

[No. 706, A.]

[Published April 4, 1887.]

## CHAPTER 252.

AN ACT to incorporate the city of Durand.

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

## CHAPTER I.

SECTION 1. All the territory hereinafter described, situated in the county of Pepin, shall, from and after the passage and publication of this charter, be a city by the name of Durand, and the people now inhabiting and those who shall hereafter inhabit said territory, shall be a municipal corporation by the name of the city of Durand, and shall have all the general powers, rights and immunities possessed by municipal corporations at common law, and in addition thereto shall possess the powers hereinafter specifically granted; and the authorities thereof shall have perpetual succession, and shall be capable of contracting and being contracted with, suing and being sued, pleading and being impleaded, in all courts of law and equity, and shall have a common seal, and may change and alter the same at pleasure.

Corporate name.

SECTION 2. That portion of the territory in the county of Pepin and the state of Wisconsin, lying east of Chippewa river, and described as follows, shall constitute the city of Durand, to-wit: All of section twenty-one, the north one-half of section twenty-eight, the southwest quarter of the north-west quarter of section twenty-two, the north-west quarter of the southwest quarter of section twenty-two, the northwest quarter of the north-west quarter of section twenty-two, and lot four, section twenty-nine, all in town twenty-five north, of range thirteen west.

Corporate limits.

SECTION 3. That part of the corporate territory lying westerly of a line commencing at a point on the bank of Chippewa river at the center of Spring street running thence south forty degrees east to the south line of said corporation, shall constitute the first ward. And that portion of the

Wards.

corporate territory lying easterly of said line shall constitute the second ward.

Corporate authority.

SECTION 4. The corporate authority of said city shall be vested in one principal officer, styled the mayor, and a board of aldermen consisting of three members from each ward, who, with the mayor shall be denominated the common council together with such other officers as are hereinafter provided for or may be created by this act.

## CHAPTER II.

### ELECTIVE OFFICERS, ETC.

Elective officers.

SECTION 1. The elective officers of said city shall be a mayor, treasurer, assessor, city clerk, two justices of the peace and two constables for the city at large, and three aldermen and one supervisor for each ward. All other officers necessary for the proper management of the affairs of said city shall be appointed by the common council.

Terms of office of justices.

SECTION 2. Justices of the peace shall hold their offices for two years. All other elective officers for one year, or until their successors are elected and qualified, except aldermen, who shall hold their offices for two years, as hereinafter provided.

Qualified electors.

SECTION 3. All officers of said city shall be residents and electors thereof, and all ward officers shall be residents and electors of the ward wherein they are elected or appointed; and the mayor and the aldermen shall be qualified electors and freeholders in the city of Durand. No person having been city treasurer for two years in succession shall be eligible to re-election until one year shall have elapsed.

Annual election.

SECTION 4. The annual election for ward and city officers shall be held on the first Tuesday in April in each year, at such place in each ward as the common council shall designate, and the polls shall be kept open from ten o'clock in the forenoon until five o'clock in the afternoon, and ten days, previous notice shall be given by the common council in the official paper of said city, of the time and place of holding such election, and of the city and ward officers to be elected; pro-

vided, that notice of the first election under the provisions of this act may be given by the clerk of the village of Durand, by one insertion thereof in the Pepin County Courier, a newspaper published in said village, and the trustees of said village shall appoint suitable persons to act as inspectors and clerks of said election and designate the place of holding the election in the several wards.

SECTION 5. All persons who are qualified electors of the state of Wisconsin and shall have resided ten days next prior to any election in the ward where they shall offer to vote, shall be deemed qualified electors of said city, and may vote in the ward in which they reside.

Qualified electors.

SECTION 6. All elections shall be by ballot, and a plurality of votes shall constitute an election. The votes for all elective officers shall be on one ballot, and shall be deposited in one ballot box. When two or more candidates for an elective office shall receive an equal number of votes for the same office, the election shall be determined by the casting of lots in the presence of the common council at such time and in such manner as they shall direct.

Elections to be by ballot.

SECTION 7. The aldermen in each ward shall constitute the board of inspectors of elections, and they shall take the usual oaths or affirmations, as prescribed by the general election laws of this state to be taken by the judges and inspectors of election, and shall have power to appoint clerks of such elections, and to administer the necessary oaths; said elections shall be held and conducted in the same manner and under the same laws and penalties, and vacancies in the board of (inspectors) thereof shall be filled as required by the laws of this state regulating general elections.

Board of inspectors.

SECTION 8. When an election shall be closed, and the number of votes for candidates or persons voted for shall be counted and ascertained, the said inspectors shall make a return thereof, stating therein the number of votes cast for each person for each and every office, and shall deliver or cause to be delivered such return to the city clerk within three days after any election. The common council shall, on the fourth day after such election, meet and canvass said returns, and declare the result as it appears from the same, and

Making return of election.

the city clerk shall forthwith give notice of his election to each person so elected.

Powers of mayor.

SECTION 9. The mayor shall have power to suspend the marshal or any other police officer or watchman appointed by the council, when complained of, until the council shall take up his case and dispose of it. He shall also have power to fill any vacancy for the time being. All officers appointed by the mayor or common council may be removed at the pleasure of the council by a two-thirds vote.

Vacation of office.

SECTION 10. Any officer removing from the city, or any ward officer removing from the ward for which he is elected, or any officer who shall neglect or refuse for ten days after notice of his election or appointment to qualify and enter upon the discharge of the duties of his office, shall be deemed to have vacated his office. And the common council shall proceed to fill such vacancies as herein provided.

Vacancies, how filled.

SECTION 11. Whenever a vacancy shall occur in the office of mayor, aldermen or justice of the peace, such vacancy shall be filled by a new election, which shall be ordered by the common council, and notice thereof to be given as in case of annual elections. Any vacancy happening in any other office shall be filled by the common council. The person elected or appointed to fill any vacancy shall hold his office and discharge the duties thereof for the unexpired term, and with the same right and subject to the same liabilities as the person whose office he may be elected or appointed to fill.

Special elections.

SECTION 12. Special elections to fill vacancies, or for any other purpose, shall be held and conducted in the same manner, and the returns thereof shall be made in the same form and manner and within the same time as annual elections, and the common council shall canvass such returns at their first stated meeting after the receipt thereof by the clerk.

## CHAPTER III.

### OFFICERS AND THEIR POWERS.

Officers, their powers and duties.

SECTION 1. Every person elected or appointed to any office under this act, except justice of the

peace, shall, before he enters upon the duties of his office, take and subscribe the oath of office prescribed by the constitution and file the same, duly certified by the officer taking the same with the city clerk; and the clerk, marshal, constables and such other officers as the common council may direct, shall severally, before they enter upon the duties of their respective offices, execute to the city of Durand a bond with at least two sureties, who shall swear that they are each worth the penalty specified in said bond over and above all debts, liabilities and exemptions, and said bond shall contain such penal sum and such conditions as the council may prescribe by ordinance. The treasurer, before entering upon his duties, shall also execute a bond with not less than two or more than ten sureties. The penal sum expressed in such bond shall exceed the amount of the last annual tax roll, and each surety shall swear that he is worth a certain amount over and above all debts and liabilities and exemptions, and the aggregate of such amounts shall at least exceed the penal sum specified in such bond. The council may, from time to time, require new or additional bonds from the treasurer or other officer of the city, and the council may remove from office any officer refusing or neglecting to give the same. Justices of the peace shall qualify in the same manner as in towns, except that their bonds shall be approved by the common council.

