provide by ordinance or otherwise for the continuance of a paid fire department to be entirely under the control of the city government, and maintained at the sole expense of the city; to provide for the appointment of an assistant chief of the fire department, and as many assistants as may be deemed necessary, and fix their salaries; and to provide for the appointment and compensation of as many firemen as shall from time to time be necessary.

Council may provide for a paid fire department.

SECTION 2. It shall be competent for the common council to provide for the purchase and maintenance of all necessary fire-engines and apparatus for the extinction or prevention

Fire-engines and fire apparatus and organization of fire companies.

of fires, for the construction and maintenance of all necessary engine houses and fire stations, fire alarms, fire signals, telegraphs or telephones, and for the use of all known means of extinguishing or preventing fires. And the common council may appropriate the necessary sums for carrying the foregoing provisions into effect.

Council may
fix fire limits.

SECTION 3. It shall be competent for the common council to fix and designate fire limits within which no buildings having wooden outside walls shall be constructed, or repaired so as to increase their value beyond a percentage to be fixed in the ordinance, and the common council may, by ordinance, prescribe special fire limits, within the general limits within which special fire limits they may require such building material to be used, and such additional precautions to be observed, both in the construction and maintenance of existing buildings as they may from time to time designate, for the prevention of fires and the spread and communication thereof, and to provide any proper remedy for the enforcement of such ordinances as may be passed in relation to fire limits or any particular provision thereof; and to that end they may provide for the appointment of a building inspector, designate his authority, fix his term of office and provide for his compensation.

Fire account
to be kept by
city treasurer.

SECTION 4. The city treasurer shall keep a separate account with the general fund, to be called the fire account, in which shall be entered all disbursements for or on account of the fire department and all appropriations made, and all taxes collected for its use.

Fund for the
relief of fire-
men injured
in discharge
of duty.

SECTION 5. The common council may establish a fund for the relief of firemen injured in the discharge of their duties, and for the relief of the families of firemen who may lose their lives in the discharge of their duties or in consequence thereof, and may provide for the management and distribution of such fund or the proceeds thereof, and may require all active firemen to contribute not to exceed two *per cent.* of their wages to said fund.

CHAPTER XVI.

WATER WORKS.

SECTION 1. In case the water works now operated in the city are purchased by the city or in the event of the construction of water works by the city, the same shall be operated under the direction of the board of public works.

Board of public works to control water works owned by city.

SECTION 2. The common council shall have power to legislate on all matters with reference to the purchase, construction, operation, management and protection of water works for the city not contravening the provisions of this act or the constitution or laws of the state; provided, however, that all provisions relating to water works not herein otherwise provided, shall be adopted by a vote of not less than a majority of all the members of the council.

Common council may legislate on all matters pertaining to water works.

SECTION 3. The city may acquire by purchase or otherwise, as specified in this act for acquiring real estate for the public use, such lands as may be necessary for the construction and operation of water works to supply the city and inhabitants thereof with water; provided, that in case the water works are owned by private persons, or corporations the expense of acquiring such real estate shall be paid by such persons or corporations on a proper conveyance being made to such persons or corporations of said real estate.

City may purchase such real estate as may be necessary for construction and operation of water works.

SECTION 4. In case the city shall purchase said waterworks or in the event of construction of waterworks by the city, the water rates shall be collected by the city treasurer, and shall be devoted exclusively to the expenses of maintaining and operating the works and paying the principal and interest of any indebtedness created in the purchase or construction thereof.

Water rates, how collected, and for what purpose to be used.

SECTION 5. On the first day of January, April, July and October in each year, the board of public works shall furnish the city treasurer with a list of all lots or parcels of real estate to which water has been furnished by the city during the preceding three months, and the amount due for the same. If the amount due is not paid within ten days thereafter a penalty of ten *per cent.* shall

Board of public works to furnish list of lots to which water furnished with amount due; collection of, same by treasurer.

be added and the treasurer shall proceed to collect the said dues with said penalty, together with five *per cent.* thereon. He shall have all the authority in collecting said tax vested in him in the collection of general city taxes. Said dues shall be a lien on the real estate to which the water was furnished from the time said list is placed in the hands of said treasurer, and all sums not paid by the first day of November in any year that have accrued during the preceding year, shall be reported by the treasurer to the city clerk, who shall insert the same in the tax roll as a delinquent tax against the property. All proceedings in relation to the collection, return and sale of property for delinquent city taxes shall apply to said tax.

Power of board in entering upon land to make examinations or surveys.

SECTION 6. The board of public works shall have power, by themselves, their officers, agents and servants, to enter upon any land or water or into or upon any premises in the said city for the purpose of making examinations or surveys in the performance of their duties under this chapter without liability therefor.

CHAPTER XVII.

SIDEWALKS.

Owners of abutting lots to build and maintain sidewalks.

SECTION 1. All sidewalks now laid shall be maintained and all sidewalks to be laid shall be laid and maintained by the owners of the abutting lots or parcels of land.

Grade.

SECTION 2. In all cases where the grades of sidewalks shall not have been specially fixed by ordinance, the sidewalks shall be laid to the established grade of the street.

Standard sidewalks.

SECTION 3. The common council may, from time to time, by resolution, establish the width, determine the material and prescribe the method of construction of standard sidewalks, and the standard so fixed may be different for different streets.

When street improved or grade changed, grading of sidewalk to be part of contract.

SECTION 4. Whenever a street shall be improved for the first time, or the grade thereof changed and the street improved so as to conform to the new grade, the grading of the sidewalk shall be considered a part of the improvement, shall be let by contract with the other work of

improving such street, and the expense thereof shall be provided for and borne in all respects like that of improving the street, but the construction of the sidewalk shall be done by the owners of the abutting lots or parcels of land, or at their expense as hereinafter provided.

SECTION 5. It shall be the duty of the owner of every lot or parcel of land abutting upon an improved street or a street ordered to be improved, whereon the sidewalk has been graded for ten days or more, to lay and maintain at his own expense a standard sidewalk in front of the same or one as good as the standard, to be approved by the board of public works.

Owner of abutting lot to build and maintain standard sidewalk.

SECTION 6. Whenever the owner of any lot or parcel of land so abutting upon any improved street, whereon the space for the sidewalk shall have been graded for ten days or more, shall neglect to lay a standard sidewalk, or one as good as the standard fixed by the common council, and approved by the board of public works, it shall be the duty of the board of public works to cause a standard sidewalk to be laid in front of such lot or parcel of land. Such work shall be let by contract in all cases where the estimated cost shall exceed one hundred dollars, and in all other cases it may be done without the intervention of a contract; and in all cases where the sidewalk shall be out of repair for more than ten days it shall be the duty of the board of public works to repair the same. The board of public works shall keep an accurate account of the expense of laying and repairing sidewalks in front of each lot, subdivision or parcel of land, whether the work be done by contract or without the intervention of a contract, and report the same to the city clerk, who shall annually prepare a statement of the expenses so incurred in front of each lot or parcel of land, and report the same to the common council, and the amount therein charged to each lot or parcel of land shall be by the city clerk entered in the tax roll, as a special tax against said lot, subdivision or parcel of land, and the same shall be collected in all respects like other city taxes upon real estate.

If owner neglects to build sidewalk, board of public works shall do so, and charge same against lot.

SECTION 7. It shall be the duty of the board of public works to keep the sidewalks of the city

Clearing snow, ice, etc., from sidewalks.

clear of snow and ice in all cases where the owners or occupants of the abutting lots fail to do so, and the expense of clearing the sidewalk in front of any lot or parcel of land shall be included in the statement to the city clerk required by the last section, and in the statement of the city clerk to the common council therein required, and in the special tax to be levied, as therein provided.

Ordinances relating to sidewalks.

SECTION 8. The common council may from time to time make all needful rules and regulations, by ordinance for carrying the aforesaid provisions into effect and for regulating the use of the sidewalks of the city and preventing their obstruction.

CHAPTER XVIII.

SEWERS.

System of sewerage.

SECTION 1. The city shall have full power to construct a system of sewerage. Provided, that nothing herein shall be construed to permit an abandonment of the uniform system of sewers already adopted by the city and known as Prof. Green's plans.

Diagrams of plans to be prepared.

SECTION 2. The board of public works shall cause diagrams of the plans of sewerage for each district to be prepared, showing the lots and parcels of land, the main sewers, minor sewers, man holes, catch basins, and all other matters pertaining to the system.

Notice, publication of same.

SECTION 3. On the completion of such diagram, notice shall be given in the official paper of the city, substantially in the following form:

Notice is hereby given that a plan for sewerage for the district bounded as follows. has been prepared, and is now open to inspection at the office of the city clerk. All persons owning or interested in real estate in said district are entitled to examine the same at any time within thirty days after the first publication of this notice, and file objections to said plan. On the day of,, this board will be in session to consider any objections that may have

been filed, and all persons desiring to be heard before that board can then be heard.

Dated

.....
.....
.....

Board of Public Works.

The day for the hearing specified shall be within thirty days after the last publication of said notice. Said notice shall be published at least once in each week for four successive weeks.

SECTION 4. On the day specified for such hearing before the board, they shall take up and consider all objections made to the plan as proposed and shall take down in writing any testimony that may be offered to sustain said objections. When the board shall have concluded said hearing, they shall report the proposed plan with all objections overruled and the evidence taken thereon to the common council. The common council shall then examine the same, and may approve the plan as proposed or change it in such manner as they may think proper and approve as changed or modified by them, or may reject the plan and direct the board to propose a new plan, in which case the same proceedings shall be had as before.

Hearing on proposed system of sewerage.

SECTION 5. When the plan for any sewerage district is finally determined a complete diagram of the same shall be prepared and certified to be correct by the board of public works, which diagram shall be filed in the office of the city clerk.

Diagram of system finally determined on to be filed with city clerk.

SECTION 6. On or before the first Monday of March in each year the board of public works shall present to the council a report of the sewers necessary or advisable to be constructed during the ensuing year. The council shall as soon as practicable consider said report; they may approve the same or make such additions or changes as to them may seem best, and adopt the report as changed or modified. No sewers shall be constructed during the ensuing year except such as have been determined upon in the manner aforesaid, except by a vote of two thirds of all the members of the common council. The board of public works shall proceed to construct the sewers determined upon, when and as ordered to do so by the common council.

Report of board recommending construction of sewers.

Advertisement for bids for contract to build sewers.

