

entitle the holder to teach for such period, not more than one year, as may be specified therein, in any town in the superintendent's district in which he is examined, except that it may be limited by the county superintendent to any town or school district therein. A second grade certificate shall entitle the holder to teach in any town in such superintendent's district, and be in force one year from its date. A first grade certificate shall entitle the holder to teach in any town in such superintendent's district, and be in force two years from its date. certificates hold good.

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

Approved March 4, 1879.

[No. 366, A.]

[Published March 13, 1879.]

### CHAPTER 238.

AN ACT to legalize the official acts of Albert G. Cole, as court commissioner.

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

SECTION 1. The official acts of Albert G. Cole, of the county of Kenosha, as a court commissioner in and for the county of Kenosha, are hereby declared to be as valid in all respects as if his appointment had been made by the circuit judge of the first judicial circuit of the state of Wisconsin, and his oath of office and appointment had been filed as required by law. Legalized.

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

Approved March 4, 1879.

[No. 244, A.]

[Published March 19, 1879.]

### CHAPTER 239.

AN ACT to amend and consolidate an act to incorporate the city of Oconomowoc.

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

### CHAPTER I.

THE CITY OF OCONOMOWOC AND CORPORATE EXISTENCE.

SECTION 1. All that district of country hereinafter described and the people now inhabiting, or who shall Corporate power.

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

#### CITY AND WARD BOUNDARIES.

City boundaries.

SECTION 2. All of section thirty-two, the west three-fourths of section thirty-three, and that portion of La Belle lake south of a line to coincide with north line of said section thirty-two, and all other bodies of water within the bounds above described, and being heretofore a part of the town of Oconomowoc, township number eight north; also the north half of section five and the west three-fourths of the north half of section number four, in township seven north, and heretofore being a part of the town of Summit, all in range seventeen east, in the county of Waukesha and state of Wisconsin, shall constitute the limits and boundaries of the city of Oconomowoc.

#### WARD BOUNDARIES.

Ward boundaries.

SECTION 3. The said city shall be and is hereby divided into three wards, as follows: All that portion thereof bounded on the west by the east shore of La Belle lake, from the north line of the city south to the Oconomowoc river at the iron bridge, and by Main street south to the centre of Milwaukee street, and on the south by said last mentioned street east to the east line of the city, and on the east and north by the east and north boundary lines of the city, shall constitute the First ward. All that portion bounded on the east by said east shore of said lake and centre of Main street, from Iron Bridge south to Jefferson street, thence south on the east line of section five in said city to the south boundary thereof, and on the southwest and north by the boundary lines of the city, shall constitute the Second ward; and all the balance of said city bounded on the north by Milwaukee street, and the west by Main street and east line of section five, from Jefferson street south to the south boundary of the city, shall constitute the Third ward.

SECTION 4. The said city of Oconomowoc shall have full and complete jurisdiction and control over all that highway on the north boundary of the city for the entire width thereof, with full power in said city to establish the grade thereof, repair and improve the same with the highway taxes of the city, in the same manner and with the same authority as though the said street or highway was wholly within the limits of the city.

Jurisdiction of city beyond north boundary.

## CHAPTER II.

### TIME AND MANNER OF HOLDING ELECTIONS: AND OFFICERS OF THE CITY.

SECTION 1. The annual election for city and ward officers shall be held on the first Tuesday of April of each year, at such place as the common council shall designate; and the polls shall be opened at ten o'clock in the forenoon and closed at sun down; but the inspectors may close the polls for one hour at noon by giving notice thereof at the opening of the polls. And all persons who are qualified electors at a general election of the state shall be qualified electors in and for the city.

Annual elections.

SECTION 2. The inspectors of all elections in the city shall be chosen in the same manner and be the same as the general laws of the state require, and, except as otherwise in this act provided all elections for city and ward officers or other purpose shall be conducted, the result canvassed and certified by the inspectors, in the same manner as in the case of town meetings or elections; and all laws of a general nature governing inspectors and clerks, challenging of voters and voting, and every statute prescribing and punishing offenses for illegal voting, bribery, fraud, deceit, corruption, official delinquency or other offense at or concerning elections in the state, so far as can be made applicable, shall apply to and extend to all the elections held in said city.

Inspectors of elections.

SECTION 2. The elective officers of the city shall be one mayor, one clerk, one assessor, one treasurer, two justices of the peace, one marshal and one constable, who shall be elected at large in the city, and one supervisor and three aldermen from each ward, who shall be elected therein one each year; and each of said officers shall be qualified voters in the city; but the mayor, supervisors and aldermen shall also be householders or freeholders as well as voters in the ward from which they shall be elected. There shall be also one street commissioner for the city at large

Elective officers.

Appointive officers.

and one assistant in each ward, as the common council shall deem necessary, who shall be appointed as early each year as possible in April, after the annual election in said month, by the common council of the said city: *provided, however*, that no person shall be eligible to the office of treasurer of the city for two successive years.

**Term: of office.**

SECTION 4. Each of the above mentioned officers, except aldermen and justices of the peace, shall hold his office for one year and until his successor shall be elected and qualified, and the term of all the officers of the city as mentioned shall commence on the second Tuesday of April next after said election. And the term of aldermen shall be for three years and until his successor shall be elected and qualified, and each alderman now in office shall hold for the term for which he was elected; and the term of justice of the peace shall be for two years and until his successor shall be elected and qualified: *provided, however*, the common council shall have power, for cause, to expel any of its own number, or remove from office any officer under the city government, due notice in writing stating the cause and an opportunity to be heard, first being given to the officer complained of.

**Ballot boxes.**

SECTION 5. At all the elections for city or ward officers, there shall be provided three ballot boxes, one marked Ward No. 1; one marked Ward No. 2; and one marked Ward No. 3; and at such elections, the inspectors shall deposit each elector's ballot in the box marked for the ward in which he shall reside; and each ballot shall have written or printed thereon, the office and names of each person to be voted for in the ward in which he resides.

**Elections, in case of tie.**

SECTION 6. All elections shall be by ballot for all officers to be elected for the city government, and a plurality of votes shall constitute an election. When two or more candidates for the same office shall have received an equal number of votes at any such election, the election shall be determined by the casting of lots in the presence of the common council at such time and place, and in such manner, as said council shall direct.

**Vacancies, how filled.**

SECTION 7. Whenever a vacancy shall occur in any city office except that of mayor, the said council shall have power to fill such vacancy by an appointment until an election shall be called, held, and some one elected to fill the balance of the unexpired term. But when a vacancy shall occur in the office of mayor, the

said council shall, by resolution, within ten days after such vacancy shall be known, order a special election to fill the vacancy.

SECTION 8. All elections shall be noticed at least six days prior to the time of holding the same, and the notice shall state the officers to be elected, the vacancy to be filled, if any, and the time and place of holding the same, and signed by the city clerk. Notice of election.

SECTION 9. When an election for city officers, as above provided, shall be closed, the inspectors shall immediately canvass the votes for each office in the manner required by law, and make out a statement of the result, stating therein the number of votes given for each and every office, and the number given for each person for each and every office, and certify to the same, and cause the same to be forthwith delivered to the city clerk, who shall file and record the same in full in a book of records of the city. Canvass of election.

SECTION 10. Any officer of the city removing therefrom, or any ward officer removing from the ward from which he shall have been elected or appointed, or any person who, being elected or appointed to any such office, who shall refuse or neglect to qualify and enter upon the discharge of his duties, shall be deemed to have vacated such office, and the said common council shall proceed to declare the office vacant, and fill the same by appointment of some one in the same ward where the vacancy occurs, or in case of the mayor, to order a special election, as is provided in section seven of this chapter. When office declared vacant.

SECTION 11. Special elections may be called by resolution of the said council to fill the vacancy in the office of mayor, or in case of vacancy for the election of any other elective officer, or other purpose within the powers belonging to such municipal corporations, on petition of at least fifteen resident freeholders of the city, naming the purpose; and when so called, notice thereof shall be either published or posted up in at least four of the most public places in the city, at least ten days prior to the time of holding such election, and the notice shall specify the purpose for which such election is called, and be signed by the city clerk. Special elections.