SECTION 2. The mayor shall, when present, preside over the meetings of the common council, and except in the election of officers shall have a vote only in case of a tie. He shall take care that the laws of the state and the ordinances of the city are duly observed and enforced, and that all officers of the city discharge their respective duties; he shall at the first regular meeting of the common council in each year make out and announce such standing committees for the year, and on such subjects as may be required by ordinance or resolution of the common council; and shall from time to time give the common council such information and recommend such measures as he may deem advantageous to the city. He may appoint special policemen when in his judgment the safety and good order of the city re-

Duties of the  
mayor.

quire it, but their appointment shall not continue beyond the next meeting of the common council thereafter, unless approved by said council. The compensation of such special policeman shall be fixed by the common council.

Presiding  
officer.

SECTION 3. At the first meeting of the council after its election in each year, it shall proceed to elect by ballot one of its members president, and in the absence of the mayor the said president shall preside over the meetings of the common council; and during the absence of the mayor from the city, or his inability for any reason to discharge the duties of his office, the said president shall exercise all the powers and discharge all the duties of mayor, except the signing of city bonds. In case both the mayor and president shall be absent from any meeting of the common council, it shall proceed to elect one of its number a temporary presiding officer, who, for the time being, shall have the same authority and power as the president. The president or temporary presiding officer, while presiding over the council or performing the duties of the mayor, shall be styled "acting mayor," and any acts performed by either of them shall have the same force and validity as if performed by the mayor. But the president of the council or temporary presiding officer, as acting mayor, shall sign no warrant or other proceeding whatever which the mayor theretofore has refused to sign.

Duties of the  
city clerk de-  
fined.

SECTION 4. The city clerk shall perform all the duties required by law to be performed by him; he shall be keeper of the books, records and papers, and the corporate seal of the city, and the records of the proceedings of the council, and shall possess the same powers that town clerks possess by law to issue transcripts from the records of his office, and they shall, when certified by him, be received in all courts in like manner and effect; he shall draw and countersign all orders on the city treasurer, and keep a record of the same; he shall also keep, in such manner as the council may direct, an accurate account with the treasurer and charge him with all tax rolls delivered to him for collection, and all sums of money paid into the treasury; he shall file in his office all the chattel mortgages left with him to be filed, and the renewals thereof, and keep the

same, receiving the same fees allowed by law to clerks therefor, and the same mortgages and renewals shall be as valid and lawful as when filed in the office of town clerks; he shall act as clerk of the board of equalization, and shall perform such other duties not herein enumerated, as may be required by him in his said capacity by the common council or by the general laws of the state of Wisconsin, in relation to the assessment and collection of taxes in said city; he shall also have power and authority to administer oaths and affirmations, and may appoint a deputy in writing under his hand, and file such appointment in his office, and such deputy, in case of absence or disability of the clerk, shall act in his place, and he shall receive such compensation as the common council shall provide or allow.

SECTION 5. The treasurer shall perform such duties and exercise such powers as may be lawfully required of or conferred upon him by the ordinances of said city or the laws of this state. He shall receive all moneys belonging to the city, shall pay out the same only upon written orders, signed by the mayor and countersigned by the clerk, and shall keep an accurate and detailed account for all the receipts and disbursements, in suitable books, to be provided for that purpose, and in such manner as the common council shall direct; he shall report to the common council as often as required and annually, at least ten days before the annual election, a full and detailed statement of all receipts and expenditures since the date of the last annual report, and of the state of the treasury, which statement shall be filed with the clerk. He shall be collector of taxes in said city, and in addition to the powers and duties herein specified, shall have the same powers and duties and be subject to the same liabilities as treasurers of towns.

Duties of the treasurer defined.

SECTION 6. The city marshal shall possess all the powers and authority of constables of towns, and be subject to the same liabilities, and shall be deemed included in all writs and processes directed to constables. It shall be his duty to execute and return all writs and processes to him directed, and when necessary, in criminal cases, or for the violation of any ordinance of said city, or laws of this state, may pursue and serve the

Duties of city marshal defined.

same in any part of the state of Wisconsin. It shall be his duty to suppress all riots, disturbances and breaches of the peace, and to abate all nuisances, to apprehend, with or without warrant, any person in the act of committing any offense against any ordinance of said city, or law of this state, and forthwith bring such person before competent authority for examination or trial, and for such services he shall receive such fees as are allowed by law to constables for like service. He shall do and perform all such duties as may lawfully be enjoined on him by the mayor or common council, or by the ordinances of said city. The marshal shall be appointed by the common council as soon as it shall organize, and it may at the time of his appointment or afterwards, allow him such further compensation as it may deem prudent.

Duties of city  
attorney  
defined.

SECTION 7. The common council may at its first meeting, elect a city attorney to conduct the law business of the corporation, but the council may omit such election, and when necessary provide or employ such attorney or counsel as it may desire. The city attorney, if there be one, shall, when required, furnish opinions upon subjects connected with the welfare of the corporation submitted to him by the common council or any of its committees, and advise and instruct all other officers in their duties when directed by the common council. He shall keep a docket of all cases to which the city may be a party in any court, in which shall be briefly entered all steps taken in each cause, which docket shall be the property of the city, and shall at all times be open to the inspection of the mayor or any member or committee of the common council. It shall also be the duty of the city attorney, when required by the common council, to draft all ordinances, bonds, contracts, leases, conveyances and other instruments in writing necessary to the business of the city government, and to perform such other duties as may be prescribed by the charter and ordinances of said city. He shall receive such reasonable compensation as may be agreed upon for services rendered.

Other duties  
may be re-  
quired of.

SECTION 8. The common council shall have power, from time to time, to require other and further duties to be performed by any officer



whose duties are herein prescribed, 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 fix the compensation of all officers elected or appointed by them, where the compensation is not fixed by the statute or this charter. The council shall, at least ten days before the annual charter election in each year, fix by resolution the salary which shall be paid to the city clerk and assessor for the ensuing year, and such salary shall not be increased or diminished during the term of the officer elected; neither shall extra compensation be granted, except by the unanimous vote of the council, approved by the mayor. For the first year after the adoption of this charter, such compensation shall be fixed by the common council within ten days after it shall organize, and the notice of the first election held under this charter may be given by the village clerk.

SECTION 9. If any person having been an officer of said city, shall not within ten days, after notification and request, deliver to his successor in office, all property, books, papers and effects of every description in his possession belonging to said city, or pertaining to the office, he may have held, he shall forfeit and pay to the use of the city one hundred dollars, besides all damages caused by his neglect or refusal so to deliver, to be recovered by an action in the name of the city, and such successor may recover the possession of such books, papers and effects in the manner prescribed by the laws in this state therefor.