SECTION 7. After the common council shall have ordered the construction of any sewer, the board of public works shall advertise for and receive bids to do the work so ordered having first procured to be carefully prepared and put on file in the office of the board for the examination and guidance of bidders plans and specifications describing the particular work to be done and the kinds and qualities of materials to be used as directed by the common council, and shall let the contract to the lowest responsible and reliable bidder; provided, however, that the board shall have the right to reject all bids and re-advertise for proposals if they believe none of the bidders are responsible or if they believe any agreement has been entered into between bidders to prevent competition, and provided further, that the contract shall not be binding till the same shall have been approved by the common council and countersigned by the controller.

Contract may provide for part payment in improvement bonds.

SECTION 8. Such contract may, at the option of the city, except as herein otherwise provided, require the contractor to receive as payment for so much of the work as has been assessed against the lots opposite to the front of which any such sewer shall extend, improvement bonds, and the residue of such contract shall be paid out of the proceeds of the general sewerage tax, to be levied on the real estate and personal property within the sewerage district by the common council on the recommendation of the board of public works.

Assessments for payment of cost of sewers how made.

SECTION 9. After any contract for work under this act to be paid for in whole or in part by such assessment shall have been entered into, the board of public works shall make or cause to be made an assessment against all lots, parts of lots and parcels of land, fronting and abutting on the work so contracted to be done on each side of the same for its whole length, and which have not been before so assessed for sewerage purposes, at a rate not exceeding fifty cents per lineal foot of the whole frontage of each lot or lots, or parcel of land fronting or abutting on either side of said sewer, except corner lots, which shall be assessed therefor as follows: Corner lots not subdivided in ownership, and subdivisions of corner lots constituting the actual corner of corner

lots, subdivided in ownership, shall be entitled to a deduction in making such assessment, of one-third from the aggregate of the street lines of such corner lot or corner subdivisions thereof, on all streets in front thereof; such deductions to be made in the assessment of the longest street line of such corner lots or corner subdivisions thereof, or in case of equal street lines thereof, in the assessment of the second sewer to which they are liable; provided, however, that when the actual cost of any sewer shall be less than fifty cents per lineal foot, then and in that case, the assessment shall be for the actual cost of such sewer per lineal foot, one-half thereof to be chargeable against the property fronting or abutting thereon on each side thereof. Whenever any lot which, as originally platted, fronts or abuts on any sewer is subdivided, and the subdivisions thereof are owned by different persons, no subdivision of such lots not fronting or abutting on such sewer and not owned by the same person who owns the subdivision fronting or abutting on such sewer, shall be assessed for the cost of such sewer.

SECTION 10. Whenever any lot or parcel of land shall be subdivided by sale or any other contract, after the assessment of the special improvement tax for a system of sewerage shall have been made, and before such system of sewerage shall have been fully carried out and extended to such lots assessed, and the assessment of such work paid, any party interested may give notice to the board of such subdivision, and in such case or when the said board shall, in any other way become cognizant of the fact of such subdivision, they may make an equitable apportionment of the said special improvement tax against any lot between the different parcels of it; but if by neglect of the owners of the lot so divided, no such apportionment shall be made, then the entire lots shall be liable for the entire tax.

SECTION 11. The costs of all sewers in street and alley crossings, and of all sewers in excess of fifty cents per lineal foot chargeable to lots and lands as provided in this chapter, of all catch basins for receiving the water from the gutters, and of the overflow pipes connecting them with the sewers, of all temporary catch basins, and of

Apportionment of assessment on lots subdivided in ownership.

Costs of sewers in street and alley crossings and catch basins how paid.

the repairing and cleaning of sewers, and all expenditures for temporary work necessary to carry on the system of sewerage herein provided, and all costs for constructing sewers not provided for by special assessment shall be paid out of the fund of the proper sewerage district, and all cleaning and repairing of sewers and catch basins, and all temporary work necessary to be done as above stated, shall be done by the authority of the board of public works as may be necessary.

Report of board of public works of amount of money required for sewerage purposes for ensuing year.

SECTION 12. The board of public works shall report to the common council on or before the first day of November of each year, as accurately as may be, the amount of money required for sewerage purposes for the following year in each district, in addition to the special assessments made; and the common council are hereby authorized to direct the levy and collection of a tax for sewerage purposes in each district for such amount as may be necessary, not, however, to exceed in any one year the sum of three mills on the dollar on all property, real and personal, subject to taxation in any such sewerage district; which tax, so levied, shall, when collected, be placed in the fund of the sewerage district in which the same has been collected, and the city treasurer is hereby directed and required to keep a separate and distinct account of each sewerage district.

City orders and improvement bonds.

SECTION 13. Any person to whom a contract is awarded for the construction of a sewer shall receive in payment city orders or improvement bonds, in liquidation of the amount of such contract, such city orders shall be payable only out of the funds of the proper district; and it shall be the duty of the city, after the completion of any contract, and acceptance of the work, to issue such city orders or improvement bonds to the person so entitled to receive them. Improvement bonds shall be issued in all respects as provided in the chapter of this act entitled, "City Improvements."

Contracts how drawn and signed.

SECTION 14. All contracts entered into by the board of public works under this chapter shall be with sureties approved as to form and execution by the city attorney, and before taking effect shall be signed by the mayor and clerk and countersigned by the comptroller.

SECTION 15. In all cases the work shall be subject to the superintendence and direction of the board of public works, and no contractor shall be entitled to recover compensation for any work executed by him in any form of action unless said work shall have been approved by the said board; provided, that the said board may from time to time, as the work progresses, at their discretion grant to any contractor for a sewer an estimate of the amount and proportionate value of the work already done, withholding in all cases twenty *per cent.* of said estimate, which shall entitle the holder to receive the amount thereof, less twenty *per cent.* from the proper fund.

All work to be under control of board of public works.

SECTION 16. Whenever the common council shall order the paving or repairing of any street in the city in which water, gas mains and sewers or either of them, shall have been previously laid and constructed, they may also by resolution require the board of public works to cause water and gas service pipes and house drains to be first laid in such street, at the cost of the property fronting on such street, from the main sewer, water and gas mains in such street to the curb line on either side of the street, at intervals not less than twenty feet long the whole length of such paved street, except at street and alley crossings, and the board of public works shall thereupon give notice to the owners or occupants of the property adjoining such paved street, by publication thereof for six days in the official papers, requiring them to do such work opposite their respective lots, according to a plan and specification to be before prepared and on file in the office of said board, showing the location and size and the kind and quality of material of such lateral sewers or drains, and water and gas service pipes, and if such owners or occupants shall refuse or neglect to do the same, before the paving or preparing of said street so ordered, and within ten days after the publication of such notice the board may procure the same to be done, and charge and assess the expenses thereof to the lots or parts of lots fronting upon such work, in the manner provided in the chapter of this act, entitled, "City Improvements," and the same shall be levied and collected as other special assessments are levied and collected in said city; provided, that

Water and gas service pipes and house drains may be ordered laid in street fronting lots, notice to be given by publication.

no street shall be paved or repaved by order of the common council unless the water and gas mains and service pipes, and necessary sewers and their connections shall, as required by the common council, be first laid and constructed in that portion of such street so to be paved or repaved.

Drains and sewers to be built to connect with main sewers.

SECTION 17. It shall be the duty of the said board to see that proper drains and sewers are constructed from every lot in said city, which in their judgment requires it; and that such private drains or sewers are made to communicate with the public sewers, in proper manner; and they shall have power to require such number of private drains and sewers to be constructed as they may deem expedient.

Board to describe location and construction of private sewers.

SECTION 18. The said board shall describe the location, arrangement, form, materials and construction of every drain and sewer for every lot in the city emptying into the public sewers, and shall determine the manner and plan of the connection of the same; the work of construction shall be in all cases subject to the superintendence and control of said board, and shall be executed strictly in compliance with their orders; but the cost of such private sewers shall not be included in the estimate of the cost of the general plan of sewerage in any district, and shall be charged upon the lot or lots for the benefit of which such private sewer shall be constructed.

Specifications of private sewers to be kept on file in office of board; if lot owner fails to build sewer, board may.

SECTION 19. The said board shall have at their office, ready for the examination of the parties interested, the specifications of any private drains or sewers so ordered to be constructed, and they shall give to the lot owners six days' notice in the official paper to construct the same, designating therein a reasonable time within which the work shall be completed; and in case any lot owner neglects to do the work required of him to be done, within the time specified in said notice, they shall advertise for proposals and let the same by contract, and at the completion of the contract shall give to the contractor, city orders or improvement bonds, against such lot or lots in all respects and with like effect as other improvement bonds given for work chargeable to lots.

Contractor authorized to enter on lot to build sewer.

SECTION 20. Any person who has taken from said board such contract to construct a private drain or sewer from any lot shall be authorized to

enter upon such lot and construct thereon such drain or sewer and shall have free ingress and egress upon the same with men for that purpose, and to deposit all the necessary building materials, and generally to do and perform all thing necessary to a complete execution of the work.

SECTION 21. No private drains shall be connected with any public sewer without the said board first issuing their permit for such connections; and there shall be paid for such permit into the general fund of the sewerage district, by the owner of any lot from which a private drain is let into a public sewer an amount to be fixed by said board proportioned to the size of such private drain, but not less than one and not more than five dollars for every drain from any lot or parcel of a lot; and in case such amount is not paid it shall be a lien upon such lot; and collected as other special assessments, and shall be collected as other taxes on real estate are collected; provided that no charge shall be made for the permit therein referred to, when the connection for which it is used is made before the sewer is finished in front of the premises to be connected.

Connections with public sewers not to be made without permit from board of public works; fee for permit.

SECTION 22. No person is required to make connections until building, and no person shall break open or make connections with any public sewer, except by the consent and under the direction of the board of public works, and any person who shall do so, or who shall willfully or maliciously obstruct, damage or injure any public or private sewer or drain in said city, or willfully injure any of the materials employed in said city for the purposes of sewerage, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than fifty dollars, or imprisoned in the county jail not to exceed three months.

Penalty for injuring public or private sewers.

SECTION 23. Any contractor or other person acting under the direction of the board of public works, may lay sewers in and through any alleys and streets of said city and through any breakwater into any lake, and under any railroad, and also in any highways of the county, whether within the limits of said city or not; provided, that it shall be the duty of such contractor to repair such streets, alleys, breakwaters and high-

Contractor, etc., may lay sewers through any alleys, streets, highways, etc., restoring streets, etc., to former condition.

ways and to restore the same to the former condition upon the completion of such sewers.

Diagram after nine months to be conclusive proof of regularity of proceedings establishing same.

SECTION 24. The diagram filed as the final determination for a plan of sewerage for any district after the expiration of nine months from the date of such filing, shall be conclusive proof of the regularity of such proceedings to establish the plan of sewerage shown on such diagram, and the regularity and legality of the proceedings to establish such plan of sewerage, shall not thereafter be called in question in any court.

