

No. 78, S.]

[Published March 24, 1891.]

CHAPTER 60.

AN ACT to amend chapter 21 of the laws of 1882, entitled "An act to incorporate the city of Baraboo," and of the acts amendatory thereof.

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

SECTION 1. There is hereby added to sub-chapter 1, of said chapter 21, laws of 1882, the following sections, to wit: Amends chap. 21, laws of 1882.

Section 3. Any territory lying adjacent to the city may be annexed to the city in the manner following, to-wit: Whenever three-fourths of the electors and at least one-third of the owners of the taxable property, according to the last tax roll in the territory adjacent to the city, which asks to be annexed, shall present a petition to the common council of the city asking for annexation thereto, provided, that if no electors reside therein, the petition must be signed by at least three-fourths of the owners of the taxable property desired to be annexed, before the common council shall have power to act thereon. Territory how may be annexed to city.

Section 4. At any regular meeting of the common council after filing of said petition with their 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 the city. When ordinance may be introduced for such annexation; publication of ordinance.

Section 5. A vote of two-thirds of all the members of said council in favor of said ordinance taken by ayes and noes recorded shall be necessary for its adoption. Two-thirds vote necessary to adopt such ordinance.

Section 6. The adoption of said ordinance shall operate to annex such territory to said city, and to the ward or wards designated therein. The common council are hereby authorized to redi- Annexation proceedings not to be inquired into collaterally.

trict the city into wards and make by ordinance any changes which to them may seem proper. 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 in 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.

Amends chapter 21, laws of 1882.

Construction of sewers and drains.

SECTION 2. Sub-chapter 2, of chapter 21, of said laws, is hereby amended by adding thereto the following: Section 6a. It shall be lawful for the common council to cause sewers and drains to be made in any part of the city and to order and direct the construction of either of the same, and to alter, repair or mend any sewer or drain heretofore or hereafter constructed within the city, and the committee on sewers are authorized to make or cause to be made estimates of the costs and expenses thereof, and to make a just and equitable apportionment of such cost and expense among the owners of all lots abutting upon such sewer, and which are intended to be benefited thereby in proportion, all things considered, as nearly as may be to the advantage which each shall be deemed to acquire by the construction, repair or alteration of the same.

Amend chapter 21, laws of 1882, as amended.

Costs and expenses of surveying streets, alleys, etc., and of opening, grading, paving streets and alleys, and making and repairing sewers, how paid.

SECTION 3. Section 7, of sub-chapter 2 of said chapter 21 of the laws of 1882, as amended by section 8, of chapter 13 of the laws of 1889, is hereby amended so as to read as follows: Section 7. The costs and expenses of surveying streets, alleys, sewers and gutters and of estimating work thereon in the execution of any public improvement, shall be chargeable to and payable by the city; the costs and expenses of opening, grading, graveling, planking or paving streets and alleys or the making and repairing of sewers may be wholly or partly charged against the lots or land fronting on such street, alley or sewer; so that such lot or parcel of land shall pay for the work between the front of each lot or parcel of land and to the center of such street, alley or sewer or such portion thereof as the common council may determine. Provided, that in constructing or repairing sewers the expense may, in the discretion of the common coun-

cil, be charged against the lots of land fronting or abutting on either side of such sewer, except corner lots which shall be assessed therefor as follows: Corner lots not subdivided in ownership and subdivision of corner lots constituting the actual corner or 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 lots or corner subdivisions thereof, on all the streets in front thereof; such deduction to be made in the amount of the longest street line of such corner lots or corner subdivision thereof, or in case of equal street lines thereof in the assessment for the second sewer to which they are liable, provided, however, that when the actual cost of any sewer shall be less than one dollar per lineal foot for the entire line or section of sewer, then in that case the assessment shall be for the actual cost of such sewer per lineal foot, one-half to be chargeable against the property fronting or abutting thereon on each side thereof, the cost of constructing man-holes to be paid for as a part of the line of the sewer on each line or section, and assessed as a part of the line; the cost of constructing catch-basins and overflow pipes for catchbasins shall be borne by the city, and the cost of constructing sewers across streets and alleys at the same rate per lineal foot as in front of lots abutting on such street on which such sewer is constructed, shall be borne by the city. 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 subdivisions 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 unless otherwise determined by the common council by reason of benefits. The cost and expenses of constructing or repairing sewers may be assessed against the owners of lots or lands fronting or abutting on such sewer, and be paid by special tax of one dollar per lineal foot, one-half to be paid by the owners of lots or lands on each side of such sewers, the number of feet for each owner to be ascertained