Penalty for failure to deliver to successor.

SECTION 10. No mayor or alderman shall be a party to or interested in any job or contract with the city, and any contract in which they or either of them may be so interested shall be null and void, and in case any money shall have been paid on any such contract, the city may sue for and recover the amount so paid from the contractor, and the mayor or alderman interested in the same, or either or any one of them.

Shall not be a party to any job or contract.

SECTION 11. The mayor or acting mayor, and each and every alderman, justice of the peace, marshal, constable and watchman, shall be an officer of the peace, and may command the peace and suppress in a summary manner all rioting and disorderly behavior within the limits of the

Officers of the peace.

city; and for such purpose may command the assistance of all by-standers and citizens; and if any person shall refuse to aid in maintaining the peace when so required, he shall forfeit and pay a fine of five dollars; and in cases where the civil power may be required to suppress riotous or disorderly behavior, the superior or senior officer present, in the order above mentioned in this section, shall direct the proceedings.

Actions to be brought in corporate name of city.

SECTION 12. All actions brought to recover any penalty or forfeiture under this chapter, or the ordinances, by-laws, police and health regulations made in pursuance thereof, shall be brought in the corporate name of the city, and may be heard and determined by or before any justice of the peace in the city. All fines and penalties collected by any justice in such cases shall be paid over to the city treasurer, except those for refusing to pay poll tax, which shall be paid over on demand to the street commissioner. Each justice shall report to the common council on the first Monday in April and October in each year, a statement of all such fines and penalties collected by him, and at the same time pay over the amount thereof to the city treasurer, except as above mentioned.

Resignation of officer—how effected.

SECTION 13. Any officer may resign his office by filing his written resignation with the city clerk, and such resignation shall take effect, and his office shall be deemed vacant from the time such resignation shall be accepted by the common council.

Can not be accepted as surety.

SECTION 14. No alderman or other city officer shall be accepted as surety upon any bond, note or obligation made to the city; nor shall any officer require to give a bond as aforesaid, enter upon the discharge of the duties of his office until a bond shall have been filed and approved as by this act required.

Official newspaper to be designated.

SECTION 15. The council, at the first meeting in each year, or as soon thereafter as may be, shall designate one or more newspapers, printed in said city, in which shall be published all ordinances, notices and other proceedings, and matters required by this act, or the by-laws or ordinances of the common council, to be published in a public newspaper, which printing or publishing

shall be let by contract to the lowest bidder or bidders.

SECTION 16. The city printer or printers, immediately after the publication of any notice, ordinance or resolution, or by-law, which by this act is required to be published, shall file with the clerk of the city a copy of such publication, with his or their affidavit, or the affidavit of his or their foreman, of the length of time the same has been published, and such affidavit shall be conclusive evidence of the publication of such notice, ordinance, by-law or resolution, and the clerk shall file and keep the same in his office.

Filing official copy.

SECTION 17. The common council may also, at its first meeting for organization after the annual election, or as soon thereafter as convenient, elect a city surveyor, who shall be a practical surveyor and engineer, but the council may omit such election, and when necessary provide or employ such surveyor, as it may desire. All surveys, profiles, plans or estimates made by him for the city, or either of the wards, shall be the property of said city, and shall be carefully preserved in the office of the surveyor, open to the inspection of parties interested. He shall receive such reasonable compensation as may be agreed upon for services rendered.

City surveyor and his duties.

SECTION 18. All constables elected by virtue of this act shall have and exercise the same powers and duties, and be subject to the same liabilities, as constables of towns.

Powers of constables.

SECTION 19. The assessor shall assess all the property subject to taxation within the city, and in the performance of his duties shall possess the same powers and be governed by the same laws and regulations as town assessors, and shall complete and return his assessment roll to the city clerk at the same time and in the same manner as town assessors are required to make returns to town clerks.

Duties of assessor.

SECTION 20. The justices of the peace elected under this act shall have the same jurisdiction and perform all the duties of justices of the peace in towns, and in addition thereto shall have exclusive jurisdiction of all cases arising under the provisions of this act and the ordinances, resolutions and by-laws enacted by the common council, and shall qualify in the same manner as pro-

Jurisdiction of justices of the peace.

vided by the general laws of the state, except that the official bonds shall be approved by a majority of the common council. Their fees shall be governed by the general laws concerning fees of justices of the peace, but they shall not receive any perquisite or compensation from said city, except so far as the city may become liable to them for fees as a party to a suit before them.

## CHAPTER IV.

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

Constitution of  
common  
council.

SECTION 1. The mayor and the aldermen shall constitute the common council, and the style of all ordinances shall be: "The common council of the city of Durand do ordain." The common council shall hold its first annual meeting in each year on the third Tuesday in April, and thereafter stated meetings at such times as it may determine. A majority of the aldermen shall constitute a quorum.

Special meet-  
ing to be held  
by order of  
mayor.

SECTION 2. The common council shall hold its special meetings by order of the mayor or on written request of two aldermen filed with the clerk and notice to each of the members, served personally, or left at his usual place of business or abode. The common council shall determine the rules of its own proceedings, and be the judge of the election and qualification of its own members and have the power to compel the attendance of absent members and to enforce its rules. Its sessions shall be open and public. Its proceedings shall be recorded in full and all its papers and records and all election returns shall be deposited with the city clerk, and the same may be examined at any time in the presence of the clerk.

Control of  
shore of Chippewa  
river.

SECTION 3. The common council shall have exclusive control of the shore of the Chippewa river below high water mark within the city limits, and may regulate the use thereof and prescribe rules and regulations for the protection of the same; and it may, for the preservation and protection of the shore of said river adjoining any public grounds, streets or alleys, construct and maintain breakwaters, wash-overs, piers or any other structure or device which, in the judgment

of the common council, preserve and protect such shore.

SECTION 4. The common council shall have the management and control of the finances, and of all the property of the city, and shall likewise, in addition to the powers herein vested in it, have full power and authority to make, enact, ordain, establish, punish, enforce, alter, modify, amend and repeal all such ordinances, rules and by-laws for the government and good order of the city, for the suppression of vice and immorality, for the prevention of crime, and for the benefit of trade, commerce and health, as it shall deem expedient, and to prescribe penalties for the violation thereof, and sue for and collect the same, with costs of suit; and in case of the default of payment, to provide for committing the person convicted to the city watch-house or county jail of Pepin county, for a term not exceeding ninety days; or by other lawful means to enforce such ordinance, rules or by-laws against all persons violating any of the provisions thereof, and such ordinances, rules and by-laws are hereby declared to be and have the force of laws; provided, that they will not be repugnant to the constitution and the laws of the United States, or of this state, and for these purposes shall have authority by ordinance, resolution or by-law.

Management  
and control of  
finance.