Plan not to be changed after adopted except on three-fourths vote of council.

SECTION 25. When a plan of sewerage has been finally determined upon, it shall not be changed except by a vote of three-fourths of all the members of the common council, in favor of the same. Such change shall be by ordinance passed at a regular meeting after the same shall have been published, at least once in each week for two successive weeks in the official paper of the city.

If plan changed diagram to be changed also.

SECTION 26. When such change shall have been determined upon, diagrams shall be prepared, certified and filed as before showing the plan of sewerage as changed, and after nine months from the date of such filing, the said diagram shall be conclusive proof of the regularity and legality of the proceedings to establish such plan; and any change rendering useless any existing sewer, the expense of the change shall be paid from the general fund.

Notice of issuance of improvement bonds to be published.

SECTION 27. Whenever a contract shall have been let for the construction of any sewer, and the amounts have been determined that are chargeable to the lots or parcels of land abutting on the street or alley through which said sewer is to be constructed, if the common council deems it for the best interest of the property owners affected by the special assessment for the construction of said sewer, may cause a notice to be published in the official paper of the city once in each week for six successive weeks substantially in the following form:

IMPROVEMENT BONDS FOR SEWERAGE ASSESSMENTS.

Form of same.

Notice is hereby given that a contract has been let for the construction of a sewer as follows:

(Describe the street or alley) that a statement showing the amount of the special assessment chargeable to the lots or parcels of real estate abutting on the street (or alley) through which said sewer is to be constructed, is now on file with the city clerk. That improvement bonds may be issued chargeable to the abutting real estate to pay the special assessments for said sewers and such bonds will be issued covering all of said assessments where the owners of the property file with the comptroller, within thirty days after the date hereof, notice that they elect that such bonds issue against their property describing the same. Unless the owners of said property shall file said notice the entire amount of said special assessment will be included in the next tax roll, that said bonds will be a charge upon the particular lots only, against which said special assessments are claimed.

Dated the day of,

.....
 City Clerk of the City of Oshkosh.

SECTION 28. The city council shall have power to issue its coupon bonds for an amount sufficient to cover all special assessments which the parties elect not to pay in accordance with said notice. Said bonds shall be payable at the option of the city after five years from date of their issue, and absolutely within seven years from said date; they shall bear interest at a rate not exceeding six *per cent.* per annum, shall specify on their face that they are sewerage bonds and chargeable only to the particular lots and parcels of land described therein, and such other provisions as the council may think proper to insert. The bonds shall be signed by the mayor and clerk, and countersigned by the comptroller, and sealed with the official seal of the city.

Form and conditions of bonds.

SECTION 29. Said bonds may be sold by the common council at not less than par value, and the proceeds paid to the sewerage contractor, or the contract may provide that the contractor shall take the bonds as payment on his contract at their par value with accrued interest.

Sale of bonds.

SECTION 30. The city shall pay the principal and interest on said bonds as they fall due, and shall reimburse itself by a tax on the particular

City how reimbursed for payment of bonds.

lots mentioned in said bonds in the following manner:

Levy of tax, to be credited to sewerage fund.

SECTION 31. The city clerk, under the supervision of the comptroller, shall, in each year for five years succeeding the issue of said bonds, enter into the tax roll as a special tax upon each of the parcels of land mentioned in said bonds, one-fifth of the special assessment as to each of said parcels of land, with six *per cent.* interest on the whole amount of said special assessment on such parcel of land then unpaid. Said tax shall be treated in all respects as any other city tax, and when collected shall be credited to the sewerage fund of said city.

Action to avoid tax, not maintainable after the issue of bonds.

SECTION 32. After the issue of said bonds no action shall be brought or maintained in any of the courts of this state to avoid the tax mentioned in the foregoing section.

CHAPTER XIX.

CITY IMPROVEMENTS.

Grades of streets and alleys.

SECTION 1. The city council shall have authority to establish the grade of all the streets and alleys of the city, and to change and re-establish the same as it may deem expedient.

Adoption of grade to be recorded by city clerk.

SECTION 2. The grade of all streets shall be established and described, and the adoption of such grades and all alterations thereof shall be recorded by the city clerk. No street shall be worked until the grade thereof is established and recorded in the manner herein set forth.

How streets to be graded.

SECTION 3. The streets shall be divided into a carriage-way and a sidewalk on each side thereof, and when deemed advisable a terrace may be constructed between the carriage way and the sidewalk; the sidewalk shall be for the use of persons on foot, and no person shall be allowed to encumber the same with boxes or other material; but such sidewalk shall be kept clear for the uses specified herein.

Majority vote required to grade, re-grade or improve street, when cost over two hundred dollars.

SECTION 4. The city may cause streets and alleys to be opened, leveled, graded, re-graded, graveled, re-graveled, macadamized, paved and re-paved with wood, stone or other materials or improved in any other manner; and may cause such streets

and alleys to be swept, cleaned and sprinkled; provided, that no street shall be graded, graveled macadamized or paved where the expense would exceed two hundred dollars, except upon the vote of a majority of all the members of the common council.

SECTION 5. In the first instance the grading, graveling, paving, planking, macadamizing or improvement of any street or alley and the construction of cross-walks where there is no intersection of streets, shall be chargeable to the lots or parcels of land fronting or abutting upon such street or alley.

Grading, etc., in first instance to be charged to abutting lots.

SECTION 6. The expense of all cross-walks at the intersection of streets or alleys, and across public grounds, shall be paid by the city. The expense of maintenance, re-laying, keeping in repair and cleaning of streets, in all cases where the streets shall have been constructed to the established grade and graveled, planked, macadamized or paved as required by the common council, shall be paid out of the general fund of the city or the ward fund of the proper ward.

Crosswalks, expense of and of cleaning of streets, etc., how paid.

SECTION 7. Before the council shall change or alter any established grade, or shall order any work to be done on any street, in whole or in part, at the expense of the abutting real estate, it shall order the board of public works to view the premises and estimate and report the entire cost of the contemplated work or improvement upon the street and as to the advisability of making such improvement.

Board of public works to view premises and ascertain cost of work before council may act.

SECTION 8. Said board shall make and file in their office a report showing their determination on the question required to be considered by them under the provisions of the preceding section, and shall file a copy of said report with the comptroller and with the city clerk.

Report.

SECTION 9. The city clerk at the next regular meeting of the council after the filing of said report, shall place the same before the council for its consideration, and said council may confirm or correct the same or refer the report back to the board for further consideration.

Report to be placed before council for its consideration.

SECTION 10. When any of the work before mentioned shall have been ordered to be done, and the plans for the same containing a description of the work, the materials to be used and

Advertisements for bids on contract for doing of proposed work.

such other matters as will give an intelligent idea of the work required, shall have been filed with the city clerk where the same can be inspected by persons desiring to bid on such work, the board of public works shall advertise in the official paper of the city for bids for doing such work for such length of time as the board may think the interests of the city demand, not less, however, than once a week for four successive weeks. The board shall prepare, or cause to be prepared, a printed form for the contract with sureties required, and furnish the same to all persons desiring to bid, and shall not consider any bid unless accompanied by a contract with sureties as prescribed by the forms so furnished, completed, with the exception of the signatures, on the part of the city. The notice published shall inform bidders fully of this requirement.

Board may reject any and all bids if there is evidence of collusion.

SECTION 11. The board of public works shall have power to reject any and all bids, if, in their opinion, any combination has been entered into to prevent free competition, otherwise the contract shall be let as prescribed in the chapter entitled "Board of Public Works."

Contract may provide that part or full payment may be made in improvement bonds.

SECTION 12. When a contract is let for doing any work specified, herein chargeable to the abutting real estate, it may provide that the amounts so chargeable may be paid in improvement bonds, or that payment may be partly made in cash or improvement bonds or both.

Notice of completion of work and issuance of bonds; form of.

SECTION 13. Whenever any work has been done under contract, as provided in this act, and the same shall have been approved by the board of public works and the amount chargeable to the abutting real estate is finally determined, the common council may cause a notice to be published in the official paper, substantially in the following form:

CITY IMPROVEMENT NOTICE.

Notice is hereby given that a contract has been let (describe the work and street), and that the expense of said improvement chargeable to the abutting 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.

Improvement bonds may be issued chargeable to the abutting real estate to pay the special assessment for said improvement, and such bonds will be issued covering all of said assessments where the owners of the property filed with the comptroller, within thirty days after the date thereof, notice that they elect that such bonds issue against their property, describing the same. Unless the owner of such property shall file said notice the entire amount of such special assessment will be included in the next tax roll.

Dated the day of

.....
City Clerk.

SECTION 14. After the expiration of thirty days the council may issue improvement bonds covering all of the assessments where the owners have filed notices of election to have such bonds issued as stated in the preceding section. Said bonds shall be signed by the mayor and clerk, countersigned by the comptroller, 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, specifying the same and the number and amount of said bonds.

Improvement bonds may be issued in thirty days by council.

SECTION 15. Said bonds shall be annual interest coupon bonds, payable at the option of the city after one year and absolutely at the expiration of six years from their date, and shall draw interest at a rate not exceeding six *per cent. per annum*. Any person against whose property special improvement bonds have been issued for any purpose authorized by this act may at any time pay to the city treasurer the entire amount of such improvement tax together with the interest thereon then unpaid, and take the treasurer's receipt therefor, which receipt shall state fully the purpose for which it was given and when countersigned by the comptroller shall release the property named therein from any and all claims the city may have against the same by reason of said assessment and issue of said bonds. When any improvement tax is so paid the treasurer shall report payment of same to the comptroller who shall certify the same to the city clerk.

Form and conditions of bonds.

How improvement tax may be paid.

SECTION 16. The city clerk, under the direction of the comptroller, shall carefully prepare a correct statement of the special assessments on

Statement of special assessments on which bonds issued to be prepared and kept on file in the office of city clerk.

which the bonds are issued and present it to the comptroller who shall examine it and certify to its correctness and return it to the city clerk who shall then record the same, together with a copy of said bonds in his office. The comptroller shall keep a record of all such bonds issued and of their payment.

Payment of principal and interest of bonds.

SECTION 17. The city treasurer shall pay the interest on the principal of said bonds as the same becomes due and charge the amount to the proper fund, and as fast as said bonds are paid by him he shall report payment of same to the comptroller, who shall certify the payment of the same to the city clerk.

One fifth of special assessment on lot to be extended in tax roll each year.