### CHAPTER III.

#### OFFICERS: THEIR POWERS AND DUTIES.

SECTION 1. Every person elected or appointed to any office under the provisions of this act, except jus- Oath of office, and bonds.

tices of the peace and constables, shall, before he enters upon the duties of his office, take and subscribe the usual oath of office, within seven days after his election or appointment or notice thereof, and file the same with the clerk of the city; and the treasurer, clerk, marshal and such other officers as the common council shall direct, except justices of the peace and constables, shall, severally, before they enter upon the duties of their respective offices, execute to the city of Oconomowoc a bond, with at least two sureties, who shall swear that they are worth in the aggregate the penalty specified in said bond, over and above all debts, exemptions or liabilities, and said bonds shall contain such penal sum and such conditions as the common council shall deem proper, and said council may, from time to time require additional bonds from any such officer, and remove him from office in case of his failure or neglect to give the same.

Powers and  
duties of  
mayor.

SECTION 2. The mayor shall, when present, preside over all the meetings of the common council, and take care that the laws of the state and the ordinances of the city are duly observed and enforced, and that all other executive officers of the city discharge their respective duties. He shall, from time to time, give the common council such information, and recommend such measures as he may deem advantageous to the city. The mayor shall be the chief executive officer, and head of the police of the city, and in case of riot or other disturbance or apparent necessity, he may appoint as many special or temporary policemen as he may deem necessary. The mayor shall have a vote in all cases in the council. The mayor shall have power to suspend any police officer or watchman, for cause, until the council shall take up the case and dispose of it, which shall be done within ten days after such suspension, and the mayor shall fill this temporary vacancy for the time being. The mayor shall, at the first meeting of the common council, on the second Tuesday in April of each year, make out and hand in to said meeting the standing committees of the year, on the following subjects; who shall be good practicable men, as far as possible, on the subjects, and shall consist of three aldermen, and one from each ward, if suitable, to wit:

Standing com-  
mittee.

- 1st. On streets and sidewalks.
- 2d. On finances.
- 3d. On licenses.
- 4th. On ordinances.

5th. On fire department and lock-up.

Which shall be entered in the proceedings of the said council.

SECTION 3. At the first meeting of the common council in each year after the charter election, it shall proceed to elect, and elect by ballot, one of its number president; and in the absence of the mayor, the president shall preside over the meetings of the common council, and during the absence of the mayor from the city, or his inability for any reason, or in case of vacancy of the office, to discharge the duties of his office, the president shall exercise all the powers and discharge all the duties of the mayor. In case the mayor and president shall be absent at any meeting of the common council, it shall proceed to elect a temporary presiding officer, who, for the time being, shall discharge all the duties of mayor. The president or temporary presiding officer, while performing the duties of mayor shall be styled acting mayor, and all acts performed by either in such case or cases, shall have the same force and validity as if performed by the mayor.

President of council.

SECTION 4. The clerk shall keep the corporate seal of the city; he shall within five days after the election or appointment of any city or ward officer, notify such person so selected of his election or appointment, and he shall transmit to the county clerk within ten days after election or appointment, a statement of the name and term of office of the mayor, clerk and treasurer; and to the clerk of the circuit court immediately after their election or appointment and qualification, a like statement of the name of each justice of the peace and of each marshal or constable, and the term of office of each. He shall keep a record of the proceedings of the common council, and be clerk thereof and sign the same as such, and also sign all ordinances, rules, by-laws, resolutions and regulations adopted by said council, and also all licenses, commissions and permits granted or authorized by them; he shall give notice of all elections as heretofore pointed out; he shall keep full minutes of all elections of the city and ward officers, and record the statement of the result made by the inspectors, and record all ordinances, rules regulations and by-laws, after the same shall have been published as required by this act, and have proper proof of such publication duly made and attached to such ordinances, by-laws and regulations, before recording; he shall keep a record of all the finances of the city, and charge up against the treasurer of the city

Duties of city clerk.

all moneys which shall come into his hands, as soon as he receives the same from time to time, and also keep a list of all orders issued against said treasurer, draw and countersign the same when duly ordered or authorized, and none other; he shall safely keep and file all papers belonging to his office, and safely keep all books, or other property belonging to or deposited in his office, and deliver the same to his successor, and to permit any person with proper care to examine and copy any of the same, and to make and certify the same as required by law, on payment of the same fees allowed to town clerks for the same; and he shall perform all other duties required by law, or by any ordinance of the city, or direction of the common council. The city clerk shall have full power and authority to administer oaths or affirmations, and to certify to the same by virtue of his office. The said clerk shall receive such compensation as the common council shall provide; and he shall calculate and carry out in the blank tax lists of the city in duplicate all taxes raised by resolution of the common council, and attach thereto the usual warrant for its collection, which tax list shall be, in all cases, made up from the last annual assessment roll as corrected and finished by the board of review, in accordance with the general laws of the state and the provisions of this act.

Duties of city  
treasurer.

SECTION 5. The treasurer of said city shall perform such duties and exercise such powers as may be lawfully required of him by this act, and the ordinances of said city or the laws of this state. It shall be his duty to collect and receive all moneys belonging or accruing to the city from any source whatever except highway taxes, or directed by law to be paid to him, and to pay out the same only on the written order of the officers authorized by this act to issue the same. He shall keep an accurate account of all moneys or other things which shall come into his hand as treasurer, in a book to be provided for that purpose, showing when, from whom and for what it was received, and when, to whom and for what it was paid out; and he shall prove the same by the vouchers on which the various sums were paid from time to time, as the common council shall require; and as often as it shall require, the said treasurer shall render to said council a minute account of the receipts and disbursements of his office, and at the expiration of his office, he shall hand over to his successor all moneys, books, papers, vouchers, and other property in his possession belonging to the city. The



said treasurer shall, except as otherwise herein provided, be collector of all taxes either for the city, county or state, and he shall have the same powers, be subject to the same liabilities as treasurers of the towns in the state, and also have the same fees, unless the common council shall otherwise fix the total amount of the same previous to his election or appointment.

SECTION 6. The assessor of the city shall assess the property thereof under the general laws of the state, and be governed thereby, be subject to the same liabilities and duties, and have and possess the same powers as assessors of the several towns of the state; and all the property of the city shall be assessed by him in the same manner as required by the laws of the state.

Duties of assessor.

SECTION 7. The justices of the peace, elected under this act or temporarily appointed under the same, shall give the like bond and qualify, have the same power and jurisdiction, perform all the duties, be subject to the same liabilities, have the same fees, and be governed by the same laws in every respect, as provided by the general laws of the state for justices of the peace in the several towns of the state, except that the bonds given by said justices shall have the sureties therein approved by the mayor of the city; and in addition, the said justices of the city shall each have exclusive jurisdiction and cognizance in all cases arising under this act and the ordinances, resolutions, by-laws or regulations passed by the common council of the city, unless otherwise provided, and have similar fees in all cases as justices of the towns for like services.

Powers and jurisdiction of justices of the peace.

SECTION 8. The constable elected or appointed under this act shall have and exercise the same powers and duties, be subject to the same liabilities, give a like bond, take a like oath, and have the same fees as constables of the several towns of the state.

Powers of constables.

SECTION 9. The marshal of the city shall attend all the meetings of the common council, unless excused by the council, and he shall possess all the powers of constables and be subject to the same liabilities; and in addition, he shall perform all such duties as the common council shall from time to time direct or prescribe; see that all the ordinances of the are obeyed; all fines, penalties and forfeitures and license moneys are paid as they shall become due and payable; execute and return all writs or processes put into his hands, and when necessary, in criminal cases or for the violation of any ordinance of the said city, may pursue

Duties of the marshal.

and serve the same in any part of the state. It shall be his duty to suppress all riots, disturbances and breaches of the peace, or boisterous noises contrary to any ordinance; to remove or cause the removal of all obstructions in the streets or alleys of the city; to abate or cause the abatement of all nuisances in said city; to arrest, with or without process, any person in the act of committing any offense against any ordinance of the city or any law of the state; and he may command all persons present in such case to assist him therein, and without delay to bring such offending person before competent authority for examination or trial, as the case may be; and if any person so commanded in such case, who being able, and without good cause, shall refuse to render such assistance, he shall forfeit a sum not exceeding twenty-five dollars, to be collected in the same manner as other penalties are collected. The said marshal shall have the same fees as constables for like services, and for other services rendered to the city such compensations as the common council shall fix: *provided*, that the sheriff of the county or any of his deputies or any constable thereof, shall have and possess all the powers and authority herein conferred upon the marshal of the city in arresting or serving process for the violation of this act or of any ordinance of the city.