1. To license, regulate, suppress or prohibit the exhibition of common showmen or shows of any kind, or of caravans, circuses or theatrical performances; to prevent or license and regulate the keeping of billiard tables, pigeon-hole tables and bowling saloons, and to provide for the abatement and removal of all nuisances, under the ordinances or at common law; and to grant licenses for and regulate groceries, taverns, victualing houses, and all persons for vending or dealing in spirituous, vinous or fermented liquors, or to prohibit and suppress the same; provided, that the license for so dealing in or vending spirituous, vinous or fermented liquors shall not be less than the amount provided to be paid for such purpose by the general laws applicable to this state; and provided, further, that druggists or other persons whose chief business is to sell drugs and medicines shall not be deemed within the provisions hereof when the same are sold for medicinal, mechanical or

May issue  
licenses.

sacramental purposes. Such licenses shall not be granted for a longer term than one year, and shall run from the first day of May, and shall be liable to be revoked for violation of the provisions thereof, or for the statutes of this state.

Suppression  
of games, etc.

2. To prohibit all descriptions or gaming, gambling and fraudulent devices and practices, and playing of cards, dice, or other games of chance for the purpose of gaming, in said city, and to authorize the confiscation and destruction of all instruments and devices used for the purpose of gambling.

Riots, disturbances.

3. To prevent and suppress all fights, riots, noise, disturbance, disorderly assemblages, disorderly conduct, disorderly houses and houses of ill-fame.

Abate  
nuisances.

4. To declare what are nuisances, and to prevent or abate the same.

Cleanse  
nauseous  
places.

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

Slaughter  
houses, mar-  
kets, gun-  
powder.

6. To direct the location and management of slaughter-houses and markets, or to prevent the unauthorized erection or use thereof within the city and to regulate the storage, safe keeping or conveying of gunpowder or other explosive or combustible materials.

Incumbering  
streets, etc.

7. To prevent the incumbering or obstruction of streets, sidewalks, crosswalks, public grounds, parks, lanes, alleys or bridges, with carriages, carts, wagons, sleighs, boxes, lumber, fire-wood, logs or any other material or substances whatever, and to prevent the loading and unloading of lumber, logs or other materials or substances of whatever name or kind upon the bridges in said city.

Renumbering  
lots, etc.

8. To renumber the lots and blocks of the city or any part thereof, and to cause a revised and consolidated plat of the same to be recorded in the office of the register of deeds.

Horse racing,  
swimming.

9. To prevent horse racing or immoderate riding or driving in the streets and upon any and all

bridges, and to regulate bathing and swimming in the waters within the limits of said city.

10. To regulate, restrain or prohibit the running at large or of pasturing upon public streets, highways, alleys, public grounds, or neat cattle, horses, mules, swine, sheep, goats, poultry or geese, and to authorize the distraining, impounding and sale of same for the penalty incurred and the costs of proceedings, and also to impose penalties on the owners of any such animals for the violation of any ordinance in relation thereto; to establish pounds and regulate and protect the same. Restrain cattle.

11. To regulate or prohibit the running at large of dogs, and to authorize the destruction of the same in a summary manner, when at large contrary to the ordinances. Dogs.

12. To prevent any person from bringing, depositing or having within the limits of said city, any putrid carcass, meat, fish or other unwholesome substance, and to require the removal of the same by the owner thereof, or by the person bringing, depositing or having the same upon his premises, and on default, to authorize the removal thereof, by some competent officer, at the expense of such person or persons. Putrid carcasses.

13. To regulate, license or suppress omnibuses, hacks, cabs, drays, carts, and to regulate the charges of omnibus drivers, hackmen, cabmen, draymen and cartmen in the city. License draymen, etc.

14. To establish and regulate boards of health, provide hospitals, dispensaries, pest houses and cemetery grounds; to inclose, lay out and ornament such grounds, and sell and convey lots therein. To regulate the burial of the dead and return the bills of mortality, and to exempt burial grounds set apart for public use from taxation. Boards of health, cemeteries.

15. To prevent all persons from riding or driving any horse, ox, mule, cattle or other animal on the sidewalks in said city, or in any way doing any unnecessary damage to such sidewalks. Riding and driving on sidewalks.

16. To prevent bonfires and the shooting of fire-arms or crackers, and to prevent the exhibition of any fireworks in any situation which may be considered by the common council as dangerous to the city or any property therein, or annoying to the citizen thereof. Shooting fire arms, etc.

17. To restrain and punish drunkenness, im- Drunkenness

moderate drinking or any obscene or indecent exhibition or conduct in the streets or public places, and to provide for arresting, removing and punishing any person or persons who may be guilty of the same; and to restrain and punish vagrancy, mendicancy and prostitution.

Runners and solicitors.

18. To restrain and regulate runners and solicitors for stages, steam-boats, public houses or other establishments, and to make rules and ordinances for the government and regulation of the police of said city.

Parks, walks, etc.

19. To establish public parks and walks, inclose, improve and ornament the same; to lay out and open public streets and alleys, and to change, enlarge, extend or vacate the same; to establish and maintain public sewers and drains, and for these purposes to acquire and use any lands in said city, in the manner hereinafter provided; to care for and protect all lands which heretofore have been or hereafter may be required for or dedicated to any of the public uses aforesaid; to prohibit and prevent their diversion to any other use or uses, or in its discretion to permit, license and regulate under such restrictions and upon such terms as it shall prescribe, such concurrent uses thereof, not inconsistent with that to which they have been so dedicated, as to it may seem beneficial or necessary.

Public property.

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

Planting and trimming trees.

21. To provide for and regulate the planting and trimming of trees within the streets and public grounds of the city, and prohibit the planting of such trees as are or may become nuisances, and to provide for the removal of such as are already planted.

Provisions.

22. To license and regulate butchers' stalls, shops and stands for the sale of game, poultry, butchers' meat, butter, fish and other provisions; establish and regulate markets and restrain sales in the streets,

Fuel, produce.

23. To regulate the place and manner of weighing, measuring and selling of fuel, hay and lime, and to appoint suitable persons to superintend and conduct the same.

Removal of obstructions.

24. To compel the owners or occupants of buildings or grounds to remove snow, dirt or rubbish from sidewalks adjacent thereto, and to



compel such owners or occupants to remove from the lots owned or occupied by them, all such substances as the board of health may direct, and on their default to authorize the removal or destruction thereof by some officer of the city at the expense of such owners or occupants.

25. To regulate, control and prevent the landing or passing through said city of persons from boats, vessels, cars, stages or other conveyances who are infected with contagious or infectious diseases, and to make such disposition of such persons and their property as will preserve the health of said city.

Contagious diseases.

26. To license auctioneers, peddlers and transient dealers, and to regulate the time, place and manner of holding public auctions or vendues and to require the payment into the city treasury of a certain percentage of the amounts received from sales by auctioneers or transient dealers, or the payment of a license, or both, as the common council shall determine.

Auctioneers, peddlers, etc.

27. To appoint watchmen and policemen and prescribe their duties.

Watchmen.

28. To purchase, build or lease, maintain and regulate a watch-house, or place for the temporary confinement of suspected persons and offenders against the statute or city ordinances.