SECTION 18. In each year for five years after the issuing of said bonds, when the tax roll for the year is prepared, one-fifth of the special assessment on each parcel of property covered by said bonds, together with six *per cent.* interest on the amount of said special assessment then unpaid, shall be extended on the tax roll as a special tax on said property and thereafter the tax shall be treated in all respects as any other city taxes, and when collected the same shall be credited to the fund against which payment on said bonds are charged.

Action to avoid special assessment not maintainable after issuance of bonds.

SECTION 19. No action shall be maintained to avoid any of the special assessments or taxes levied pursuant to the same, after bonds have been issued covering such special assessments, and said bonds shall be conclusive proof of all the proceedings on which the same are based.

CHAPTER XX.

EMINENT DOMAIN.

Condemnation of lands for public purposes.

SECTION 1. The city shall have power to condemn lands for streets, alleys, public grounds, parks, cemeteries, sites for school buildings and other public buildings, and lands to be used for purposes of drainage and water distribution and other public municipal purposes not here enumerated by the following proceedings:

Petition for the opening, widening or changing of streets.

SECTION 2. As to streets it shall be competent for any ten resident freeholders in any ward to petition the common council for the opening,

widening, extension or change of any street in such ward, and if the land proposed to be taken for that purpose shall lie in two or more wards, then ten resident freeholders of each of the wards shall be required to join in the petition. Such petition shall be addressed to the common council, and shall designate in general terms the location, extent of the proposed laying out, widening, extension or change, but need not contain a particular description of the land proposed to be taken. For the purposes of such petition a person in possession of land under a contract of purchase and sale, or a bond for a deed, shall be deemed a freeholder.

SECTION 3. When such petition shall be presented to the common council it shall, prior to the adoption of any resolution thereon, be referred to the board of public works, and said board shall make a report to the common council, stating whether or not such petition is sufficiently signed, and if so, giving a particular description of each lot, parcel or subdivision of land proposed to be taken and a plat of the proposed street, widening, extension or change. Upon the coming in of such report the common council may, if the petition be reported sufficiently signed, by a vote of a majority of its members, adopt a resolution declaring that it is necessary to condemn the land designated in such petition and report, referring to them, for the purpose named in the petition, and direct the city attorney to commence and prosecute the proper proceedings for the condemnation and acquisition of said land.

Such petition to be referred to board of public works; report on to be made to council.

SECTION 4. As to alleys a petition for the opening, widening, extension or change of an alley may be made to the common council by the owner or owners of one-third or more of the land in the block in which the alley or proposed alley is situated, whether such owner or owners shall be residents of the city or not. Land held under a land contract or bond for a deed shall, for the purpose of such petition, be deemed to be owned by the person so holding it, and infants and others under guardianship may petition by their guardians. Such petition shall, before any resolution upon it be adopted, be referred to the board of public works, who shall thereupon make a report to the common council, stating

Petition for the opening, widening or change of any alley.

whether or not the petition is sufficiently signed, and if so, giving a particular description of each lot, parcel or subdivision of land proposed to be taken, and a plat of the proposed alley, as the same will be when laid out, widened, extended or changed. Upon the coming in of such report, if it shall appear thereby that the petition is signed by the owner or owners of one-third or more of the land in the block, the common council may adopt a resolution by a vote of a majority of its members, the same as in the case of a petition for the opening, widening, extension or change of a street, and like proceedings shall be had thereon. If it shall afterwards appear, either in the case of a street or alley that such petition was not sufficiently signed, that fact shall not, in the absence of fraud, vitiate the petition or the subsequent proceedings thereon.

On a vote of four-fifths of its members council may order city attorney to proceed to condemn lands for public use.

SECTION 5. The common council may without a petition, by a vote of four-fifths of its members, adopt a resolution declaring it to be necessary to condemn to the public use any lands for the opening, widening, extension or changing of any street or alley and directing the city attorney to commence and prosecute the proper proceedings therefor, and in case of the opening or extension of public grounds or acquiring land as a site for a school building or other public building, or lands for purposes of drainage or water distribution, or the taking of lands for any public municipal purposes not herein enumerated, the common council may without a petition therefor, and by a vote of a majority of its members, adopt a resolution declaring it to be necessary to condemn lands for such purpose, describing it in general terms, but not particularly describing the lands proposed to be taken, and directing the city attorney to commence and prosecute the proper proceedings therefor. Before any resolution provided for in this section shall be adopted, it shall be referred to the board of public works, who shall thereupon make a particular description of each lot, parcel or subdivision of land proposed to be taken, and a plat of the proposed street or alley, public ground, building site, drain, or water pipe, or land to be used for other public municipal purposes, and report the same to the common council.

SECTION 6. Whenever by any resolution adopted under any of the preceding sections of this chapter it shall be declared necessary to condemn any lands, and the city attorney directed to commence and prosecute the proper proceedings therefor, it shall be the duty of the city attorney to prepare and present as soon as may be a petition to the circuit court of the county in which the land proposed to be taken, or some of it, shall lie, for the condemnation of the land mentioned in the resolution for the purpose therein mentioned, and to prepare and file with said petition a sworn list of the names and residences, so far as they are known to him or can with reasonable diligence be ascertained by him, of persons owning or being interested in the lands proposed to be taken therein; and said petition shall have annexed thereto copies of the original petition, if any, the resolution of the common council and the report of the board of public works as to the proposed condemnation. The city attorney shall thereupon prepare a notice substantially in the following form:

Duties of city attorney in proceedings to condemn lands; notice service of same and hearing on petition.

State of Wisconsin. In the matter of (here insert the object of the proceedings) in the city of Oshkosh.	}	In the circuit court of the county of Win- nebago.
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To whom it may concern:

Notice is hereby given that a petition for the condemnation of real estate has been presented to said court in the above entitled matter, by the city of Oshkosh, by its city attorney. All persons interested in said matter may answer said petition at any time within twenty days after the service of this notice, exclusive of the day of service.

Dated

.

City Attorney.

Such notice may be served upon the owners of land which is proposed to be condemned and all persons interested therein, in all respects like a summons in a civil action except that in cases of service by publication and mailing, or by publication alone, the publication shall be made in the official paper of the city, and except that service within the state may be made by the

chief of police of the city or by his subordinates instead of the sheriff of the county, and the return or returns of such chief of police by himself or by his subordinates upon such notice or copies thereof shall have the same force and effect as the return of a sheriff of the county by himself or by his deputies. The filing of said petition shall be deemed the commencement of a suit. Within twenty days after the service of such notice upon any party owning or being interested in any real estate proposed to be condemned such party may serve an answer to such petition upon the city attorney and file the same as in cases of answers in civil actions; no notice of retainer or appearance without an answer shall be of any avail. When the time for answering shall have fully expired, the city attorney may call up said matter for hearing upon a notice of three days, excluding the day of service and excluding Sunday and legal holidays, and without notice to parties who have not answered and such proceedings shall have precedence over all other matters not on trial; and the circuit court shall thereupon empanel a jury, as in civil cases triable by jury, to determine whether or not it is necessary to take the land proposed to be condemned for the public use. Such jury shall view the premises in question in the same manner as in civil actions, when a view of premises is ordered by the court, at the expense of the city, and shall return into court as in such cases; and if no answer shall have been served, the city attorney shall produce such evidence as he deems material as to the necessity for such condemnation, and if an answer or answers shall have been served, the issue upon the petition and such answer or answers shall be tried by the court and jury, the same as other issues of fact, and in either case, the court shall thereupon instruct the jury as in other cases triable by jury. The jury shall thereupon retire to consider their verdict as in other cases of jury trials. The verdict shall be either "We, the jury, find that it is necessary to condemn the real estate sought to be condemned in this proceeding, for the public use," or, "We, the jury, find that it is not necessary to condemn the real estate sought to be condemned in this proceeding for the public use."

Upon the coming in of the verdict judgment shall be entered condemning the land sought to be condemned to the public use for the purposes set forth in the petition, or dismissing the petition as the verdict shall require. If the jury shall disagree, a new jury shall be immediately impaneled and like proceedings shall thereupon be had as before. If two juries shall disagree, the matter shall be continued to the next term of the court, when it may be again called up and like proceedings had thereon. If three juries shall disagree, the proceedings shall be dismissed. No appeal from a judgment of condemnation shall be allowed, but the supreme court may review such judgment upon a writ of *certiorari* sued out within thirty days after the entry of judgment and not thereafter.

SECTION 7. The cost of the foregoing proceedings shall be paid by the city, and if the jury shall find that it is not necessary to condemn the lands in question to the public use, or if the proceeding shall be abandoned, any party who shall have put in an answer shall recover from the city his disbursements necessarily made or incurred and taxable attorney fees not to exceed twenty-five dollars.

Costs of proceedings, how paid.

SECTION 8. If the city shall not within one year after the entry of a judgment of condemnation, cause the benefits and damages by reason of such condemnation to be assessed, as provided in this chapter, and shall not have, in the proper fund available for that purpose, a sum sufficient to pay the excess of damages over benefits, the condemnation proceedings shall be deemed to have been abandoned. At the expiration of one year after the entry of such judgment the comptroller shall, upon demand, furnish to the mayor or to any person who shall require it, a certificate showing whether or not there was at the end of such year, in any fund of the city available for that purpose a sum sufficient to pay such excess of damages over benefits, and such certificate shall be *prima facie* evidence of the facts therein certified. If it shall appear that there is in any fund of said city a sufficient sum available for that purpose at the expiration of such year or at any time prior thereto, and after such assessments of benefits

Condemnation proceedings when deemed abandoned; when city may take possession of land condemned; payment of excess of damages over benefits to persons entitled thereto.

and damages shall have been made and confirmed, the city may take possession of the land condemned, an order on the city treasurer shall be issued as in other cases, in favor of the person in whose favor any excess of damages over benefits shall have been assessed, upon the certificate of the city attorney that such person is entitled to receive the same. If the city attorney shall refuse to give any such certificate, the party or parties claiming the same may apply to the circuit court at the foot of the judgment of condemnation for a decision awarding such amount to him or them, and upon such application and eight days' notice thereof to the city attorney, the court shall proceed in a summary manner to inquire as to the rights of the parties in the premises, and may make up an issue upon such application and submit the same to a jury in a proper case, and shall make and file a decision, in writing, as to who is entitled to draw the amount in controversy, and in filing a certified copy of such decision with the city clerk, an order shall be issued in accordance with such decision. If any two or more parties shall claim the same sum, or if the city attorney shall be in doubt as to whom such sum should be paid, he may, in like manner apply to the court at the foot of the judgment of condemnation for a decision as to the rights of the parties in respect to such sum, and upon such application and eight days' notice thereof to the parties interested, the court shall proceed in like manner to ascertain and decide who is entitled to said sum or any part thereof, and the city treasurer shall in like manner pay the same out upon and according to such decision. An appeal from any such decision may be taken to the supreme court by any party interested therein, including the city, within thirty days after the filing of the same, and such sum shall not be paid while such appeal is pending, nor until the matter shall be finally determined. Such appeal shall be taken upon like notice and undertaking as an appeal from an order in a civil action, and like proceedings shall be had thereon in the supreme court and in the circuit court.