Council may require further duties of officers, and fix compensation of the same.

SECTION 10. The common council shall have power, from time to time, to require other and further duties to be performed by any officer of the city, and to appoint such other officers as may be necessary to carry into effect the provisions of this act, and to prescribe their duties, and to fix by resolution the compensation of all officers of the city whose services are not paid for in fees established by the laws of the state, which compensation shall be fixed at the creation of the office or at the commencement of the year, and shall not be increased or diminished during the term of the officer so created, elected or appointed.

Penalty for refusal to deliver city property to successor.

SECTION 11. If any person, having been an officer of said city, shall refuse or neglect for three days after being requested to deliver possession to his successor in office any or all books, papers, moneys, effects or other property belonging to said city and pertaining to the office he may have held, he shall forfeit and pay a penalty of one hundred dollars to the use of said city, besides all costs or other damages caused by his neglect or refusal to deliver over the same to his successor; and such successor may and it shall be his duty to

prosecute and recover possession of such books, papers, moneys, effects or property in the name of the city and in the manner prescribed by the laws of this state.

SECTION 12. It shall be the duty of each street commissioner, within ten days after his appointment and qualification, to inspect all the streets in the city, and all sidewalks, crosswalks, ditches, gutters, sewers, culverts, bridges, and all things and matters appertaining to the streets, and report in writing to the common council, recommending in his opinion what is necessary and ought to be done thereto, in separate items, in the order of the first, second and third necessity, and so on to the end of his recommendations, under item number one for the first necessity, item number two for the second necessity, and so on, and he shall make and keep a duplicate of his report. On receipt of said report the common council shall consider the same, adopt the whole or any part thereof, add to, amend, strike out or change the order of any item, as it may deem best, and as soon as acted upon in full, the city clerk shall certify to said commissicner the action of said council therein.

Duties of street commissioner.

SECTION 13. As soon as said commissioner shall have received the highway tax list, he shall proceed as provided by chapter six of this act, to collect all the taxes on his list, and apply the same in repairing, graveling or grading the streets in the city, in accordance with his report, as modified by said common council, under a strict supervision of the street committee, who may also modify the work to be done, from time to time, as the condition of the streets or other necessities may seem to require, until said council shall otherwise determine what shall be done.

Street tax.

SECTION 14. No street commissioner shall contract for, or create any greater expense in any one year than can be paid for out of the highway tax list in his hands for collection, unless it be specifically and duly ordered by said council, or in case of a street becoming impassable, when the street committee shall direct what shall be done.

Expenses for streets limited.

SECTION 15. No officer of the city shall be in any way interested in any contract, job or work of any kind, in the city, let or to be let, done or performed by or with the city; and any such officer who shall violate this section shall forfeit and pay a fine not to exceed two hundred dollars nor less than one dollar, together with all damages resulting to the city from such violation, and the costs of the suit, to be recovered as other

No officer to be interested in city jobs or contracts.

penalties or forfeitures are collected; and any such violation shall be a cause of removal from office also.

SECTION 16. Any officer of the city who shall neglect or refuse to perform any of the duties required of him, either by this act or by any ordinance of the city, shall be removed from his office by the common council, as provided by section four of chapter two of this act.

#### CHAPTER IV.

##### GENERAL POWERS AND DUTIES OF COMMON COUNCIL

Common council.

SECTION 1. The mayor and aldermen shall constitute the common council for the city of Oconomowoc, and shall not receive any compensation for their services, and all ordinances shall be entitled in this title: The common council of the city of Oconomowoc do ordain as follows: The said council shall meet at such regular times and place, as it by resolution shall direct, and special meetings may be called by the mayor, or the president, when the mayor shall be absent and the business to be done urgent, on notices to be personally served to each member, or left at his usual place of abode, either by the marshal, or in his absence by any member of the council, at least twenty-four hours prior to the time of meeting. A majority of the council shall constitute a quorum, but a less number may adjourn from time to time.

Annual meeting.

SECTION 2. The said council shall hold its first annual meeting on the second Tuesday in April of each year, at the usual place and time of day for such meetings, and it shall determine the rules of its own proceedings, and be the judge of the election and qualification of its own members, and have power to keep order and compel the attendance of absent members, and all meetings shall be open to the public.

Powers and duties of common council.

SECTION 3. The common council shall have the control and the management of the finances of the city and of all other property thereof; and in addition to the powers otherwise vested in it, it shall have full power by ordinance, resolution or by-laws:

May hold and convey real estate.

1. To receive, purchase and hold for the use of the city any estate, real or personal, and to sell, lease and convey the same.

Procure books, etc.

2. To limit and define the duties and powers of officers and agents of the city, fix their compensation, and fill vacancies where no other provision is made by law, and to call special elections in the case or cases herein provided for.

3. To procure books and records required herein or otherwise to be kept by the offices, and such other furniture, property, stationery and printing as shall be necessary for the city purpose. Procure books, etc.

4. To provide for the prosecution or defense of all actions or proceedings in which the city is interested, and employ counsel therefor.

5. To control and protect the public buildings, property and records, and insure the same.

6. To cause a new and accurate survey to be made of all the lots in said city according to the deeds thereof, and of the streets, alleys, public grounds or other places, and cause to be established permanent landmarks or monuments, and also to cause an accurate plat or plats thereof, and a renumbering of the lots and blocks of the city to be made and certified by the surveyor, and also cause such consolidated plats to be recorded in the register's office of the county of Waukesha. May cause new surveys.

7. To establish a fire department; to appoint the officers and members thereof, and prescribe their duties; to provide protection from fire by the purchase of fire engines and all the necessary apparatus for the extinguishment of fires, and by the erection of pumps and construction thereof, water mains, reservoirs or other waterworks; to erect engine houses; to compel the inhabitants of the city to aid in the extinguishment of fires and to pull down and raze such buildings in the vicinity of fires, as shall be directed by them or any two of them, who may be at the fire, for the purpose of preventing its spreading to other buildings; to establish fire limits, within which wooden or other combustible buildings shall not be erected; to require the owner or occupants of buildings to provide and keep suitable ladders and fire buckets, which shall be appurtenances to the reality and exempt from seizure, and forced sale, only with the reality to which it is attached; and after reasonable notice to him or them, and refusal or neglect by either to procure and deliver such buckets and ladders to such owners or occupants, and in default of payment therefor to levy the cost thereof as a special tax upon such real estate, to be assessed and collected against the same as other taxes are collected in said city; to regulate the storage of gunpowder and other dangerous materials; to require the construction of safe places for the deposit of ashes; to regulate the manner of putting up stove pipes or other heating apparatus, and the construction and cleaning Establish a fire department.

of chimneys; to prevent bonfires, and the use of fireworks and firearms in the city or any part thereof; to authorize fire wardens at all reasonable times to enter into and examine all dwellings, lots, yards, inclosures and buildings of every description, in order to discover whether any of them are in a dangerous condition, and to cause such as may be dangerous to be put in safe condition; and generally to establish such necessary measures for the prevention or extinguishment of fires as may be necessary and proper.

Lay out and  
open streets.

8. To lay out and establish, open, change, widen or extend streets, alleys, sewers, parks, squares or other public grounds, and grade, pave, improve, repair or discontinue the same, or any part thereof, or to establish and open drains, canals or sewers, or alter, widen or straighten watercourses in the manner provided by and in accordance with the provisions of sections eight hundred and ninety-five to nine hundred and four, inclusive, of chapter forty of the revised statutes of this state, and of the general laws of the state.