Watch house.

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

Water-works, etc.

30. To erect lamps and regulate the lighting thereof; and to provide for lighting streets, public grounds and public buildings with gas or otherwise.

Lighting of streets, etc.

31. To prohibit the carrying or wearing by any person under his clothes or concealed about his person any dangerous or deadly weapon; and to provide for the confiscation or sale thereof.

Carrying concealed weapons.

32. To prohibit and punish the abuse of animals and to compel persons to fasten their horses, oxen or other animals, attached to vehicles or otherwise, while standing or remaining in any street, alley or public ground.

Cruelty to animals.

33. To provide for the removal of stagnant water, and the draining and removal of obstructions from any water-course within the city limits

Stagnant waters.

and to prevent the obstruction or defilement thereof.

Hitching horses, etc.

34. To prohibit the hitching of horses, teams or animals to any fence, tree, pump or monument, and to prevent injuries thereto.

Bread.

35. To regulate the size and weight of bread, and to provide for the seizure and forfeiture of bread baked contrary thereto.

Location and construction of railroads.

36. To regulate and control the location and construction of all railroads, and the running of engines and cars within the corporate limits of the city; to license, regulate and control street railways, and the running of street cars therein; and no railroad, nor any branch or spur track of any railroad, shall be laid, constructed or extended nor shall any street railway be laid, operated or extended within the city limits except in pursuance of a license from the common council, to be obtained in such manner as they shall prescribe by ordinance.

Laws and ordinances—how passed.;

SECTION 6. All laws and ordinances shall be passed by a majority vote of all the members of the common council, and all ordinances, before the same shall be in force, shall be signed by the mayor, and shall be published in the official newspaper of the city, and within fifteen days thereafter they shall be recorded by the city clerk in books to be provided for that purpose; but before the said laws, ordinances or regulations shall be recorded, the publication thereof, respectively, within the said time, shall be proved by the affidavit of the foreman or publisher of said newspaper, and the said affidavit shall be recorded therewith, and at all times shall be deemed and taken as sufficient evidence of the time and manner of such publication.

When ordinance to take effect.

SECTION 7. All ordinances shall take effect from and after their approval and publication.

Power of veto by mayor.

SECTION 8. The mayor shall have power to veto any ordinance, by-law, act or resolution passed by the common council, by notifying them of his objections thereto in writing, at the same time or the next succeeding stated meeting of the council, and in case the council shall not at their next stated meeting subsequent to the receipt of such objections re-enact such ordinance or pass such resolution by the vote of two-thirds of the aldermen elect, the same shall be null and void. If the

mayor shall not return any ordinance, by-law, act or resolution presented to him at the same or next stated meeting of the council after the passage thereof, it shall take effect in the same manner as if he signed it.

SECTION 9. No vote of the common council shall be reconsidered at a special meeting, unless at such special meeting there be present as large a number of aldermen as were present when such vote was taken. Reconsidering votes.

SECTION 10. The power conferred upon the said council to provide for the abatement or removal of nuisances, shall not bar or hinder suits, prosecutions or proceedings in the courts, according to law. Gambling houses and houses of ill-fame are hereby declared and shall be deemed public or common nuisances. Abatement and removal of nuisances.

SECTION 11. The common council shall examine, audit and adjust the accounts of the clerk, treasurer, street commissioner, marshal and all other officers and agents of the city, at such times as they may deem proper, also at the end of each year, and before the term for which the officers of the said city are elected or appointed shall have expired; and the common council shall require each and every such officer and agent to exhibit his books, accounts, moneys and vouchers for such examination and settlement; and if any such officer or agent shall refuse to comply with the orders of the common council in the discharge of his duties in pursuance of this section, or shall wilfully neglect or refuse to render his account or present his money, books and vouchers to said council, it shall be the duty of the common council to declare the office of such person vacant; and the common council may order suits and proceedings at law against any officer or agent of said city who may be delinquent or defaulting in his accounts or in the discharge of his official duties, and it shall cause to be made a full record of all its proceedings relating to the matters mentioned in this section. Examine, audit and adjust accounts.

SECTION 12. No compensation or salary shall be paid to the mayor or any alderman of said city, except such fees as are now or may be hereafter allowed by law. No compensation or salary for mayor.

SECTION 13. All contracts for work ordered by the common council of said city, the expense Work to be let to lowest bidder.

whereof shall exceed the sum of fifty dollars, shall be let to the lowest reasonable and responsible bidder who shall have complied with the requirements hereinafter set forth. All bids and proposals shall be sealed and directed to the common council, and shall be accompanied with a bond to the city in a penal sum equal to the amount of the bid, which bond shall be signed by the bidder and by a responsible surety, who shall justify that he is worth the sum mentioned in such bond over and above all debts, liabilities and exemptions; such bond shall be conditioned that such bidder will execute a contract at such time as the common council shall require, with satisfactory sureties, to perform the work specified; and in case of failure said bond may be prosecuted in the name of the city, and judgment recovered thereon for the full amount of the penalty thereof, as liquidated damages, in any court having the jurisdiction of the action.

#### CHAPTER IV.

##### LAYING OUT AND OPENING STREETS, ALLEYS, ETC.

Laying out,  
opening streets,  
etc.

SECTION 1. Whenever ten or more freeholders residing in the city shall by petition filed with the city clerk, apply to the common council to lay out, enlarge, widen or extend any street, alley, park, public walk or other public grounds therein, or any public drain or sewer for the use of said city, for which purpose it shall be necessary to take private property, and shall be set forth in such petition a description by courses and distances, metes and bounds, or other appropriate form of words, of the lands proposed to be taken or used therefor, together with the names and residences of the owners of such lands, if known to the petitioners; the common council shall, as a body, or by proper committee, proceed in person to view the lands proposed to be taken, and inquire into the merits of such petition, and in case its determination or the report of such committee shall be adverse thereto, no further action shall be taken in the matter, until the petitioners shall cause to be executed and delivered to the treasurer of the city a bond in the penal sum of five hundred dol-

lars, with sureties to be approved by the mayor, conditioned that they will prosecute their application to that effect and will pay all costs and charges which the city may sustain in consequence thereof. But in case such determination or report be favorable, or the requisite bond be given as herein provided, the council shall cause to be made and filed with the clerk, an accurate survey and plat of such lands, showing each separate parcel to be entered upon or taken for the purpose specified, and as near as practicable the amount thereof, and shall thereupon, by resolution, fix a day, hour and place, when and where it will apply to the county judge of Pepin county, or to a specified justice of the peace of the city (who shall have no title or interest in the lands so to be taken or used), for the appointment of a jury to condemn and appraise the said lands.