SECTION 9. If any person, not the owner of the land condemned, shall have a lien thereon or a

leasehold or other interest therein, such person shall receive a portion of the excess of damages over benefits awarded by reason of such condemnation in proportion to the lien or interest he may have had in the land condemned, to be ascertained upon the principles of equity; and if the parties cannot agree the matter may be decided by the court at the foot of the judgment of condemnation upon the application of a party or the city attorney as provided in section 8. The term "excess of damages over benefits" shall, when used in this act, be construed to include any sum which shall be assessed as damages and not offset by an assessment of benefits, as well as the balance in favor of a party in whose favor damages have been assessed and against whom benefits have been assessed.

Lien or Incumbrances to have such portion of damages as his interest bears to value of property.

SECTION 10. When any land shall be condemned under this chapter for public grounds or sites for school or other buildings, the city shall take a fee simple title to the land so condemned. In all other cases the fee shall remain in the owner, his heirs and assigns, and the city shall take by the condemnation only such an interest in the land as shall be necessary and convenient for the uses and purposes for which it is condemned.

City to have fee simple title to lands condemned for public grounds or sites for school or other buildings.

SECTION 11. Condemnation proceedings under this chapter shall in no case be a bar to subsequent proceedings for the condemnation of the same premises or any part thereof for the same or a different purpose; the same land may be condemned more than once for different purposes, each consistent with the other.

Lands may be condemned more than once for public purposes.

SECTION 12. When a street or alley shall be changed by proceedings under this chapter, so much of the original street or alley as shall be left out of it as changed shall be deemed vacated without any other proceeding, and the fact of such vacation shall be taken into account in assessing benefits and damages by reason of the condemnation proceedings.

When street or alley changed original street not included in new one deemed vacated.

SECTION 13. It shall be the duty of the common council, within three months after any judgment of condemnation shall have been entered, to adopt a resolution directing the board of public works to make an assessment of damages by reason of such condemnation, and in the case of

Council to order board of public works to make assessment of damages within three months.

condemnations for opening, widening, extending or changing streets or alleys, and for opening public grounds, parks and cemeteries, the common council may also direct the board of public works to make an assessment of benefits. Such resolution shall be certified by the city clerk to the board of public works immediately after its adoption and approval. When such assessment shall have been made and reported to the common council, that body may, by resolution, confirm the same, or refer the matter back to the board of public works, for a new assessment, or may, by resolution, abandon the condemnation proceedings. If the common council shall for more than three months after the entry of a judgment of condemnation, neglect to order an assessment of damages or benefits and damages, as the case may be, the condemnation proceedings shall be deemed to have been abandoned, and if the common council shall not within one year after the entry of judgment of condemnation, confirm an assessment of damages, or of benefits and damages, and make provision for paying the excess of damages over benefits, the condemnation proceedings shall be deemed to have been abandoned.

**Assessment of
damage by
board of public
works, how
made.**

SECTION 14. When the city clerk shall have certified to the board of public works a resolution of the common council requiring an assessment of damages, or benefits and damages, to be made under this chapter, the said board shall immediately proceed to assess the damages by reason of the condemnation mentioned in such resolution, as follows: Opposite each description of the land condemned the board shall set down in separate columns the damages sustained by the owner by reason of the taking of the land, the damages, if any, to the adjoining property of the same owner, the total damages, and in cases wherein benefits may be assessed, the benefits which will in their judgment accrue to lands in the vicinity of the condemned land by reason of the condemnation in question, the excess of damages over benefits, and the excess of benefits over damages, each such sum being set opposite the proper description. No benefits shall be assessed against any lot, parcel or subdivision, every part of which shall be twelve hundred feet or more dis-

tant from the nearest land condemned, and no benefit exceeding five *per cent.* of the assessed value thereof according to the last assessment roll, shall be assessed against any lot, parcel or subdivision by reason of any one condemnation proceeding, and no benefit exceeding three *per cent.* of the assessed value thereof, according to the last assessment roll, shall be assessed against any lot, parcel or subdivision, the whole of which is more than seven hundred feet distant from the nearest land condemned by reason of any one condemnation. In assessing such damage or damages and benefits the board of public works shall upon the completion of such assessment give notice by publication in the official newspaper of the city at least once in each week for two successive weeks that the report of such assessment is open for review in their office and will be so continued for the space of twenty days after the date of such notice, and that on a day named therein, which shall be not more than three days after the expiration of said twenty days, said board will be in session to hear all objections that may be made to such assessment. No irregularity in the form of such assessment nor of said notice shall affect the validity of the same if it fairly contains the information required to be conveyed thereby. At the time specified for hearing objections to said assessment, said board shall hear all parties interested who may appear for that purpose, shall reduce to writing all objections that may be made, and all evidence that may be offered to sustain the same, and shall have power to review, modify and correct said assessment as they may deem just; and thereupon a complete and final assessment shall be made and filed by said board with the city clerk, together with all objections and evidence taken before them to sustain the same, together with proof of publication of said notice, but no irregularity in the form of said report of assessment or in the manner of conducting the proceedings by said board shall affect the legality of said assessment.

SECTION 15. When such assessment shall be confirmed by the common council the city clerk shall transmit the same to the comptroller, who shall thereupon report to the city clerk a list of special taxes to be entered in the tax roll on ac-

Confirmation of assessment by council, list of assessments to be included in tax roll and collected as other taxes.

count thereof, which list shall have set opposite each description against which benefits not offset by damages, or an excess of benefits over damages shall have been assessed, the amount of such benefits or excess, which amount shall be levied upon the land described as a special tax, and shall be collected the same as other taxes.

Cost of condemnation, how paid.

SECTION 16. The cost of each condemnation shall be paid out of the general city fund, except the cost of condemnation of streets and alleys, and public grounds less than five acres in extent which shall be paid out of the ward fund or funds of the proper ward or wards, and the cost of condemnations for other purposes, as to which there are special funds, such as the water fund or the sewer fund, if any, shall be paid out of such fund, and all special taxes levied and collected on account of any condemnation shall be credited to the fund out of which the cost of the condemnation is paid.

City may condemn lands under provisions of R. S. 1878, and acts amendatory thereof.

SECTION 17. The city may, at its option, condemn lands for any of the purposes mentioned in the first section of this chapter under the provisions of section 927 and sections 895 to 904 inclusive, of the revised statutes of 1878, and the acts amendatory thereof.

Appeals to circuit court from assessments of damages and benefits. —

SECTION 18. Any party aggrieved by any assessment of benefits or damages, or both, may appeal to the circuit court therefrom, within the time, in the manner, and upon the security prescribed in appeals from the decision of the common council, upon claims and like proceedings shall be had thereon. Such appeal shall not affect any special tax levied on account of an excess of benefits over damages, but the amount recovered by the appellant, properly applicable in reduction of such assessment and the costs, if any, shall be paid out of the proper fund; also the amount recovered by way of increasing any damages assessed, or for damages when none have been assessed, with the costs, if any.

CHAPTER XXI.

ACTIONS, APPEALS, BONDS, SURETIES.

SECTION 1. All actions brought to recover any penalty or forfeiture or for the punishment of any offender for the violation of the ordinances or by-laws, made by the city, shall be brought in the corporate name of the city.

Action to be brought in name of city.

SECTION 2. In case of convictions in actions brought or prosecuted to recover a penalty under any of the provisions of this act, or to recover a penalty or forfeiture, or to impose a punishment for a violation of any of the ordinances, regulations or by-laws of such city, the court shall enter judgment for such fine, penalty or forfeiture, together with the costs of prosecution against the defendant; and shall also enter a judgment that such defendant be imprisoned in the county jail or city jail until such judgment be paid, not exceeding, however, the term of six months; and shall forthwith commit the defendant accordingly. In cases where the defendant is adjudged to be punished by imprisonment, the court shall also render judgment that such defendant pay the costs of prosecution, and that he be held in imprisonment until such costs are paid, but the court shall limit such additional term of imprisonment in its discretion, in no case, however, to exceed six months.

Judgments in actions to recover penalties, etc., shall include alternative provision that defendant be imprisoned in default of payment.

SECTION 3. Any person aggrieved by the judgment of the court, imposing a fine, penalty or forfeiture or a term of imprisonment, may appeal from such judgment to the county court of the county in the same manner in which offenders may under the general law appeal from the judgments of the justices of the peace, in actions where the state is a party plaintiff.

Appeals to the county court.

SECTION 4. No action shall be maintained by any person against the city upon any claim or demand until such person first shall have presented his claim or demand to the common council for allowance, and the same shall have been disallowed in whole or in part; provided, that the failure of such common council to pass upon such claim within sixty days after the presentation of such claim shall be deemed a disallowance thereof.

Before action, claim must be filed with city council.

Disallowance of claim to be final after appeal expired.

SECTION 5. The determination of the common council disallowing in whole or in part any claim shall be final and conclusive, and a bar to any action in any court founded on such claim, unless an appeal be taken from the decision of such common council as in this act provided.

Appeal from disallowance of claim, how taken.

SECTION 6. Whenever any claim against the city shall be disallowed in whole or in part by the common council, such person may appeal from the decision of such common council disallowing said claim to the circuit court of the county in which the city is situated, by causing a written notice of such appeal to be served on the clerk of the city within twenty days after the making of the decision disallowing such claim; and by executing a bond to the city in the sum of one hundred and fifty dollars, with two sureties to be approved by the city attorney and comptroller, conditioned for the faithful prosecution of such appeal and the payment of all costs that shall be adjudged against the appellant in the circuit court. The clerk, in case such appeal is taken, shall make a brief statement of the proceedings had in the case before the common council with its decision thereon and shall transmit the same, together with all the papers in the case, to the clerk of the circuit of the county. Such case shall be entered, tried and determined in the same manner as cases originally commenced in said court; provided, however, that whenever an appeal is taken from the allowance made by the common council upon any claim, and the recovery upon such appeal shall not exceed the amount allowed by the common council exclusive of interest upon such allowance, the appellant shall pay the costs of appeal, which shall be deducted from the amount of the recovery; and when the amount of costs exceed the amount recovered, judgment shall be rendered against the appellant for the amount of such excess.