Running at  
large of cattle,  
etc.

9. To restrain the running at large of cattle, horses, mules, sheep, swine, poultry and other animals, and to authorize the distraining, impounding and sale of the same; to establish pounds and regulate and protect the same; to require the owners or drivers of horses, oxen or other animals, attached to vehicles or otherwise, to fasten the same while in the streets or alleys of the village; to prohibit the hitching of horses, teams or other animals to any fence, tree or pump, and to prevent injury to the same; to regulate and control the running of engines and cars through the city, and the rate of speed of the same; to prevent the running at large of dogs, and to authorize the destruction of the same in a summary manner when at large contrary to the ordinance; and license public porters, solicitors or runners, cartmen, hackmen, omnibus drivers and guides, and to establish rules and regulations in regard to their conduct as such, and to prevent any unnecessary noise or disturbance during the arrival or departure of persons in public conveyances.

10. To establish and regulate markets, and restrain sales in the streets.

Cemetery  
grounds and  
parks.

11. To purchase and hold cemetery grounds, within or without the city limits; to inclose, lay out and ornament the same, and to sell and convey lots therein by deed; to establish public parks and walks, inclose, improve and ornament the same, and prevent the encumbering of or obstruction or injury to or in the same;

and to provide for and regulate the setting of shade and ornamental trees in the street and in and around the cemeteries, public parks and walks of the city, and for the protection thereof.

12. To prevent or license and regulate the exhibi- Shows, etc.  
tions of caravans, menageries, circuses, theatrical performances, or shows of any kind; to prevent or license and regulate the keeping of billiard tables, pigeon-hole tables and bowling saloons; to suppress and restrain or license and regulate mounte banks and auctioneers; to establish rates for license, and regulate the traffic of all hawkers and peddlers, according to the general laws of the state, as provided by sections one thousand five hundred and eighty-four *a*, and one thousand five hundred and eighty-four *b*, of the revised statutes, of pages four hundred and seventy-four and four hundred and seventy-five; to prevent or license and regulate the sale of malt, ardent or intoxicating liquors, as are conferred by the general laws of the state; and in all such cases, it may fix the price of such license, prescribe the term of its continuance, and may revoke the same when in violation of the ordinance on the subject; but the term of no such license shall extend beyond the term of office of the common council granting the license.

13. To provide for the planting, pruning and pro- Shade trees.  
tection of shade trees in and about the streets.

14. To prohibit and suppress all kinds of gaming, Gaming.  
gambling and fraudulent devices and practices, and to provide for the seizure and destruction of all instruments and devices used for the purpose of gaming; to suppress and prevent fights, riots, noises, disturbances, disorderly conduct, assemblages or houses, houses of ill-fame, immoderate drinking, drunkenness, vagrancy, obscenity, lewdness and prostitution, within the limits of the city; to regulate public places of bathing and swimming, or prohibit and prevent such bathing and swimming within the city.

15. To purchase, build, or lease, and maintain and Watchhouse.  
regulate a watch house, lock up, or place for the confinement of offenders against the ordinances or by-laws, and for temporary detention of suspected persons.

16. To appoint a board of health, which have all Board of health.  
the power of such boards under the general laws of the state; to provide hospitals, and regulate the burial of the dead and the return of bills of morality; to declare what are nuisances of all kinds, and to prevent and

abate the same; to require the owner or occupant of any grocery, cellar, tallow chandler's shop, soap factory, tannery, stable, barn, hog-pen, privy, sewer, or other unwholesome or nauseous house, building or place, to remove or abate the same, or to cleanse the same as often as may be deemed necessary for the public health; to direct the location and management of slaughter-houses, subject to the provisions of section one thousand four hundred and eighteen of the revised statutes of this state; to prevent persons from bringing, depositing or leaving within the city any putrid carcass, or other unwholesome substance; to require the owners or occupants of lands to remove dead animals, stagnant water, or other unwholesome substances from their premises; and to provide for the cleansing and removal of obstructions from any river, stream, slough or water course within the limits of the city, and to prevent the obstruction or retarding of the flow of any of the waters therein, and to prevent and punish any person for putting or leaving in any such waters, lakes or ponds in the city any dead animal or fowl, or any other unwholesome substance which may be prejudicial to the health of the city.

Public wells.

17. To make and regulate the use of public wells, cisterns and reservoirs.

Lighting the city.

18. To erect lamp posts and lamps, and provide for lighting any portion of the city or streets thereof, by gas or otherwise.

Policemen, night watch, etc.

19. To appoint policemen, night watchmen, and superintendent of police, and to prescribe their duties and by-laws for their government.

Levy and collection of taxes.

20. To levy and provide for the collection of all taxes and assessments needed for the city government, and to audit all claims and demands against the city, except against highway fund, and to direct orders to issue therefor in the manner prescribed in this act; to refund any tax or special assessment paid, or any part thereof, when satisfied that the same was unjust or has become unjust or illegal; to authorize the bonds of the city to be issued in the cases provided by law, and generally to manage the financial concerns of the city; and it shall cause to be prepared and published at the close of each year in April, a true detailed and itemized statement of the finances of the city for the year ending with its last meeting for that year, showing the amount in the treasury at the commencement of the year, and the amounts received during the year and from what sources and for what purpose; and for what



purpose all the moneys were paid out from the treasury during that year, and the balance in the treasury after paying off all claims audited and allowed that year, which statement shall be filed and kept in the office of the city clerk for the inspection of all the people of the city.

21. To ordain and establish, amend and repeal all such ordinances, by-laws, resolutions or regulations for the government and good order of the city, the suppression of vice and immorality, the prevention of crime, the protection of public and private property, the benefit of trade and commerce, and the promotion of health and prevention of the spread of contagious diseases in the said city, as the said common council shall deem expedient, and which shall not be inconsistent with the constitution and laws of the United States, or of this state; and to determine and establish by ordinance the mode of procedure, and what shall be deemed sufficient to allege and prove, in order to make out a prima facie case in violation of any ordinance of the said city.

22. To provide for the removal or abatement of any nuisance caused by stagnant water standing upon any lot or lands within the said city, when said stagnant water shall be deemed by the said council to be injurious to the health of any portion of said city, and on complaint being made to said council to that effect, signed at least by two or more reputable physicians in actual practice in said city, and by at least six resident freeholders in and about the vicinity of said stagnant water; and thereupon the said council may in the ordinance declaring said nuisance, direct that said nuisance be abated or removed by filling or draining by a proper sewer, or both, such lot, lots or lands, by the owners or occupants thereof, within such reasonable time as shall be deemed practical by said council, and on the failure of any such owner or occupant to so abate the same within said time, the said common council may order and cause the same to be so abated at the expense of the owners or occupants of such lot, lots or lands, or at the expense of both such owner or occupant and of such other persons interested or affected by such nuisance, or by the construction of any such sewer as may be deemed equitable and lawful between all the parties, to be determined by said common council.

SECTION 4. All by-laws, resolutions and regulations of said county shall be passed by an affirmative vote of a majority present, and shall be signed by the mayor and countersigned by the clerk, and be in force

after so signing and passage, and shall then be recorded by said clerk in a book to be provided for that purpose. And all ordinances shall be passed by a majority of the common council present, and shall be signed by the mayor and countersigned by the city clerk, and shall be in force only after the expiration of fifteen days after the first publication or posting up of the same as hereinafter required. All such ordinances, before they shall have any force, shall be published in some newspaper published in said city, for two successive weeks, by three insertions successively in such weekly paper; or in lieu of such publication there shall be posted up by said city clerk, in four public places in said city, by the city clerk, four several copies of the ordinances so passed and signed; and after the same shall be so posted or published, each shall have attached thereto the usual proof of such publication, or of posting as the case may be; and all such ordinances shall, after being so published or posted for fifteen days, and so, as above proved, be recorded in full, with the proof of such publication or posting, by said city clerk, in a book of ordinances to be provided by said city. And all such ordinances so recorded, or so published, posted and proved, or certified copies of the same by the city clerk, shall, at all times and places, be deemed and taken to be prima facie evidence of their passage and of the time and manner of the publication or posting of the same, and shall be received by all courts as evidence of the facts therein contained, and of what they purport to be.