SECTION 2. The city clerk shall thereupon make out and subscribe a notice of the adoption of such resolution, embracing a copy thereof, and notifying all persons interested that the city will, at the time and place named, apply to such judge or justice of the peace for the appointment of a jury for the purposes aforesaid. A copy of such notice shall be served by the city marshal or by the sheriff or any constable of the county, upon the owner or owners of each such parcel of land to be taken or used as aforesaid, if known and a resident within the county, and upon the occupant or occupants of such lands, if any there be, not less than ten days before the time fixed for such application; such service to be made in the manner prescribed for serving a summons in the circuit court, and the return of the officer shall be conclusive evidence of the facts recited therein. If the notice cannot be so given as to all the parcels, then the same shall also be published once in each week for three successive weeks prior to said time in the official paper of said city; and the affidavit of the printer or foreman of such newspaper shall be conclusive evidence of such publication. If any person so served with notice be a minor or of unsound mind, the judge or justice before proceeding shall, on the day fixed for hearing such application, appoint for him a guardian for the purposes of such proceeding, who shall give secu-

City clerk to  
make out  
notice of  
adoption of  
resolution.

rity to the satisfaction of the magistrate, and act for such ward.

Copy to be  
filed with the  
judge.

**SECTION 3.** At the time and place fixed for such hearing, the application, accompanied by a copy of such resolution and such survey, and by proof of service of the notice, as provided in the last section, shall be filed with the judge or justice, who shall thereupon make a list of twenty-four competent jurors, not interested, but residents of the city shall not be disqualified. He shall hear and decide any challenges, for cause or favor, made to any one, and if sustained, shall replace his name with an objectionable juror, until the list shall be perfected. Thereupon, under direction of such magistrate, each party, the city, by its representatives on the one side, and the owners of lands or their agents present, or if none be present, or they disagree, a disinterested person, appointed by the judge or justice, on the other, shall challenge six names, one at a time, alternately, the city beginning. To the twelve jurors remaining, such judge or justice, shall issue a precept, requiring them, at an hour on a day named, not more than ten nor less than three days thereafter, to appear before him, to be sworn and serve as a jury, to view lands and appraise damages, and at the same time shall publicly adjourn the proceedings to the time and place so named; such precept shall be served by the marshal or other officer aforesaid, at least one day before such appointed time, by reading the same to each such juror, or by leaving a copy at his usual place of abode, in the presence of a member of his family.

When the  
jurors shall  
appear.

**SECTION 4.** The jurors summoned shall appear at the time and place named, and if any be excused by the judge or justice, or fail to attend, he shall direct other disinterested persons to be forthwith summoned in their stead, until twelve be obtained. The magistrate shall then administer to them an oath, that they shall well and truly inquire into and determine into the necessity for taking the land mentioned in the resolution, and if found necessary, the damages occasioned thereby, and faithfully discharge their duties as jurors according to law.

Jury to view  
the premises.

**SECTION 5.** Under the direction of such magistrate, the jury shall view the lands to be taken,

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

SECTION 6. If the lands or buildings to be so taken belong to different persons, or be subject to lease, judgment or mortgage or other incumbrance, or if there be any estate therein less than an estate in fee, the injury done to such person or interest respectively shall be awarded by the jurors to the person entitled thereto, less the benefits resulting to such interests respectively from the proposed improvements.

In case land or buildings belong to different parties.

SECTION 7. When the whole of any lot or tract of land or other premises under lease or other contract or incumbrance, shall be taken or used by virtue of this act, and compensation shall have been made or provided for parties interested, all covenants, contracts, engagements or liabilities relating to the same or any part thereof shall, after the expiration of the time for appeal, as hereinafter provided, respectively cease and be absolutely discharged.

All covenants to cease when land is taken.

The same when only a part be taken.

SECTION 8. When only part of the lot or tract of land or other premises so under lease, or other contract or incumbrance, shall be taken or used for the purposes aforesaid, such covenants, contracts or incumbrance, shall be absolutely discharged as to the part thereof so taken or used, but shall remain valid as to the residue thereof; and the rents, considerations, liens and payments reserved, payable and to be paid for, or in respect to the same, shall be so proportioned that the part thereof justly and equitably payable for such residue thereof, and no more, shall be paid or recoverable for, or in respect to the same.

Appeal from verdict within ten days.

SECTION 9. Within ten days after such verdict, any land owner whose land has been found necessary to be taken, may appeal from the award of damages to him in such verdict, to the circuit court, and the city may likewise appeal from the award of damages to any owner, by filing with such magistrate a notice of appeal, specifying whether the appeals from the whole award to him or a part, and, if a part, what part; and therewith an undertaking with two sufficient sureties, to be approved by the magistrate, to pay all costs that may be awarded against such appellant on the appeal, and paying the magistrate for his return thereof. Any party not so appealing shall be forever excluded by such verdict or appraisement. Upon an appeal being taken, the magistrate shall transmit to the clerk of the circuit court within ten days the notice of appeal and undertaking, and thereto annexed a copy of all the papers and proceedings before him with his certificate thereof. He shall, after the time for appealing has expired, file with the city clerk, annexed together, all the original papers, including the verdict, with a certificate by him thereof, and that no appeal has been taken from such verdict, except as the facts are, which he shall briefly specify; and the clerk shall record all such proceedings.

When shall be considered an action pending.

SECTION 10. Upon filing such transcript in the circuit court, the appeal shall be considered an action pending in such court, and be so entered, the land owner as plaintiff, the city as defendant, and be subject to a change of place of trial and appeal to the supreme court. The appeal shall be tried by a jury unless waived; and costs shall be awarded against the appellant if a more favor-



able verdict be not obtained, otherwise against the respondent. Upon the entry of judgment the clerk of the circuit court shall transmit a certified copy thereof to the city clerk.

**SECTION 11.** If the verdict of the jury first called find it necessary to take such lands or any part thereof, the city council may, upon return thereof, to the city clerk, enact an ordinance according thereto for laying out, changing, widening or extending and opening any such street, alley, public grounds, square or other public place, or constructing and opening, altering, enlarging or extending any such drain or sewer, but shall not enter upon any such land therefor, until the owner be paid in full the damages awarded him by such verdict or appraisalment, or such damages be set apart for him in the hands of the treasurer, and an order therefor lawfully executed to him to be deposited with the clerk to permanently remain subject to his order. At any time before causing any such land to be actually taken, or put to public use, and before the rendition of a judgment in the circuit court for damages, the common council may discontinue all proceedings therefore taken and the city shall in such event be liable for the costs only. All the costs of every such proceeding shall be paid by the city, except when it recovers costs in the circuit court.

Taking the land.

**SECTION 12.** For the purpose of payment of the expenses, including all damages and costs incurred for the taking of private property, and of making any improvement mentioned in the last proceeding section, the city may by resolution, levy and assess the whole or any part not less than half of such expenses, as a tax upon such property as they shall determine is specially benefited thereby, making therein a list thereof, in which shall be described every lot or parcel of land so assessed, with the name of the owner thereof, if known, and the amount levied thereon set opposite. Such resolution signed by the mayor and clerk, shall be published once in each week for two weeks, in the official paper of the city, or if there be no such newspaper, three copies thereof shall be posted by the clerk in three of the most public places in such villages and a notice therewith that at a certain time therein stated, the said common council will

Levy and assessment to pay expenses.

meet at their usual place of meeting, and hear all objections which may be made to such assessment or to any part thereof. At the time so fixed the said council shall meet and hear all such objections, and for that purpose may adjourn from day to day, not more than three days, and may by resolution modify such assessment in whole or in part. At any time before the annual return by the city treasurer of delinquent taxes, next thereafter, any party liable may pay any such tax to the city treasurer; but if any such tax shall then remain unpaid, the same shall be return and like proceedings be had as provided in case of other delinquent taxes in said city.