CHAPTER XXII.

HARBORS AND BRIDGES.

Board of public works to have control of harbors and bridges.

SECTION 1. The board of public works, under the direction of the common council, shall have

charge of the construction, repair and maintenance of all harbors and bridges within the city.

SECTION 2. The common council shall have power to determine by ordinance or resolution, the location of all harbors or bridges, and the manner of their construction, and by ordinance to adopt, fix and change, from time to time, dock lines along the water fronts within the boundaries of the city, conforming as near as practicable to the original meander lines and survey thereof, and to require the riparian owners to build and maintain docks for the protection of the banks of such stream; and upon the failure of such owners to perform such work as directed, the board of public works may cause such work to be done, and the expense therefor charged to the abutting lot or lots. The mode of proceeding shall be similar to proceedings as in the case of building sidewalks.

Common council shall have power to determine location, and may fix or change dock lines, etc.

SECTION 3. Whenever the common council shall by resolution, declare it to be necessary to construct or repair any harbor, dock, wharf, breakwater, channel or bridge, it shall be the duty of the board of public works to prepare an estimate of the cost of such work and file it with the comptroller and with the city clerk, who shall submit the same to the common council; thereupon the common council may, by resolution direct the work to be done. It shall then be the duty of the board of public works to advertise for bids for doing the work and furnishing the material, the same as in the case of work to be done and materials furnished in the construction of streets, and they may receive bids and award contracts to the lowest bidder or bidders in the same manner as in the construction of streets; the work contracted to be done when finished, shall be accepted by the board of public works before final payment shall be made to the contractor or contractors. The contract may provide for the payment of not more than eighty *per cent.* of the cost of the work, upon estimates of the city engineer, or city surveyor, as the work proceeds and at least twenty *per cent.* of the cost of the work shall be retained until the work shall have been accepted by the board of public works.

Preliminary proceedings in doing work on harbors, docks, bridges, etc.

City clerk, how to keep accounts of expenditures and receipts on account of bridges, harbors, etc.

SECTION 4. It shall be the duty of the city treasurer to open and keep a separate account of the receipts and disbursements on account of bridges, and another if need be, on account of harbors, docks, wharves and the like, to be called respectively "Bridge Accounts" and "Harbor Accounts," and it shall be the duty of the board of public works to make annual estimates of the moneys necessary to be raised for the construction, maintenance and repair of all harbors and bridges, and submit the same through the comptroller and the city clerk to the council, and it shall be the duty of the council to provide, by taxation or loan, the necessary funds for the same as in the case of other public works. The bridge account and the harbor account shall each be one of the accounts of the general fund, but moneys raised on account of either shall not be applied, nor be deemed applicable to the payment of any other expense or expenses, nor shall the same or any portion thereof be credited to any other account, unless a resolution for that purpose shall be passed by the common council by a majority of two-thirds of all the members thereof.

Special assessments for bridges, harbors, docks, etc., to be made only by consent of lot owners.

SECTION 5. No special assessment for benefits shall be made on account of any bridge, harbor, dock or wharf, or any such like improvements, except as herein otherwise provided, unless the owners of property benefited thereby shall consent in advance to the levying of such assessments to the amount thereof as provided in the next section.

Petition of lot owners, for building of bridge, dock, wharf, etc., what to contain.

SECTION 6. Whenever the owners of land benefited by any proposed bridge, harbor, dock or wharf, shall by petition to the common council pray for the construction thereof and shall, in and by the terms of such petition, consent that their land, describing it, shall be assessed for benefits by reason of such improvement; (the percentage on the assessed valuation of such land to be so assessed being designated in said petition), if the improvement prayed for be made and accepted within the time designated in such petition, it shall then be the duty of the city comptroller to prepare a statement of assessments made pursuant to the consent contained in such petition, and report the same to the city clerk and the city clerk shall thereupon levy said as-

assessments as special taxes, upon the lands designated in said statement, in a separate column in the city tax roll for the current year, and such taxes shall be collected and paid into the city treasury and credited to the account of the proper fund the same as other taxes.

SECTION 7. In cases where it should be urgently necessary, for the preservation of property, to make any repair on any bridge, dock or wharf, not to exceed two hundred dollars, in expense, it shall be the duty of the board of public works, with the consent of the mayor and comptroller, to make such repairs without the intervention of a contract, and report the same as soon as may be to the common council, whereupon it shall be the duty of the common council to make provisions, by taxation or loan or by appropriation of funds available for that purpose to meet the expense of such repairs.

SECTION 8. Whenever it shall be necessary for the construction or maintenance of a harbor, that any lake, bay, slough, pond, river or creek shall be dredged or deepened, the board of public works, by the direction of the common council, may let contracts for such dredging to the lowest bidder, the same as in the case of other public works, or the city may purchase and maintain for its use the necessary dredges and other apparatus for such work, and may provide funds for the purchase, use and maintenance of such dredges and other apparatus by appropriations made from the general fund, to be charged to the harbor account; the money for that purpose to be raised by taxation or loan, as other moneys in general funds are raised, and the board of public works, under the direction of the common council, shall have control and management of such dredges and other apparatus, and shall employ such men and purchase such supplies as may be necessary in the management thereof, and the men so employed shall be paid and the supplies so procured, shall be paid for, upon certificates of the board of public works, countersigned by the comptroller out of the general fund and charged to the harbor account.

SECTION 9. In case it shall be necessary to protect any land from being washed away by any lake, river or other water, the common council

Repairs of less than two hundred dollars may be made without intervention of contract, by board of public works.

Dredging; machines and apparatus may be purchased.

Construction of lake shore protections.

Cost of same;
how paid.

may by ordinance, provide for the protection of such land by a wall, dock or breakwater, to be constructed as the common council may prescribe, and the council may in such case direct the board of public works to make an assessment of the benefits accruing to the lands so protected and other lands benefited thereby. The boundaries of assessment districts shall be fixed and determined by the common council. The costs of such protections shall be raised as follows: One half thereof or such lesser proportion as the common council shall direct and order, shall be paid out of the contingent fund or out of a special fund to be raised for the purpose, and the balance shall be levied and raised by the assessment of special benefits upon the real estate within the boundaries of the proper assessment districts. The entire cost of protecting public grounds and the ends of streets shall be borne by the city. Such assessments shall be made, corrected, reported to the common council and confirmed by the common council the same as assessments for other public works, and improvement bonds may be issued thereon in the same manner and with like effect as in the case of other public works. An appeal to the circuit court may be taken from any such assessment upon like notice and security within the same time and with like effect as in the case of other public works, and like proceedings shall be had thereon.

CHAPTER XXIII.

MISCELLANEOUS.

Aldermen
ineligible to
other munic-
ipal office.

Inhabitant or
tax payer not
incompetent
judge, justice,
juror or wit-
ness.

General laws of
state relative to
municipalities,
etc., to apply,
except other-
wise provided
herein.

SECTION 1. No alderman shall hold any other municipal office, except as otherwise herein provided.

SECTION 2. No person shall be incompetent to act as judge, justice of the peace, witness or juror, by reason of his being an inhabitant of or tax payer in the city in any action or proceeding in which the city shall be a party in interest.

SECTION 3. The general laws of the state for government of cities, villages and towns, the assessment and collection of taxes, the preservation of public and private property, highways, roads

and bridges, the punishment of offenders, the collection of penalties and the manner of conducting elections shall be enforced under the provisions of this act, except as otherwise herein provided.

SECTION 4. The general laws of the state of Wisconsin, for the punishment of bribery, misdemeanors and corruption in office, shall be enforced and apply to all officers elected or appointed under the provisions of this act.

General laws of state relative to bribery and misconduct in office to apply.

SECTION 5. No city official shall be interested, directly or indirectly, in any contract to which the city is a party, and whenever it shall appear that such is the case, such contract shall be absolutely void, and the city incur no liability thereon whatever. No city officer shall be accepted as surety on any bond, contract or other obligation made to the city.

City official not to be interested in city contract nor shall be surety on official bond.

SECTION 6. The city shall have power to appropriate money, not to exceed the sum of three hundred dollars, annually to be used by the mayor as a contingent fund.

Mayor's contingent fund.

SECTION 7. The use of any forms prescribed by the revised statutes of the state, and acts amendatory thereof, as far as the same are applicable, shall be as legal and of the same force and effect as the use of the forms prescribed by this act.

Forms.

SECTION 8. When judgment is rendered against any person for the violation of any city ordinance, and such person shall be committed for the non-payment thereof, all subsequent costs and expenses made thereon, including his board, shall be added thereto, which he shall be required to pay in case of payment of said judgment.

Judgments for violations of city ordinance; subsequent costs to be added thereto

SECTION 9. The keeper of the common jail of the county of Winnebago, is hereby required to receive and keep all persons who shall be arrested by the proper officers for the violation of any city ordinance, or committed for the non-payment of any judgment, fine or penalty, and to discharge said persons when ordered in writing, by the mayor of the city of Oshkosh.

City to have use of Winnebago county jail.

SECTION 10. All that part of the Fox river within the limits of said city shall be kept under the exclusive jurisdiction of said city and the common council, and all bridges over the said river within the limits aforesaid shall be under its jurisdiction; and the mayor and common council of said city are hereby empowered to

Fox river within city limits to be under jurisdiction of city.

build and construct or cause to be built and constructed new bridges over said river, at such point or points as they may deem necessary, and for the best interest of the city, and to maintain and support all such bridges which the city may own now or may build hereafter, at the expense of said city, provided, that all said bridges shall contain draws sufficient for the passage of vessels.

Chief of police. SECTION 11. The chief of police shall be known as such, and he shall have command of the police force of the city under the direction of the mayor.

City attorneys opinions to be filed and recorded. SECTION 12. The opinions of the city attorney shall be filed with the city clerk and recorded in a book to be kept for that purpose.

Ordinance book. SECTION 13. The city clerk shall keep a book to be known as an "Ordinance Book," in which he shall enter at length, in a plain and distinct hand writing, every ordinance adopted by the common council immediately after its passage, and shall append thereto a note giving the date of its passage, and page of journal containing the record of the final vote upon its passage and also the name of the newspaper in which said ordinance was published, and the date of such publication, together with proofs of publication; the ordinance may be approved by the certificate of the clerk, under the seal of the city, and when printed or published in pamphlet form and purporting to be published by the authority of the city, shall be read and received in all courts and places as evidence of their adoption.

Salaries. SECTION 14. No compensation or salary shall be paid to the mayor or to any alderman, school commissioner, park commissioner or member of cemetery board except as herein provided.