Prescribe penalties.

SECTION 5. The said common council shall have power to prescribe penalties for the violation of any ordinance or by-law, to be not less than one dollar nor more than two hundred dollars in any case, besides the costs of suit in all cases; and in default of payment to provide for committing the person convicted to the watch-house or lock-up of the city, or to the county jail until payment be made, but not to exceed ninety days in all, in any one case.

Profile of land taken to be filed.

SECTION 6. Whenever any land shall be taken in pursuance of subdivision eight of section three of this chapter, the common council shall cause an accurate survey and diagram or profile thereof, to be made and filed in the office of the city clerk.

Printing let to lowest bidder.

SECTION 7. All printing and publications required by this act or by the common council, shall be let to the lowest bidder therefor, who shall be required to give bonds with such conditions and such sureties as the said council shall determine and require.

SECTION 8. Whenever the city clerk may be absent and not attend any meeting of the common council, said council may appoint one of its own number clerk pro tem. Clerk pro tempore.

## CHAPTER V.

### FINANCES AND TAXATION.

SECTION 1. There shall be raised, if necessary, by the common council, each year, three funds, known as the highway fund, the general fund and the poor fund, and such other temporary funds for building new and expensive bridges, or for such other expensive improvements or purposes, as may be needed or authorized by law; and the clerk of the city, and also the treasurer thereof, shall keep all their accounts of the city in these three funds, regularly and yearly, and in such other temporary funds as the resolution raising them shall declare the purpose to be; and the resolution of the said council raising any money by way of taxation upon property as assessed shall declare the amount to be thus raised for the fund or purpose for which it is to be created; and all orders drawn upon any of these funds shall designate the fund out of which it is to be paid, and in short the purpose thereof, and be signed by the mayor and countersigned by the city clerk; and the treasurer shall not pay out any money from any fund except the one upon which it is drawn, unless upon specific direction by resolution of the common council, which shall be informed immediately by said treasurer when any fund shall be exhausted. Finance and taxation.

SECTION 2. For all general purposes, the said moneys to be thus raised shall be raised by said council on or before the third Monday of November of each year; except that in case the highway taxes shall be raised in the spring of the year, then the said council shall adopt such resolution on or before the last day of April of each year. Raising of money.

SECTION 3. All moneys thus determined to be raised by said council in November of each year shall be calculated by the city clerk, and carried out in the annual tax list of that year, together with the state, county and school taxes annually apportioned to the city, to be raised therein, and the said clerk shall also insert in the appropriate column for that purpose, in said tax list, all apportioned school district taxes and all unpaid and returned highway taxes for that year, or other taxes authorized by law to be so inserted there- Annual tax list.

in, and the same shall be assessed or so inserted against each item of property, real or personal, in said tax list, as the same appears from the last equalized assessment roll of said city; and before a delivery of said tax list to the city treasurer, the said clerk shall make a copy of said list and file it in his office. And the city treasurer shall, on receipt of such tax list, as required by law, collect all the taxes so raised and assessed in said list in the same manner, and have the same powers and authority, be subject to the same duties and penalties, have the same fees, retain and pay over to the county treasurer all moneys, and make the like return of his tax list, and of all unpaid taxes, as town treasurers are required, authorized and governed by the general laws of the state.

**Auditing and allowing claims.**

SECTION 4. All accounts, claims or demands for damages against the city, except as otherwise herein provided, shall be made out against the city in the usual form, in favor of the person to whom it is due, and if required by the common council, shall be duly verified by the owner thereof, or by some person in his or her behalf, and shall first be submitted to the action of and for allowance of the same by the said common council of the city, at least thirty days before any suit shall be brought against the city on any such claim or demand against it.

**Disallowed claims.**

SECTION 5. When any such claim or demand against the city shall be disallowed, in whole or in part, by said council, such owner may appeal from such disallowance to the circuit court for the county of Waukesha, by causing a written notice of such appeal to be served on the city clerk within thirty days after such disallowance, and executing to said city a bond with such surety or sureties as the said clerk shall approve, or county judge or court commissioner, conditioned for the faithful prosecution of such appeal, and for the payment of all costs that shall be adjudged against such appellant by the court rendering such judgment.

**Appeals taken.**

SECTION 6. The said clerk, upon such appeal being taken, shall immediately give notice thereof to the mayor of the city, who shall cause a meeting of the common council be held, if necessary, on the subject, prior to the next regular meeting, and bring the subject up at the very next meeting of said council for action. And the said clerk shall also, within twenty days after said notice shall have been served upon him, make out and file with the clerk of said circuit court

a brief return of the proceedings had by said council on said claim or demand, together with said notice of appeal which return shall show how much the said appeal was taken for, and how much was allowed or disallowed, and the full amount of the original claim or demand, and what for. And thereupon such appeal shall be entered on the calendar, of said court, and tried and determined therein in the same manner as appeals from justices of the peace are tried for claims where there is a new trial: *provided, however*, no costs shall be rendered against the city, unless the appellant shall recover, exclusive of costs and interest, more than was allowed by said council. And in case no such judgment shall be rendered against the city, a judgment for costs shall be rendered against the appellant, and the amount allowed by said council shall be deducted from the amount of the costs taxed, and execution shall issue against the appellant and his sureties for the balance.

SECTION 7. No action shall be maintained by any person against the city of Oconomowoc upon any claim or demand other than a city bond or order, unless such person shall first have presented his claim or demand, or account duly verified, to the said common council for allowance. The determination of the said council, disallowing in whole or in part any such claim or demand, shall be final and conclusive, and a perpetual bar to any action on the same, unless an appeal shall be taken as hereinbefore provided, or unless on consent of the common council and the claimant: *provided, however*, that when the said council shall refuse to act, or neglect to act for thirty days on such claim or demand after it shall have been duly presented to it for action, the claimant may institute an action against the said city to recover the amount of his claim or demand.

Claims and demands.

SECTION 8. The building of all new bridges or expensive repairs thereof, shall be let to the lowest bidder therefor, and upon such specification as shall be deemed best by the common council.

Building new bridges.

## CHAPTER VI.

### OF HIGHWAY TAXES AND THEIR COLLECTION.

SECTION 1. The common council of the city shall annually in the month of April, raise a tax upon all taxable property in the city for highway purposes, which tax shall not in any one year exceed five mills

Highway taxes and their collection.

on the dollar valuation of the last assessment roll of the city.

**Poll tax.**

SECTION 2. Every male inhabitant of the city, being over the age of twenty-one years and under the age fifty of years, except such as are exempt by law, shall be assessed and pay a poll tax of such sum of money as is usually paid for like services in and about the city, or one day's work on the highways of the city, under the direction of the street commissioner.

**Taxes collected to be expended in repair of streets.**

SECTION 3. The amount of both such taxes or assessment, shall be collected by the said street commissioner, and expended in repairing, grading and graveling the streets of the city under the direction of the common council and the necessities of the streets, in the order as far as may be of the street commissioner's report, as modified by said council from time to time, or the street committee, as hereinafter provided.

**Highway tax tax.**

SECTION 4. Within twenty days after said tax shall be voted to be raised by said common council, the city clerk shall make out the highway tax list upon blank books in duplicate, to be furnished by the city in the form prescribed by the laws of the state for such lists to be made by the supervisors of the several towns of the state. The said lists shall contain, 1st. The names of all persons liable to pay a poll tax in the city. 2d. The name of each person assessed for personal property, and the amount of each assessment opposite each name as appears upon the last tax roll. 3d. The description of all lots and parcels of land within the city, and the valuation of each opposite to each description, with the name of the owner or occupant thereof, as the same shall appear on the last preceding tax roll; and if such lot or tract was not separately described in such roll, then in proportion to the valuation which shall have been affixed to the whole tract, of which such lot or parcel formed a part. And the said clerk shall affix in the proper column of said lists the true amount of tax upon each person and upon each item of property thus assessed opposite to each such person and item of property, in accordance with the resolution raising the tax.