Discontinuing  
streets, etc.

SECTION 13. Upon the petition in writing of all the owners of lots or lands bordering thereon and not otherwise, the board of directors may discontinue such street, alley, or any part thereof. At least one week before acting on such petition, the board shall cause a written or printed notice to be posted in three public places in such village, stating when the petition will be acted on, and what street or alley or part thereof is proposed to be vacated.

Directions  
only directory.

SECTION 14. All the foregoing directions given in this chapter shall be deemed only directory, and no errors, irregularity or informality in any of the proceedings under the provisions of this chapter of this act, not affecting substantial justice, shall in any way affect the validity of the proceedings.

## CHAPTER VI.

### POLL TAX.

Poll taxes.

SECTION 1. The common council of said city shall have, and it is hereby given power to tax annually each male inhabitant within the corporate limits of said city, between the ages of twenty-one and fifty years, a sum not to exceed one dollar and fifty cents, to be denominated a poll tax and be appropriated to the improvement of streets, roads, alleys and crosswalks of said city.

Poll tax list.

SECTION 2. On or before the twentieth day of May in each year the city clerk shall make out a list of the names of all male persons over the age

of twenty-one and under the age of fifty years, liable to pay such poll tax, with the amount thereof set opposite to each person's name, and submit the same to the common council for correction. When such list is correctly made out, and on or before the first day of June in each year, the board shall by order (to be signed by the mayor and clerk and annexed thereto) direct the same to be delivered forthwith to the treasurer for collection. The treasurer shall forthwith proceed to the collection of such tax and shall demand the same once of each person named in the list, and if any person neglect to pay the same for ten days thereafter, then such treasurer shall, in the name of the city, sue for and collect such tax with fifty per centum damages on the same, with costs of suit before a justice of the peace of said city, and in default of payment of such judgment execution shall issue against the defendant as in case of tort, and the first process in such action shall be a civil warrant; provided, the council may by resolution cause the said poll list to be placed in the hands of the street commissioner to be collected, and the said street commissioner shall have the same authority to collect and receipt for such taxes as the treasurer, and shall account for such taxes by him collected in the same manner as for other moneys coming into his hands by virtue of his office, and the treasurer or the street commissioner, while said list is in his hands for collection, shall put upon the same the names of all such persons liable to such tax as may have been omitted therefrom, who shall then be liable, the same as if their names were originally placed on such list.

SECTION 3. The common council shall, at its first meeting for organization in each year, or as soon thereafter as possible, choose by ballot a street commissioner, who shall perform such duties in the improvement and repair of streets, roads, alleys, crosswalks, gutters, sewers and other public works as the common council shall direct; he shall collect the poll tax when placed in his hands as above provided, and under the directions of the common council, expend the same on the streets, alleys, crosswalks and highways in said city, and the common council may, by resolution, direct the expenditure of a sum not to exceed the

Street commi  
sioner.

amount of the poll tax collected in any year upon the highways leading into said city outside of the corporate limits.

Street commis-  
sioner to give a  
bond.

SECTION 4. Every street commissioner hereafter appointed by a common council shall, before entering upon the duties of his office, give a bond to the city of Durand, with one or more sufficient sureties, to be approved by the common council, in the penal sum of not less than two thousand dollars conditioned to render an account to the common council whenever required by law or the ordinances of said city, or by vote of said council, to safely keep and account for, and deliver over when lawfully required all property of said city that may come into his hands; to use, disburse or pay over as required by law or ordinances of said city, all moneys, that may have come into his possession as such officer, and to faithfully discharge the duties of said office.

Term of office  
of street com-  
missioner.

SECTION 5. The street commissioner shall hold his office for the term of one year from the third Tuesday in April of the year, in which he is appointed, unless sooner removed, as provided in section 7, of this chapter. He shall be provided with a book by the city clerk, in which he shall keep an accurate account of all moneys coming into his hands by virtue of his office, the amount received and disbursed by him, the name of every person from whom money or labor is due, the amount paid in money and labor, and a correct account of all expenditures by him made as such street commissioner. The book containing the account so kept, together with the vouchers for all expenditures shall, at all times, when required, be furnished for the inspection of the mayor or common council, and ten days before the expiration of his term of office, shall be handed to the city clerk, for the inspection of the tax payers of said city. He shall also, on or before the first Monday in November, in each year, and as often as the common council may require, render an account under oath, showing the amount of money collected by him as said street commissioner, from whom it was collected, and the amount by him expended, specifying the work for which it has been expended.

Compensation  
of street com-  
missioner.

SECTION 6. The street commissioner shall receive such compensation for his services, which

may be by a per diem or a percentage upon the tax collected and expended, as the common council shall determine, and his compensation shall be decided upon at the time of his appointment, and shall not thereafter be changed except in the manner heretofore prescribed for changing compensation of other officers.

SECTION 7. The common council may, for good cause, by a two-thirds vote of the aldermen, remove the street commissioner and declare his office vacant, after giving him due notice and a chance to be heard, and appoint his successor.

SECTION 8. The street commissioner shall return all unpaid poll taxes in the manner prescribed for such return by the overseer of highways in towns.

## CHAPTER VII.

### STREET IMPROVEMENTS.

SECTION 1. The common council shall have general control and supervision of all streets, alleys, bridges and highways within the municipality, and may, whenever they deem it necessary, cause the same to be cleaned, sprinkled, graveled, graded or otherwise repaired, and crosswalks upon or along the same to be built or repaired at the expense of the city.

SECTION 2. The common council may also cause any street, or any part of street, not less than fifteen rods in length, to be graded, paved, macadamized or otherwise improved, or gutters to be built, either wholly or in part at the expense of the adjacent property, upon a petition therefor in writing, signed by at least a majority of all the owners of real estate bounding both sides, and of at least one-half the frontage of such street or part of street to be improved; or may order any gutter on one side of a street or such part of a street to be built as aforesaid on the petition of a majority of such owners and of the owners of at least one-half of the frontage on such side, and may without petition, order any gutters previously built, to be put in repair or rebuilt.

SECTION 3. For the purpose of improving any street or building or repairing any gutter, the

common council may levy and cause to be collected, upon the lots, tracts or parcels of ground adjacent to such street or part of street improved, or on the side thereof where only such gutter is to be built, and upon the owners thereof, a tax sufficient to pay the expense of constructing such improvement, as ordered, opposite such property to the center of the street, or such proportion thereof not less than half, as they shall deem justly assessable to such property, if they shall think the whole ought not to be so assessed; in which case the remainder of such expense shall be paid from the city treasury. Every such tax for repairs shall be for the entire cost thereof in front of the property so assessed. If any tax levied under this section shall prove insufficient to pay the costs or proportion thereof assessed to such property, the common council may levy an additional tax thereon to make good such deficiency.