in the manner above set forth. Or the common council may in its discretion and as it may seem just order the whole of said improvement in some localities or any part of the same to be constructed at the expense of the city and paid out of the general fund; for the purpose of making any improvement mentioned in this section, the common council may assess taxes upon the taxable property of said city or issue bonds of said city; provided, that no such bonds shall be issued until authorized by a vote of the majority of the electors voting on that question at an election at which at least ten days' previous notice of the intention to submit such question has been given by at least two publications in the official paper of the city; provided, further, that the amount of taxes levied in said city for all purposes shall not exceed two and one half *per centum* of the assessed valuation in any one year. In all cases where the whole or any part of the cost of such improvements are charged upon the lots benefited, all such improvements across streets, alleys and public grounds belonging to the city, shall be made and paid for by the city in proportion to the width of the street, alley or public ground. Lots and land shall be liable as in this chapter for the improvement of streets to the center of the street on which they abut or adjoin, and corner lots for all sidewalks up to the crossings or cross walks.

How assess-
ment of bene-
fits to lot sub-
divided in own-
ership appor-
tioned between
owners.

SECTION 4. Whenever any lot or parcel of land shall be subdivided by sale or any other contract, after the assessment of benefits accruing to it by a system of sewerage shall have been made, and before such system shall have been fully carried out and extended to such lots assessed and the assessment on such work paid, any party interested may give notice to the common council of such subdivision, and in such case or when the said council shall in any way become cognizant of the fact of such subdivision, it may make an equitable apportionment of the said benefit tax against any lot between the different parcels of it; if by the neglect of the owners of the lots so divided, no such apportionment shall be made, then the entire lot shall be liable for the entire tax.

SECTION 5. No private sewer or drain shall be connected with any public sewer of the city here-

tofore or hereafter constructed without first obtaining a permit from the common council for such connection; and the common council is hereby authorized to charge such sum as to them may seem just and equitable in part payment of the expense to which the city has been put or may hereafter be put in constructing the main sewers, and in case such amount is not paid it shall be a lien upon such lot or parcel of a lot, and collected as the other special assessments.

Private sewers or drains not to be connected with main sewer without permit.

SECTION 6 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 committee on sewers or water as the case may be, to cause water or gas service pipes and house drains to be first laid in such a 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 along the whole length of such paved street, except at street and alley crossing; and the said committees shall thereupon give notice to the owners or occupants of the property adjoining such paved street by publication thereof for six days for at least one publication of said notice in the official paper requiring them to do such work opposite their respective lots according to a plan and specifications to be before prepared and on file in the office of the city clerk, 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 said committees may procure the same to be done, and charge and assess the expense thereof to the lots or parts of lots fronting upon such work in the manner provided in and by section 7, of sub-chapter 2, of chapter 21, of the laws of 1882, as herein amended; and the same shall be levied and collected as other special assessments are levied and collected in the city; provided, that no street shall be paved or repaired by the order of the common council unless

Water and gas service pipes and house drains may be required to be laid by owners of property, when.

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.

Same.

SECTION 7. It shall be the duty of said committees 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 a proper manner; and the common council shall have power to require such number of private drains and sewers to be constructed as they may deem expedient.

Owner of vacant lot not compelled to make sewer connections.

SECTION 8. No person is required to make connection until building; and no person shall break open or make connection with any public sewer except by the consent of the common council and under the direction of the committee on sewers, 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 the city or willfully injure any of the materials employed or used in said city for the purpose of sewerage shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than one hundred dollars or imprisoned in the county jail not to exceed three months.

Contractor under direction of committee on sewers may lay sewers through streets, alleys, highways, breakwaters, etc.

SECTION 9. Any contractor or other person acting under the direction of the committee on sewers may lay sewers in and through any alleys and streets or said city, and through any breakwater into any lake, pond or river, and also in any highway of the county whether within the limits of the city or not, provided it shall be the duty of such contractor or other person to repair such streets, alleys, breakwaters and highways, and to restore the same to the former condition upon the completion of such sewers.

Payment for work may be made in improvement bonds or cash.

SECTION 10. When the common council determine upon doing any work specified herein chargeable to the abutting real estate, it may provide that the amounts so chargeable may be paid with the certificates against the lots or in improvement bonds, or that the payment may be partly made in certificates and part in cash or improvement bonds or both.

SECTION 11. As soon as the amount chargeable to the abutting real estate is formally determined, the council may cause a notice to be published, in the official paper, substantially in the following form:

City improvement notice; form of.

CITY IMPROVEMENT NOTICE.