**Poll tax list.**

SECTION 5. On or before the fifteenth day of May of each year, the said street commissioner shall ascertain and make out a correct list of all persons in the city liable to pay a poll tax, certify to the same, and file it with the said city clerk, who shall place in said tax list the names of all such persons whose names do

not appear on the last tax roll of the city, and affix the tax to each in the proper column.

SECTION 6. On or before the twentieth day of May of each year, the said clerk shall annex a warrant to each of said lists, in the following form, viz: Form of war-  
rant.

'To the street commissioner of the city of Oconomowoc:

You are hereby required to collect from the several persons and corporations named in annexed tax list, and from the owners of the real estate described therein, the taxes set opposite to such persons, corporations and property, within the time limited by law, and to apply the taxes by you collected in repairing, graveling or grading the streets as authorized by law, and also to make due returns as the law requires.

Dated the — day of —, 18—.

\_\_\_\_\_, Mayor.

\_\_\_\_\_, City Clerk.

Which shall be signed by the mayor and city clerk, and one of which shall be delivered to the said street commissioner and the other kept and filed in the office of the city clerk, on or before the day above mentioned.

SECTION 7. The names of persons left out of any such highway tax list, and who ought to have been included therein, and of new inhabitants who have not been assessed and paid such tax in any other place, shall from time to time be added to the several lists and assessed by the street commissioner on their polls, and in proportion to their taxable property as others are assessed, in the judgment of said commissioner, subject to an appeal to the common council of the city. Correcting tax  
list.

#### COLLECTION AND APPLICATION OF HIGHWAY TAXES.

SECTION 8. It shall be the duty of the said street commissioner between the fifteenth and thirtieth days of April of each year, to call on the city treasurer and demand of him all moneys accruing from returned highway taxes in said city, or from moneys paid into the city treasury by a former street commissioner; and the said treasurer shall pay over the amount thus obtained, take a receipt therefor, and file it with the city clerk, who shall credit it to the city treasurer, and charge it up against the said commissioner, as well as the amount in the highway tax list. Collection and  
application of  
highway taxes.

SECTION 9. Every street commissioner shall cause two-thirds of the highway tax assessed in the city each year, to be worked out on or before the first day of Proportion to  
be worked out.

July, of each year, and commence such work as early as possible each year, and the balance and sufficient shall be left to do the ordinary work for the balance of the year, of patching up bad places here and there, removing all filth, snow drifts, or other obstructions in the streets, clearing of the public crossings, sidewalks built by the city, and all such other work as may be necessary to keep the streets in the city in good passable condition and free from filth.

Manner of collecting taxes.

SECTION 10. The said street commissioner shall proceed and collect the said highway taxes on his tax list in the same manner, and with the same authority in all respects (except as herein otherwise modified), as is prescribed for, and govern overseers of the several towns of the state by the general laws thereof. But the said street commissioner, shall keep an accurate account of the collection of said taxes in a book to be provided by said common council, stating therein the name of each person who pays such tax against him, the date when paid, and the amount paid in money, and the amount paid in labor, and by whom; which book shall be held for the inspection of the street committee, or of said council or any other citizen of the place at any and all reasonable times, and shall also be returned by said street commissioner and filed in the clerk's office of the city at the time he renders his annual account to the common council in March of each year.

Notification of tax due.

SECTION 11. The said street commissioner shall notify, or cause to be notified by his assistant commissioners, in case he has such, as many persons as near the work to be done, as he can conveniently find them, and as many as he may judge he can profitably employ on the streets at any time he shall choose to work, and have a proper proportion of teams, shovelers or others which he may need, suitable to the work to be done; and all the prices shall be regulated by the usual prices paid in and about the city for like services or uses in such year, and in case any dispute shall arise as to what they are, the common council shall determine and settle them by resolution.

Neglect or refusal to pay tax.

SECTION 12. If any person assessed for a highway tax shall neglect to appear and work on the streets at the time and place and with the team, wagon, cart or other implement required in the notice given by the street commissioner, unless satisfactory cause shall appear to such commissioner for such neglect, he shall not thereafter be entitled to pay his highway tax as



essed for that year, or any part thereof, in labor, but shall thereafter be liable to pay the same in money; with five per cent. thereon added in case he refuses to pay the money on demand.

SECTION 13. Whenever any person shall become liable to pay his highway tax in money, the said street commissioner shall collect the same, demand payment thereof, and in case any such person shall neglect or refuse to pay such tax in money on such demand, such street commissioner shall levy the same with five per cent. added, by distress and sale of the goods and chattels of the person who ought to pay the same; he shall give public notice of the time and place of such sale and of the property to be sold, at least six days previous to the time of sale, by a notice thereof to be posted up in at least four public places in the city, and at the time and place fixed in such notice, he shall sell the same at public auction to the highest bidder; and if the property so levied upon and sold shall bring more than the amount of such tax with five per cent. added and costs of collection, he shall return the surplus to the person from whom the property was taken. And such street commissioner shall be entitled in such case of levy and sale, to have and receive the said five per cent., and the same fees as constables are authorized to receive for like services.

SECTION 14. All moneys collected or received by such street commissioner for highway purposes, shall be faithfully applied by him and expended in procuring labor, teams, wagons or other necessary implements and materials as heretofore pointed out, and under a strict supervision of said street committee, whose duty it shall be to examine the work done by said commissioner, every week during the months of May and June of each year, and as often as other work shall be done in other months of the year where any great amount of expense shall have been directed or become necessary, and also to examine and adjust all accounts before the same shall be paid by said commissioner once a week as above spoken of, and on such other times as may be reasonable for the wants of those who may be thus employed for money by said contractor.

SECTION 15. It shall be the duty of said commissioner to keep an exact account of every man employed whether for money or to pay a tax against him, designating which, and of the team, wagon or other implement used by him, and of all materials purchased, together with the price to be paid for each, showing

May sue for tax.

How moneys collected to be applied.

Accounts of street commissioner.

the time when each person worked, or when each implement was used or material was bought, and of whom; all of which shall be kept in large time-table pocket-books, to be procured at the expense of the city; and at the end of each man's account for the week as above spoken of, or other period of time for payment of the same, said book shall show the amount due to or worked out by each person up to that time, for which he shall be entitled to receive pay for the same, either on the tax list or in money.

Street committee to examine accounts.

SECTION 16. At the end of such times the said street commissioner shall deliver said book to said street committee, who shall carefully examine it, correct it in any respect if errors therein appear; or if any account shall be deemed to be wrong in it in any respect, it shall so note it, and in what respect, in red ink, and as thus examined, corrected and approved, it shall so write on the page in red ink, date it and sign it. And when this is done the said street commissioner shall, in the presence of said committee, give credit for the amounts thus allowed to each person, and mark on the tax list "paid" against the tax thus paid, and pay the balance in money to the persons thus entitled by such book thus approved. And in this manner shall the whole tax for highway purposes be kept, corrected, approved, allowed and paid: *provided, however,* the common council shall have power at any time to so modify the manner of auditing such accounts as time and circumstances may develop for the safety and proper expenditure of such moneys without loss to the city.

In case of controversy.

SECTION 17. In case any controversy shall arise between said commissioner, or any person to whom any tax shall be allowed or money to be paid, as provided in the next preceding section, and the said street committee, the matter shall be submitted to the action of the common council in the same manner as other demands or claims are to be submitted to it, as provided for in chapter five of this act.

Unpaid taxes.

SECTION 18. If said street commissioner shall not be able to collect any such highway tax on any real estate, he shall on or before the last Monday of November of each year, make out and deliver to the city clerk a statement in writing, containing a description of all the real estate in his tax list upon which the taxes remain unpaid, together with the tax assessed to each such description of land, and of the names of each owner thereof, it known. And he shall make and sub-

scribe an affidavit thereon, that the taxes mentioned in said statement remain unpaid. If such commissioner shall neglect to make and deliver such statement to said clerk as aforesaid, the common council shall, on that fact becoming known to it from the city clerk, send the marshal of the city to notify said commissioner to appear forthwith before said council to make and deliver such statement, or show cause why. And in case the said commissioner shall neglect or refuse to make and deliver such verified statement as required hereby, or show cause why, he shall forfeit and pay a fine to the use of said city, of not less than twenty-five nor more than one hundred dollars.