Policemen and firemen during fire may enter building where powder or explosives are kept. SECTION 15. Any member of the police force or fire department of the city under the direction of the chief of either of said departments may enter any building or upon any premises in said city where powder or dangerous explosives are supposed to be kept for the purpose of examination, without liability therefor.

Where charter fails to prescribe duties of officer, provisions of revised statutes to control. SECTION 16. In case of failure to prescribe the duties of any officer elected or appointed under the provisions of this act, the provisions of the revised statutes and acts amendatory thereof so

far as the same are applicable, shall be deemed and taken to be the guide in determining the duties of such officer.

SECTION 17. When heinous offense or crime has been committed against life or property within the city, the mayor with the consent of the majority of the aldermen, may offer a reward for the apprehension of such criminal, or perpetrator of such offense.

Rewards for the apprehension of criminals.

SECTION 18. All fines, forfeitures and penalties recovered for the violation of any ordinance, rule, regulation, resolution or by-law of the city, and all moneys paid for licenses and permits, shall be paid into the city treasury for the use of the city.

Fines, etc., to be paid into city treasury.

SECTION 19. The city shall have authority to exercise all powers contained in this act relating to the issuing of improvement bonds to pay for special assessments made on account of the construction of sewers or improvements to streets.

Improvement bonds for sewers and streets.

SECTION 20. No penalty or judgment recovered in favor of the city shall be remitted or discharged, except by vote of a majority of the aldermen.

Judgments in favor of city not to be remitted or discharged, except by majority vote of aldermen.

SECTION 21. All actions brought to recover any penalty or forfeiture under this act, or the ordinances, by-laws, police or health regulations, made in pursuance thereof, shall be brought in the corporate name of the city. It shall be lawful to declare generally in debt for such penalty or forfeiture, stating the clause of this act or by-laws or ordinances under which the penalty or forfeiture is claimed and to give special matter in evidence under it.

Actions to recover penalties, etc., to be brought in name of city.

SECTION 22. In all the prosecutions for any violation of any of the provisions of this act, or any by-laws or ordinances, the first process shall be a summons, unless oath be made for a warrant as in other cases.

First process to be summons, unless oath be made for warrant.

SECTION 23. When the action is commenced by summons the complaint may be substantially in the following form:

Form of complaint.

City of Oshkosh, }
 against } In justice court.
 }

The plaintiff complains of the defendant in an action of debt for that the defendant did, on the day of,, violate section

of an ordinance (or by law, describing it by its title) which said action hath accrued to the city of Oshkosh, to recover of the defendant the sum of dollars debt. Wherefore the plaintiff demands judgment against the defendant for the sum aforesaid, besides the costs of this action.

SECTION 24. In all cases where oath is made for a warrant the complaint shall be made on the oath of the complainant, and no other affidavit shall be necessary, which complaint last above named may be substantially in the following form:

The city of Oshkosh, }
 against } In justice court.
 }
 State of Wisconsin, } ss.
 County of Winnebago. }

....., being duly sworn, complains on oath to, justice of the peace of the city of Oshkosh, that did on the day of,, violate section, of an ordinance (or by-law, describing its title) which said..... is now in force and effect as this complainant verily believes, and prays that said may be arrested and held to answer to said city of Oshkosh therefor.

Subscribed and sworn to before me this day of,

It shall be sufficient to give the number of the section or sections, and the title of the ordinance or by-laws, or the law violated in the foregoing forms of the complaints, and the said complaint may be sworn to before any officer authorized to administer oaths. Upon the filing of such complaint with the justice of the peace, he shall issue a warrant thereon, which may be substantially as follows:

Form of warrant.

State of Wisconsin, }
 County of Winnebago, } ss.
 City of Oshkosh. }

The state of Wisconsin, to the sheriff or any constable of said county, or to the chief of police or any policeman of the city of Oshkosh, greeting:

Whereas, has this day complained to me in writing on oath that did on the day of,, violate, section or sections of (ordinance, by-

laws, regulation or law as the case may be, describing it by its title) which is now in full force and effect, as complainant verily believes. Therefore, in the name of the state of Wisconsin, you are commanded to arrest the body of said, and bring him before me forthwith, to answer to the said city of Oshkosh, on its complaint aforesaid.

Given under my hand, this day of,

., Justice of the Peace.

Upon the return of the warrant, the justice may proceed summarily with the case, unless it be continued by consent or for cause. If the cause be adjourned, the defendant, if required by the court so to do, shall recognize with security to be approved by the court for his or her appearance in such sum as the court shall direct, or in default thereof, may be put in charge of the officer who made the arrest, or be committed to the jail of said city or the common jail of Winnebago county. The complaint made as aforesaid shall be the only complaint required, and a plea of "not guilty," shall put in issue all subject matter embraced in this action.

Proceedings on return of warrant.

SECTION 25. Witnesses and jurors shall attend before a justice of the peace in all city suits without the payment of fees in advance, or a tender thereof, upon process of the court, duly served, and in default thereof, their attendance may be compelled by attachment.

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

SECTION 26. In city prosecutions the finding of the court or jury shall be either "guilty" or "not guilty." If guilty, the court shall render judgment thereon against the defendant for the fine, penalty or forfeiture contained in the ordinance, by-law or resolution, for the violation of which the person or persons shall have been adjudged guilty, and the costs of suit; but if not guilty, the costs shall be taxed against the city. Upon conviction and the non-payment of such judgment, the court may forthwith issue an execution as in case of tort, and shall determine and enter upon the docket the length of the time the defendant shall be imprisoned, which in no case shall exceed six months, and also insert such time in the com-

Judgments on findings of court or jury.

mitment or execution. Such execution may be in the following form:

Form of execution.

State of Wisconsin,
County of Winnebago, } ss.
City of Oshkosh.

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

Whereas, the city of Oshkosh, on the ... day of, recovered judgment before, a justice of the peace of said city, against, for the sum of dollars, together with dollars, costs of suit, for the violation of (an ordinance, by-law, resolution or law, as the case may be), these are therefore, in the name of the state of Wisconsin, to command you to levy distress on the goods and chattels of said, excepting such as the law exempts, and make sale thereof according to law, in such cases made and provided, to the amount of said sum, together with your fees and twenty-five cents for this writ, and the same return to me in thirty days; and for want of such goods and chattels whereon to levy, to take the body of said, and him convey and deliver to the keeper of the common jail in Winnebago county, or the keeper of said jail in said city, and the said keeper is hereby commanded to receive and keep in custody in said jail the said, for the term of unless said judgment, together with all costs and fees, are sooner paid, or he be discharged by due course of law.

Given under my hand this day of, 18..

.....
Justice of the Peace.

Ordinances, etc., now in force not inconsistent with this act to remain in force.

SECTION 27. All ordinances, regulations or resolutions now in force in the city of Oshkosh, and not inconsistent with this act, shall remain in force under this act until altered, modified or repealed by the common council, after this act shall take effect.

Actions for penalties to be prosecuted by city.

SECTION 28. All actions, rights, fines, penalties and forfeitures in suit or otherwise, which have

accumulated under the several acts consolidated herein, shall be vested in and prosecuted by the corporation hereby created.

SECTION 29. If any election by the people or common council shall, for any cause, not be held at the time or in the manner herein prescribed, or if the council shall fail to organize as herein provided, it shall not be considered reason for arresting, suspending or dissolving said corporation; but such election or organization may be had at any subsequent day, by order of the common council, and if any of the duties enjoined by this act, or the ordinances or by-laws of the city, to be done by any officer at any specified time and the same are not then done or performed, the common council may appoint another time at which the said acts may be done and performed.

Electric not held at time herein prescribed may be held at such other time as council may designate.

SECTION 30. Every person who shall interfere with, molest or hinder any street commissioner, contractor, or other city employe in the discharge of his duty, or interfere with or retard any public work, after the same is let or under contract, shall be liable to pay a penalty of ten dollars which shall be sued for and recovered with costs, of such person violating this section, in an action wherein the city shall be plaintiff, in the same manner as for the violation of city ordinances.

Penalty for interfering with public officer in discharge of duty, and for retarding progress of public work.

SECTION 31. No real or personal property of any inhabitant of said city, or of any individual or corporation thereof, shall be levied on and sold by virtue of an attachment or execution issued to satisfy or collect any debt, obligation or contract of said city; nor shall any person or corporation be held liable as garnishee of said city.

Property of inhabitant not liable for debts of city; no person or corporation liable as garnishee of city.

SECTION 32. The common council of said city, may at any time, cause the board of public works, assisted by the city surveyor and such other assistants as the council may appoint, to make a new and accurate survey of the lines and boundaries of all the streets, alleys, sidewalks, public grounds, wharves and blocks, and shall cause to be established such permanent land marks as they may deem necessary, and to cause an accurate plat or plats thereof to be made and certified to by the mayor and said board, which shall be filed in the office of the city clerk, and a

Surveys of lines and boundaries of streets, alleys, sidewalks, etc.

copy thereof shall be recorded in the office of the register of deeds of Winnebago county.

Survey and land marks so established prima facie evidence of lines and boundaries.

SECTION 33. The survey and land marks so made and established shall be *prima facie* evidence of the lines and boundaries of all streets, alleys, sidewalks, public grounds, wharves and blocks, in all cases in which they shall be drawn into controversy, in all courts of this state.

City may lease and purchase necessary real estate and personal property; same exempt from taxation.

SECTION 34. The said city may lease, purchase and hold real estate or personal estate sufficient for the convenience of the inhabitants thereof, and may sell and convey the same, and they shall be free from taxation while owned by the city.

Property exempt from taxation generally liable to special assessments for improvements.

SECTION 35. All real estate within the limits of the city of Oshkosh exempt from taxation by the laws of this state shall be liable for all special improvement taxes and subject to assessments therefor the same as other property. Such taxes shall be collected as provided in this act for the collection of special improvement taxes.

General law contravening this shall not repeal, modify or annul same unless so expressed.

SECTION 36. No general law of this state, contravening the provisions of this act, shall be considered as repealing, annulling or modifying the same, unless such purpose be expressly set forth in such law as an amendment of this charter.

Platting of land into city lots; duty of owners.