Notice is hereby given that a contract has been (or is about to be) let for (describe the improvement 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. It is proposed to issue bonds chargeable to the abutting real estate to pay the special assessments, and such bonds will be issued covering all of said assessments except in cases where the owners of the property file with the city clerk within thirty days after the date thereof, a written notice that they elect to pay the special assessments on their property, describing the same on presentation of the certificates.

SECTION 12. After the expiration of said thirty days the council may issue improvement bonds covering all of the assessments except such as the owners have filed motions of election to pay stated in the preceding section. Said bonds shall be signed by the mayor and clerk, be sealed with the corporate seal of the city and contain such recitals as may be necessary to show that they are chargeable to particular property, and the number and amount of said bonds.

Improvement bonds, when may be issued.

SECTION 13. Such bonds shall be semi-annual interest coupon bonds payable at the option of the city after five and absolutely at the expiration of seven years from their date, and shall draw interest at a rate not exceeding six *per cent.* per annum.

Form and conditions of bonds.

SECTION 14. The city clerk shall carefully prepare a statement of the special assessments on which the bonds are issued, and record the same together with a copy of said bonds in his office.

Statement of special assessments.

SECTION 15. The city treasurer shall pay the interest on and principal of said bonds as the same become due and charge the amount to the proper fund.

Treasurer to pay interest and principal on bonds.

One-fifth of special assessment to be collected each year.

SECTION 16. In each year after the issuing of said bonds, when the tax roll of the year is prepared, one-fifth of the special assessment on each parcel of property covered by said bonds, with six *per cent.* interest on the amount of said special assessment therein specified, shall be entered in the tax roll as a special tax on said property and thereafter the tax shall be treated in all respects as any other city tax, and when collected the same shall be credited to the fund against which payments on said bonds are chargeable.

Actions not to be maintained after bonds issued to avoid special assessment.

SECTION 17. 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.

Estimates of expense of public improvements to be made.

SECTION 18. Whenever the council shall determine to make any public improvement as authorized by the charter, it shall cause to be made an estimate of the whole expense thereof, and of the amount thereof to be assessed and charged to each lot and parcel of land, and in case of grading, of the number of cubic yards to be filled in or excavated in front of each lot, and the proportion thereof across each street, alley or public ground as aforesaid; and such estimate shall be filed in the office of the city clerk for the inspection of the parties interested, before such work shall be ordered to be done. The common council may authorize the letting of such work by contract to the lowest bidder, at the expense of the lots upon which such work is chargeable in whole or in part as aforesaid, all bids for doing the same to be approved by the council; and said council shall have power to reject any and all bids, and may require such contractors to perform such contract within such time and under such conditions, and to give such security for the performance of such work as it shall direct; such contract when approved by the council, to be executed on the part of the city by the mayor and countersigned by the city clerk; notice of the time and place of receiving such bids to be published for ten days by two consecutive publications in the official paper of the city.

SECTION 19. Whenever the general interests of the city require deep cutting or extraordinary filling in any street and the owners of the lots fronting on such deep cutting or filling shall deem themselves aggrieved by the assessment made against them for any improvement, and shall represent to the council in writing, that the expenses of such excavation or filling or other improvement will exceed the proportion that should be justly and equitably charged upon the property assessed therefor, the council shall require the city marshal to summon five freeholders, not residents of the ward, not interested in said lots or lands, who, after being sworn faithfully and impartially to discharge the trust reposed in them, shall examine the premises, and if in their opinion the cost of such work will exceed the amount that should be justly and equitably chargeable upon said premises, it shall be their duty to determine what portion of such work shall be chargeable upon said premises and to such lots or parcels of land respectively; and what lots or parcels of land on the streets or alleys so to be improved will be benefited by such excavation or filling or other improvements sought to be made and how much or what portion shall be chargeable to them, and make report in writing as soon as practicable to the common council; and such proportion as shall be reported as properly chargeable to the lots or parcels first mentioned shall be assessed upon and collected from the same, in the same manner as herein provided for the collection of special taxes for other improvements and the remainder shall be paid by the city or assessed upon lots benefited by such improvement in proportion to their respective benefit as may appear just and equitable to said jury. The sum so assessed shall become a lien upon the premises assessed, and shall be collected therefrom as a special assessment, in the same manner as other special assessments for improvements are collected; provided, that said jury find that said petitioners were not entitled to any division of the expense so assessed upon the lots or parcels of land, then the expense of all proceedings under this section shall be paid by said petitioners; and the common council may require a bond for the payment of the

When assessment for extraordinary cutting or filling may be fixed by jury.

same for the filing of the petition; provided, also, that the petition of no owner feeling himself aggrieved shall be received, unless the same shall be presented within twenty days after the publication of the notice requiring the same to be done; and, provided further, that when it shall appear to the council that any such lands belong to non-residents, infants or persons under legal disability, who shall not be represented by any agent or guardian, or not be benefited by the making of streets in front of such lots or lands to the amount of the cost and expenses thereof, it shall then be the duty of said council to cause to be summoned a jury as herein provided.