SECTION 19. On or before the first Monday of March of each year, the said street commissioner shall make out an account of all his doings as street commissioner for the past year, verify the same, and file it together with his tax list, and all books, with the time table books, upon which his accounts were kept, and on which the street committee's actions are found; which account shall show the names of all persons taxed on said list, the amount collected of each in labor, and also the amount collected of each in money; also the amount collected or received from the city treasurer or any other source; the amount returned uncollected; the amount not returned and not collected and from whom and the reason why, and also the name of each person to whom he has paid out such moneys, and the amount to each; and shall also show the amount of moneys in his hands unexpended.

SECTION 20. At the first meeting of the common council next after said return shall be made, the city clerk shall hand the same, with the returned list and such account on time table and all other books, over to the street committee, who shall, without delay, carefully examine the same to see if there are any errors, false entries, or other irregularities therein or otherwise, to the satisfaction of said committee, who as soon as may be, shall report thereon to the said council whether correct or incorrect, and if incorrect to state wherein, and all they know about it. And in case any such street commissioner shall neglect or refuse to make out and file such verified account as required by this act, or return and file his said tax list, or any time table or other book upon which his accounts were kept, with the doings of the said street committee thereon, as herein also required; and in case the said committee shall find his account incorrect, or shall find in any

Street commis-  
sioner to report  
annually.

Street com-  
mittee to ex-  
amine report.

other way that the said street commissioner shall have made a false return in his account, or shall have converted or paid out any moneys coming into his hands by virtue of his office to his own use, or that of any other person other than is required by this act, and the warrant under which he collected the taxes or other moneys, he shall forfeit and pay a fine to the use of said city not less than twenty-five nor more two hundred dollars; and he also shall be held on his bond, together with his sureties therein, to pay the amount of any such deficiency as can be proved against him, and all costs, into the treasury of the city. And the common council shall immediately cause suits to be brought against said street commissioner to recover said forfeiture and deficiency, with costs.

Moneys to be turned over to city treasurer.

SECTION 21. If, upon rendering such account, any moneys shall remain in the hands of such street commissioner, he shall immediately pay over the amount to the city treasurer, who, in case of neglect or refusal to pay the same, shall forthwith sue for and collect the amount so found due from said commissioner, or his sureties in the name of the city, to be applied when collected as provided in section eight of this chapter.

Fees of street committee.

SECTION 22. The said street committee shall be entitled to have and receive for its services, rendered by virtue of this chapter, such fees as the common council shall deem just.

## CHAPTER VII.

### OF GRADES, SIDEWALKS, PAVEMENTS, ETC.

Powers of council to change grades, etc.

SECTION 1. The common council of said city shall have power, by ordinance, to establish grades of any or all the streets in the city, and as hereinafter provided, to cause sidewalks, gutters and pavements to be constructed; and when a grade shall be established, it shall have such gradients as shall be sufficient to carry off all surface water, or other waters, from whatever source, coming on to such street or streets; and to change and re-establish the same in such manner as shall be deemed expedient for that purpose, and when so established it shall cause accurate profiles thereof to be made and filed with the city clerk, and all such grades shall be worked in exact accordance with such profiles and the ordinance establishing the same: *provided*, that whenever such grades shall be changed or altered after the same shall have been once established and worked, any person who shall have sustained damages in conse-

quence of such change or alteration, shall have a claim against the city for such damage; but no action shall be commenced against the city for the same until after such claim shall have first been made out and submitted to the action of the common council for allowance, in the same manner and for the same length of time as is provided in chapter five of this act.

SECTION 2. Every ordinance for either of the above purposes shall be introduced at least one week before the same shall finally be passed. But before any new sidewalk, gutter, pavement, or other expensive improvement shall be caused to be made by ordinance, a petition therefor shall be made to said council describing the purpose, signed by at least a majority of all the lot owners on such street or part thereof, not less than sixteen rods in length, adjoining the proposed improvement, and whose aggregate frontage thereon shall also be not less than one-half the whole length of the street to be improved. Construction of sidewalks, etc.

SECTION 3. Every such ordinance shall particularly describe the improvement to be made, and direct the time in which it shall be made, not less than forty days from the last publication of such ordinance, or sixty days from the day of posting the same in such case; and shall compel each lot owner to make the said improvement in front of his own premises, to the center of the street, in case of pavement, or other such improvement of the street, or only to furnish materials as designated in such ordinance, and lay down his own sidewalk or make the gutter, according to the ordinances, on the established grade for that purpose, after the same shall be graded by and at the expense of the city, out of the highway fund. Publication of ordinance.

SECTION 4. If the owner of any lot or piece of ground against which such improvement or sidewalk is to be made by such ordinance, shall not construct such sidewalk or make such pavement, gutter or other improvement, in the manner, out of the materials, and at or before the time designated, and according to the ordinance, the said common council shall cause such sidewalk to be built, or pavement, gutter or other improvement to be made forthwith, at the expense of the owner so being in default; and the street commissioner, or any person designated by said council, shall superintend, hire competent men, buy suitable materials, and cause, under the direction of said council, such sidewalk to be built, or such other improvement to be made, and shall keep an accurate account of the expense in full, street Where city may construct sidewalk.

commissioner's fees and all, against each person so in default, and make out a statement of the same against each, and after the said statement shall be duly verified by said street commissioner or other person so designated, he shall deliver the same to the city clerk, who shall in making out the next tax roll of the city after such delivery of statement, enter such unpaid expense in a column of such tax roll, opposite to the description of the land against which such sidewalk or other improvement shall have been made, which expense so entered shall be lien on said land the same as any other tax, and be collected the same as any other tax, and paid over and held by the city treasurer in the general fund of said city and paid out as such.

Repairing sidewalk, etc.

SECTION 5. Whenever a sidewalk or gutter shall be out of repair, and so remain for twenty-four hours, which, in the opinion of the street commissioner, will not cost exceeding ten dollars, in front of any one lot or piece of ground, and shall be dangerous to public safety or travel, it shall be the duty of the street commissioner to repair the same immediately, and certify the cost of the same against the owner of the lot or land to the city clerk, who shall enter the same in the next tax roll against the proper lot, as a tax, which shall be a lien thereon, and collect the same as is mentioned in the foregoing section.

Construction of sidewalk to be let to lowest bidder.

SECTION 6. The common council may, in its discretion, by an affirmative vote, let to the lowest responsible bidder the construction of any sidewalk or gutter, or the making of any other improvement on or along any street or highway in the city, which shall be so mentioned or called for in the petition as above spoken of for the same, or may also so let the building of any sidewalk or gutter, or the making of any improvement in such street, in case of any default in doing the same, in accordance with the ordinance mentioned in section three of this chapter authorizing the same, and the expense of doing such work and of making such improvement, shall be collected against each lot owner fronting on the same, on the verified statement of such bidder, in the same manner as provided in section four of this chapter.

Street committee to supervise all work.

SECTION 7. All the work mentioned in this chapter shall be done under the supervision of the street committee, and shall be approved by it before the same shall be accepted by said common council; and the cost and expenses of making all surveys taking all levels and making all plans, plots or profiles for such work shall be chargeable to and paid by the city.

SECTION 8. The common council shall also, on complaint being made by any person or to any member thereof, or on its own knowledge, or that of any member thereof, that any sidewalk already established in the city is so out of repair that the same is dangerous and unsafe for public travel, and the cost of such repair will exceed the sum of ten dollars, shall by resolution to be published not less than one week, authorize and compel the owner or owners thereof to rebuild and repair the same without delay; and in case any such owner neglects or refuses to so rebuild or repair such sidewalk within two weeks after such publication of such resolution shall have been made, the common council shall cause the street commissioner, or some other person designated by it, to rebuild or repair the same forthwith, and to certify the cost in full for the same against each lot so being in default, in the same manner as provided in sections four and five of this chapter, and the city clerk shall place the same in the next tax roll of the city in the same manner as therein provided: *provided*, that all kinds of real estate in the city, exempt by the laws of the state from taxation for general purposes, shall not be exempt from paying the taxes mentioned in this chapter, but shall be subject to and pay such taxes for such improvements, sidewalks and pavements, or repair the same as other real estate in the city, or the owners thereof shall cause the same to be done.