SECTION 37. Every individual or company of individuals, or body corporate, owning a lot or tract of land within the corporate limits of the city of Oshkosh, who may desire to subdivide or plat such lot or tract of land into city lots, shall in platting the same, cause the streets and alleys in such plat to correspond in width and in general direction with the streets and alleys through the lots and blocks in said city, adjacent to said lot or tract of land so platted and before recording such plat, as required by law, it shall be the duty of such person or persons making such plat, to submit the same to the common council of said city, for approval, and if said plat shall be approved by the common council, it shall be lawful for the party or parties making such plat to record the same in the manner prescribed by the revised statutes of this state concerning town plats; but except such plat shall be approved, by resolution adopted by said common council, a copy of which duly certified to by the city clerk, shall

be affixed to said plat, it shall not be lawful for the register of deeds of Winnebago county to receive such plat for record, and the person or persons neglecting or refusing to comply with the requirements of this act, shall forfeit and pay a sum not less than one hundred dollars and not more than one thousand dollars; and the register of deeds who shall record said plat, without such resolution of the common council thereto attached, approving the same, shall forfeit and pay a sum not less than fifty dollars nor more than one hundred dollars.

SECTION 38. The mayor and city clerk of said city are hereby authorized, when the common council shall (by ordinance or resolution for that purpose, describing the real estate and interest to be conveyed) order and direct them to do so, to execute a deed or lease of such real estate or interest therein belonging to the said city, and the said deed or lease shall be signed by the mayor and city clerk, sealed with the corporate seal of said city, duly witnessed and acknowledged, as is provided by law for the execution of deeds and leases; provided, that all leases shall be countersigned by the comptroller.

Real estate owned by city, how leased or sold.

SECTION 39. When any such deed or lease is so executed, the city clerk shall attach to such deed or lease a true and attested copy of such ordinance or resolution, and the same shall be recorded by the register of deeds with the said deed or lease, and such copy so attached and recorded, shall be in all courts of this state, *prima facie* evidence of the authority of such mayor to make and execute such deed or lease.

Copy of resolution directing lease or sale to be attached to conveyance.

SECTION 40. Every person who shall set up or keep a common gaming house, or a gambling house or place, or a house of ill-fame, or a bawdy house or place, and every person or persons, inmates thereof or found therein, within the limits of the city of Oshkosh, and on trial and conviction to be adjudged guilty, in an action wherein the city shall be plaintiff, in the same manner as for violation of city ordinances hereinbefore provided, shall be punished by imprisonment in the city jail or county jail of Winnebago county, not to exceed six months, or by a fine not to exceed one hundred dollars, or by both such fine and imprisonment as the justice of the peace of the city or

Penalty for keeping gambling house, house of ill-fame, etc., and of being frequenter or inmate thereof.

court before whom the trial is had may think proper; and on trial of persons for the violation of this section, proof of the general reputation of the house kept shall be sufficient *prima facie* evidence of the fame and kind of place or house kept.

Pavements and crosswalks not to be removed or disturbed without permit from board of public works.

SECTION 41. No person shall take up any pavement or remove any side or cross walk, except to repair or rebuild such side or cross walk, without first having obtained a permit therefor from the board of public works, and every person violating the provisions of this section shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, which fine shall be sued for and recovered, with costs, of such person, in an action wherein the city shall be plaintiff, in the same manner as for the violation of city ordinances.

Fire insurance companies to pay to city two per cent. of premiums received.

SECTION 42. All corporations, companies and associations not incorporated under the laws of this state, engaged in this city in effecting fire insurance, shall pay to the city treasurer at the rate of two *per cent.* upon the amount of all premiums which shall have been received or shall have been agreed to be paid for by insurance effected or agreed to be effected on any property within the city limits, by or with such corporations, companies or associations respectively. Such amount shall be paid for every six months preceding the first days of January and July of each year.

Account to be annually rendered to comptroller by agent, of amount of premiums received.

SECTION 43. Every person who shall act as agent or otherwise, for or on behalf of any such corporation, company or association, on or before the first day of January in each year, shall render to the comptroller of said city, a full, true and just account, verified by oath, of the premiums, which during the half year (ending on the last day of December and June preceding such report) shall have been received by him, or any other person for him, or shall have been agreed to be paid for or in behalf of any such corporation, company or association, and shall file a copy of such report with the city clerk.

Payment of percentage into treasury.

SECTION 44. Upon the report of any such agent or person mentioned in the preceding section the comptroller shall immediately assess and adjust the whole amount of the percentage chargeable

against such corporation, company or association, and within five days thereafter such agent or person shall pay into the treasury of said city the amount so assessed and adjusted. The treasurer shall report all such payments to the comptroller who shall notify the city clerk thereof.

SECTION 45. If any agent, representing any such corporation, company or association, against which insurance rates are chargeable by virtue of this act, shall refuse to make report, or pay the rates prescribed by this chapter, at the time or times herein mentioned, such corporation, company or association so in default, and the agent thereof, shall be deprived from doing or transacting any business of insurance in said city until the said requisition shall have been complied with. Any person or agent violating any of the provisions of this chapter shall be liable to a penalty of not less than ten and not more than one hundred dollars in the discretion of the court before whom conviction is had; said percentage may also be recovered of said corporation, company or association or its agent, by action in the name, and for the use of said city, as for money had and received.

Penalty for failure to file report or pay rates.

SECTION 46. The insurance percentage so received as provided by this chapter, shall be used for the benefit of the general fund of said city.

Insurance percentage to be used for benefit of general fund.

SECTION 47. If for any cause any tax or assessment chargeable to any lot under the provisions of this act, shall not be entered or assessed against such lot at the time therein provided, then the city clerk may enter or assess the same against such lot in any subsequent tax roll. All taxes assessed against personal property in the city of Oshkosh shall be a lien upon the personal property of the person, firm or corporation assessed, from the time of the assessment thereof until the same is paid, and in case of attempted removal of personal property assessed, at any time after the assessment is made, the city may seize and hold such personal property, or so much thereof as shall be necessary to satisfy the tax levied or to be levied upon such assessment, until the tax is paid or a bond given to pay such tax.

Tax omitted may be included in subsequent tax roll.

SECTION 48. No debt shall be contracted against the city, or certificate of indebtedness be drawn upon the city treasury, unless the same shall be

Majority vote of all members of council requisite to charge city with indebtedness, vote to be by ayes and noes and recorded.

Funds in treasury April 1st, 1891, to be considered as raised under provisions of this act.

Persons at fire refusing to obey lawful order of officer may be arrested.

Resolution of council levying tax shall specify amount for each separate purpose.

authorized by a majority of all the members of the common council, the board of education or board of public parks, and a vote authorizing the same shall be entered by ayes and nays upon the journal of said board or of the common council, and no money shall be appropriated or debt contracted for any purpose whatever, except such as is expressly authorized by this act.

SECTION 49. All moneys in the city treasury as shown by the different funds on the first day of April, 1891, shall be treated as though raised under the provisions of this act for the benefit of such funds, except the money in the general fund. The common council shall by resolution or ordinance before the third Tuesday in April, 1891, appropriate the money in the general fund as it may deem expedient, and when so appropriated the same shall be treated as though raised under the provisions of this act for the benefit of the funds to which it is appropriated. All overdrafts of funds as shown April 1, 1891, shall be deemed an expenditure on account of that fund for the year following.

SECTION 50. Whenever any person shall refuse to obey any lawful order of the chief engineer, the mayor, any alderman, chief of police, or any policeman at any fire, it shall be lawful for the officer giving such order to arrest, or direct orally any policeman, constable or any citizen to arrest any such person and to confine him temporarily in the city jail or any safe place until such fire shall be extinguished, and in the same manner such officer or any of them may arrest or direct the arrest and confinement of any person at such fire who may be intoxicated or disorderly, and if any person shall refuse to arrest or aid in arresting any person who shall be intoxicated or disorderly, he shall be liable to such penalty as the common council shall prescribe, not exceeding twenty dollars.

SECTION 51. The resolution of the common council levying taxes in each year shall specify the amount to be raised for each separate purpose. The common council shall by resolution, at the same time direct that all moneys so raised for a specific purpose, shall be set apart for the purpose for which the same was raised, and all moneys so set apart, shall not be appropriated

for any other purpose except as in this act otherwise provided.

SECTION 52. The city shall not be liable for any damage arising or growing out of any sidewalks, streets, drains, sewers, gutters or ditches or bridges in said city, being in a defective or dangerous condition or out of repair, unless it be shown that previous to the happening of the same one of the members of the board of public works had knowledge thereof, and no knowledge of such condition of the same shall be presumed unless the defect out of which the same occurred existed thirty days before such damages accrued; provided, however, that nothing herein contained shall be so construed as to mean that knowledge is to be presumed because such thirty days had elapsed.

Injuries to persons from defective sidewalks, streets, drains, etc., city not liable unless board of public works had knowledge of defect.

SECTION 53. The common council, by resolution, may forbid any and all persons in said city, who are or may be licensed to sell strong, spirituous, ardent or intoxicating liquors, from selling or giving to any person, naming him, who in the opinion of the council is drinking or using spirituous, ardent or intoxicating liquors to such excess as to make or render such person disorderly or liable to be disorderly; and if any person licensed as aforesaid, shall sell or give to any such person any strong, ardent or spirituous liquors or allow any other person or persons on his premises to sell or give such person, or any other person for him, any spirituous, ardent or intoxicating liquors of any kind whatever, the council may declare the license of such person forfeited and such person or any other person who shall give, sell, buy or procure for such person any strong, ardent or spirituous liquors or beer, shall be liable to a penalty of twenty-five dollars, which shall be sued for and recovered, with costs, of such person violating this section, in an action wherein the city shall be plaintiff, in the same manner as for the violation of city ordinances hereinbefore provided in this chapter.

Council may forbid sale of liquor to person when such person uses liquor, to excess.

SECTION 54. The general laws for the preservation of bridges, and the punishment by such laws provided for the willful and malicious injuries done thereto, are hereby extended to, and shall include all of said bridges, and shall apply to any

General laws relating to preservation of bridges shall apply to bridges in city.

willful or malicious damage which may be done to either of them by any person or persons whatever; and the common council may, from time to time, make such by-laws or ordinances as they may deem necessary for the preservation of such bridges, and enforce the same by adequate penalties. In case of any damage done to any of said bridges, by any vessel or watercraft, or by the master or any person in command thereof, such vessel or watercraft may be proceeded against under the law to provide for the collection of demands against boats or vessels.

REPEALING CLAUSE.

All former charters repealed; contracts, etc., under old charters not to be effected.

SECTION 1. All acts incorporating the city of Oshkosh, and amendatory to the city charter, are hereby repealed; and all acts and parts of acts inconsistent with and conflicting with the provisions of this act are hereby repealed; but the repeal of said acts and parts of acts shall not in any manner affect, injure or invalidate any contracts, acts, suits, claims or demands that may have been entered into, performed, commenced, or that may exist under or by virtue or in pursuance of the said acts or any of them, but the same shall exist and be in force, and carried out as fully and effectually to all intents and purposes as if this act had not been passed.

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

Approved March 20, 1891.