Council may borrow money to pay ordinary expenses of city.

SECTION 20. The common council may borrow money to pay the ordinary expenses of the city not exceeding twenty *per cent.* of the tax levy for the same purpose the preceding year. Certificates of indebtedness may be issued therefor, signed by the mayor and clerk bearing interest not exceeding the legal rate *per annum*, and payable not later than the fifteenth day of January after the same are issued; provided, however, that no such loan shall be made unless authorized by a vote of at least three-fourths of all the members of the common council at a regular meeting thereof.

Depository for city funds.

SECTION 21. The council may designate by resolution the bank or banks where the money belonging to the city shall be deposited and the security to be approved by the mayor and common council by a two thirds vote, to be given by such bank or banks, 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, and the common council may contract with any such bank or banks receiving the city deposits for the payment of interest thereon.

Amends chap. 21, laws of 1882.

Collection of taxes.

SECTION 22. Section 14 of sub-chapter 9 of said chapter 21, laws of 1882, is hereby amended so as to read as follows: Section 14. The city treasurer, upon the receipt of such duplicate copy of the tax list, shall proceed to collect the same in like manner, and shall have like powers, and be subject to like requirements, liabilities and restrictions as town treasurers, except as other-

wise provided in this act; the city treasurer shall receive one *per cent.* fees upon all taxes paid to him before the tenth day of January; and three *per cent.* fees upon all taxes paid or collected after that time; provided, however, that the common council may by resolution or ordinance fix a stated salary as compensation for his services as treasurer, in which case the fees collected shall belong to and be paid into the city treasury; and provided further, that the said resolution or ordinance, in order to be of any force, must be passed by the common council prior to the nomination of the treasurer who shall afterwards be elected and qualified.

SECTION 23. All work provided for in this chapter in building, repairing and altering sewers, shall be done under the supervision of the committee on sewers, and shall be approved by them before it shall be accepted by the common council.

Sewer work to be done under supervision of committee on sewers.

SECTION 24. Section 3, of sub-chapter 4, of said chapter 21, laws of 1882, is hereby amended by adding thereto the following sub-divisions of said section, to-wit: 31. To remove and abate any nuisance, obstruction or encroachment upon the streets, alleys, public grounds and highways of the city in a summary manner. 32. 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 determine.

Amends chapter 21, laws of 1882.

Abatement and removal of nuisances and numbering of houses.

SECTION 25. Section 34, of sub chapter 12, of chapter 21, laws of 1882, is hereby amended by adding thereto, committees on sewers, health, water and city buildings; so that said section shall read as follows: Section 34. The regular committees of the common council shall be as follows: On finance, streets, ordinances, fire department and city buildings, licenses, sewers, health and water, and shall be appointed by the mayor at the first meeting after the annual election, or as soon thereafter as convenient.

Amends chapter 21, laws of 1882.

Committees.

SECTION 26. The mayor shall be the chief executive officer and head of the police of the city, and head of the fire department, and shall, when present, preside over all meetings of the common council, and shall see that the laws of the state and ordinances of the city are duly enforced and

Mayor chief of police; duties.

observed within the corporate limits of the city, and that all officers of the city discharge their respective duties. He shall communicate to the common council in writing, from time to time, such information as he shall deem necessary, or which the common council may require. He shall have power to administer oaths or affirmations, and in case of a riot or public disturbance he may appoint as many special or temporary constables as he may deem proper. He shall have a vote in the common council only in case of a tie, and in the election of officers. Any ordinance, resolution or appropriation which shall have been duly passed by the common council shall be in force unless disapproved by the mayor, who shall state his objections thereto in writing to the common council at its next regular meeting. The council shall thereupon re-consider the vote passing such ordinance, resolution or appropriation, and if, after such re-consideration, two-thirds of all the aldermen elected to such council shall vote for the passage of such ordinance, resolution or appropriation, the same shall be in force; otherwise it shall be null and void. All such votes on the passage of any such ordinance, resolution or appropriation, after the objections of the mayor are read, shall be taken by yeas and nays and entered upon the journal of the council.

Repealing
section.

SECTION 27. All acts and parts of acts conflicting with the foregoing amendments are hereby repealed, and this act shall take effect and be in force from and after its passage and publication.

Approved March 20, 1891.