Defective sidewalks.

## CHAPTER VIII.

## PROCEEDINGS TO COLLECT PENALTIES.

SECTION 1. All actions brought to recover penalties or forfeitures under this act or the ordinances of the city, shall be brought in the name of the city of Oconomowoc, and the first process shall be by warrant, substantially in the form hereinafter prescribed, and founded upon written complaint under oath to any justice of the peace in said city, which complaint may be in the following form:

Of penalties.

COUNTY OF WAUKESHA, }  
CITY OF OCONOMOWOC, } ss.

Form of complaint.

—, being duly sworn, says that —  
—, on the — day of —, 18 —, at said city did violate section — of chapter — (of this act, naming the chapter and year passed; or of the ordinances of the city, or otherwise, describing the ordinance by its title), and prays that the said — may be ar-

rested and held to answer to the said city of Oconomowoc for such violation, and dealt with according to law.

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

Which complaint shall be made by any person knowing the facts or having good reason to know them, and before any person qualified by law to administer such oaths, and shall be the only complaint necessary to the trial, conviction and judgment in such cases. But the marshal or any constable may arrest the offender in all such cases without warrant when he knows of any such violation; and in all cases of such violations, the offender shall immediately, if in condition for trial and it is in usual time of day for such trials, brought before the justice of the peace who issued the warrant, or any other justice of the peace of the city in case there was no warrant.

Hearing of trial.

SECTION 2. And the said justice of the peace shall proceed in a summary manner to hear, try and determine the case as in other trials before justices of the peace in criminal cases, and according to law, except as otherwise herein provided.

Form of warrant.

#### FORM OF WARRANT.

COUNTY OF WAUKESHA, }  
City of Oconomowoc, } ss.

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

Whereas, ———— has this day in writing complained to me, on oath, that ————, on the ———— day of ————, at said city, did violate section ———— of chapter ———— (and so on as in the complaint); therefore, you are commanded to arrest the body of said ————, and bring him before me at my office in said city forthwith, to answer to the said city on the the complaint aforesaid.

Given under my hand at said city this ———— day of ————, 18—.

—————, Justice of the Peace.

Subsequent proceedings.

SECTION 3. When any such person shall have been brought before such justice of the peace for trial as above, the said defendant shall either plead guilty or not guilty, or such other plea as will justify or excuse the act complained of; and if he pleads not guilty, this shall put in issue all the necessary facts to establish the guilt of the defendant under charge.



SECTION 4. Witnesses and jurors shall attend before the justices of the peace in all such actions, without the payment of fees in advance, upon process duly served, and in default thereof, their attendance may be compelled by attachment as in other cases in justice's court. Of witnesses and jurors.

SECTION 5. In all such actions, after hearing the evidence and arguments on both sides, the court or jury shall find either the defendant guilty or not guilty of the charges preferred against him. If guilty, the court shall render judgment thereon against the defendant for the fine, penalty or forfeiture prescribed in this act, or the ordinance upon which the action is brought, as charged in the complaint, and costs of suit: and also shall fix therein the term of imprisonment in the lock-up of the city, or in the county jail, which the defendant shall serve, unless he shall pay the amount of such judgment, which term shall always be fixed proportionate to the amount of the judgment rendered, not to exceed for any one offense more than six months. But if the court shall find the defendant not guilty, the costs shall be taxed against the city and paid by it. Mode of trial.

SECTION 6. In case the judgment is against the defendant, who refuses to pay the amount thereof, the justice may forthwith issue execution for the amount as in cases of tort in justice's courts, and in like form; or may issue a commitment in the usual form in such courts in criminal cases, committing the defendant either to the lock-up of the city or to the county jail, stating therein the amount of the judgment and costs, and the term of imprisonment, unless such judgment shall be sooner paid. And the defendant in such case shall be imprisoned either in said lock-up or in said county jail for the full term so fixed in said judgment, unless sooner paid, or he be discharged therefrom by due course of law. Every person so committed to the county jail, shall be received and committed to prison by the keeper of the county jail, and kept at the expense of the county until the expiration of the time; but may be released at any time on payment of the amount of the judgment and costs to the justice who committed him and on his, the justice's, written order. Judgment.

SECTION 7. In all cases where judgment is rendered against a defendant for the recovery of any fine, forfeiture or penalty mentioned in this act, or the ordinances of the city, the defendant may appeal from such judgment to the circuit court of the county of Waukesha: *provided*, such defendant, within twenty-four hours Commitment.

Appeal.

after such judgment shall have been rendered, shall enter into a recognizance, with one or more sufficient sureties, to be approved by such justice, conditioned to appear before said circuit court and abide the judgment of the court therein. The justice from whose judgment such appeal shall be so taken, shall make a special return of the proceedings had before him, and shall forthwith cause all the papers in the case, together with a copy of the entries on his docket, and the recognizance, to be filed in the office of the clerk of said circuit court. And the city may also appeal from any such judgment against it, by filing notice of appeal with such justice within twenty-four hours after the rendition of the same, but without giving any such recognizance, and the said justice shall also make the like return to said circuit court.

Appeals; how conducted.

SECTION 8. Said appeal shall stand for trial by jury (unless waived in the manner provided by law) in said circuit court at the next term thereof, after the rendition of such judgment by the justice, and no notice of trial shall be required to bring such trial on to be heard.

Penalty and costs.

SECTION 9. If the judgment of the justice shall be affirmed against the defendant, or if the defendant shall be convicted, the court shall inflict the penalty prescribed for the offense in this act or the ordinances charged in the complaint to be violated, and enter judgment against him, or them, and his or their sureties, for such penalty, together with costs in both courts, and enforce the same by execution or imprisonment in the same manner as the said justice of the peace could have done. But if the judgment be against the city the costs shall be paid by it.

Competency of citizens.

SECTION 10. No person shall be an incompetent judge, justice, juror, or witness by reason of his being an inhabitant of said city in any proceeding or action in which the city shall be a party.

Power of mayor to grant pardons.

SECTION 11. All penalties, fines and forfeitures recovered and collected under and by virtue of this act, or ordinances of the city, shall be paid into the city treasury for the use and benefit of said city.

Laws in force.

SECTION 12. The mayor of the city shall have power to grant pardons, or commutations after conviction for all offenses against the ordinances of the city, upon such terms or conditions as he may deem proper. He shall communicate any such actions to the common council at the next meeting thereof after such pardon or commutation, with his reasons therefor.

Justices of the

SECTION 13. All ordinances, resolutions, by-laws

and regulations now in force in the said city of Oconomowoc, and not inconsistent with this act, shall remain in force until hereafter altered, modified or repealed by the common council of this city. peace to report quarterly.

SECTION 14. Each of said justices of the peace of the city shall quarterly, on the first days of July, October, January and April of each year, report and pay into the city treasury, all moneys collected by him by virtue of this chapter; which report shall be verified by him and filed in the office of the city clerk, together with the receipt of said treasurer for such moneys, which shall be given in duplicate by him. Not to be repealed unless expressly stated.

SECTION 15. 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. Of judgments against city.

SECTION 16. Wherever a final judgment shall be obtained against the city of Oconomowoc, the judgment creditor, his assignee or attorney, may file with the city clerk, a certified transcript of such judgment, together with his affidavit, showing the amount due thereon, and all payments, if any, and that the judgment has not been appealed from or removed to another court, or if so repealed or removed, has been affirmed; and thereupon the city clerk shall assess the amount thereof with interest from the date of its rendition to the time when the warrant for the collection thereof will expire upon the taxable property of the city, placing the same in the next tax roll of the city, and the same shall be collected and returned as city taxes are, and paid to the party entitled thereto. Repealed.

SECTION 17. Chapter fifty-nine of the laws of 1875, and all acts and parts of acts contravening the provisions of this act, are hereby repealed.

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

Approved March 5, 1879.