Work to be done on proper established grade.

SECTION 4. Sidewalks shall be constructed, reconstructed or repaired, upon the proper established grade of any street in said city, upon petition therefor in like manner as provided in section 2, or this chapter, for the building and repairing of gutters, and shall be of such width and materials, and built or repaired in such manner and in such time as the common council, by resolution, ordinance or order, shall direct by the owner or owners of any lot or piece of ground in front of which such sidewalk shall be ordered. If the owner or owners of such lot or piece of ground shall not construct or repair such sidewalk as aforesaid, the common council may cause the same to be done at the expense of such owner or owners, and the common council shall levy a special tax upon each lot or piece of ground in front of and adjacent to which such sidewalk shall be constructed or repaired sufficient to pay the cost thereof.

List of property to be taxed.

SECTION 5. Whenever the common council shall levy any such tax as specified in the preceding section they shall make out and deliver to the treasurer of such city a list of the persons and a description of the property taxed, together with a warrant, signed by the mayor and clerk, for the collection of such tax, and thereupon the treasurer shall notify the persons named in such tax roll by publishing a notice thereof two weeks in

the official paper of said city, and shall specify in such notice the time or times, not more than forty days from the date thereof when such taxes must be paid.

SECTION 6. At the expiration of forty days from the date of said notice given by said treasurer he shall make out and deliver to the city clerk a certified list of the lots, pieces or parcels of lands in said city upon which any such tax remains unpaid, with the amount of such delinquent tax upon each of such lots or parcels of land; and the said clerk shall add the said delinquent taxes to the next tax roll, opposite to the description of the proper lots, pieces or parcels of land therein; and such delinquent taxes shall be collected with and in the same manner as other taxes in the said city.

Certified list to be given at end of forty days.

SECTION 7. When any lot, parcel or tract of land shall be returned delinquent for any such tax as hereinbefore provided, the common council may cause the work to be done at the expense of the city, to be re-imbursed by such tax when collected.

Delinquent lots.

SECTION 8. Whenever the public convenience or safety shall require any sidewalk or gutter in a dangerous condition to be immediately repaired, and the cost of the repairs will not exceed the sum of ten dollars, the street commissioner may give written notice to the parties subject to the tax for the repairs thereof, if known and residing in said city, that unless such sidewalk or gutter, therein to be specified, be repaired to the satisfaction of the street commissioner within twenty-four hours thereafter, he will repair the same at the expense of the property; and if the same be not in such time repaired, or whenever the owner shall be a non-resident or unknown, such commissioner shall make such repairs and return the cost as a delinquent tax on such property, and the same shall be collected as other delinquent assessments, as hereinbefore provided.

Immediate repair of dangerous sidewalks.

SECTION 9. The common council shall have power to require the owner of any lot or parcel of ground in the city to set out ornamental trees in the street or streets bordering on the same, and in default thereof, to cause the same to be done, and to levy a special tax upon each lot or parcel of ground to pay the expense of the same.

Ornamental trees.

## CHAPTER VIII.

## FIRE DEPARTMENT.

Fire department.

SECTION 1. The common council, for the purpose of guarding against the calamities of fire, shall have the power to prescribe the limits within which wooden buildings or buildings of other materials that shall not be considered fire-proof may be erected, repaired or removed, and to direct that all and any building within the limits prescribed shall be made and constructed of fire-proof material and in such a manner as it may ordain, and to prohibit the removal of buildings into such fire limits, or the removal of any building or buildings situated or located within such fire limits, and to prohibit the repairing of wooden buildings within the fire limits, when the same shall have been damaged to the extent of fifty per cent of the value thereof, and to prescribe the manner of ascertaining such damages.

Dangerous construction of chimneys, etc.

SECTION 2. The common council shall have power to regulate the building construction and condition of chimneys, fire places, hearths, stoves, stovepipes, ovens, boilers, and apparatus used in or about any building; and to cause the same to be removed or placed in a safe and secure condition when considered dangerous; to prevent the deposit of ashes in unsafe places; to require the inhabitants to provide as many fire-buckets, and in such manner and times as they shall prescribe, to regulate the use of them in time of fire; to regulate and prevent the carrying on of any manufacturing dangerous in causing or promoting fires; to compel the owners and occupants of buildings to have scuttles in the roofs and stairs or ladders leading to the same; to authorize the mayor, aldermen, fire-wardens and other officers of the city to keep away from the vicinity of a fire all idle and suspected persons, and to compel all by-standers to aid in the extinguishment of fires, and in the preservation of property exposed to danger thereat, and generally to establish such regulations for the prevention and extinguishment of fires as the common council may deem expedient, and



enforce the provisions of this chapter and the ordinances under it by suitable penalties.

SECTION 3. The common council shall have power to purchase fire-engines and other fire apparatus, and to authorize the formation of fire-engine, hook and ladder and hose companies, and to provide for the due and proper support and regulation of the same, and to order such companies to be disbanded, and to prohibit their meetings as such when disbanded. Each company shall be officered and governed by its own by-laws, provided such by-laws be not inconsistent with the laws of this state or with the ordinances and regulations of the city. Every active member of any company in said city shall be exempt from serving on juries and from poll tax and military duty, except in case of war, invasion or insurrection, and whenever a member of a fire, hook and ladder, bucket and hose company shall have served therein for ten years, he shall be entitled to a discharge, signed by the mayor, and shall thereafter be exempt as aforesaid.

Power to purchase fire-engines.

## CHAPTER IX.

### SCHOOL DISTRICT.

SECTION 1. The school district now embracing the present village of Durand, and a part of the town of Durand shall remain intact, and the same territory shall remain therein, and the management of school matters shall remain the same as it has heretofore existed in said school district; and all laws applicable to joint school districts shall apply to said district.

School district.

## CHAPTER X.

### AUDITING ACCOUNTS.

SECTION 1. No account or demand against the city shall be paid until it has been audited and allowed and an order drawn on the treasury therefor. Every such account shall be made out by items, and verified by affidavit endorsed or annexed, to the effect that the same is just and

Claims to be audited.

correct and no part thereof paid (or if paid in part except as therein stated), and that said account has not been presented before. When an account shall have been audited, the clerk shall endorse on each account the word, "allowed" or "disallowed" as the fact is, adding the amount allowed if any, and specifying the items or parts of items disallowed if disallowed in part only. The minutes of the proceedings of the council shall show to whom and for what purpose every such account was allowed and the amount. Every such account allowed in whole or in part shall, with the affidavit thereto, be filed with the clerk, and those of each year consecutively numbered, and have endorsed the number of the order issued in payment therefor, and the clerk shall take receipts for such orders.

Can not issue negotiable orders.

**SECTION 2.** Neither the common council nor any officer of the city shall have power to issue any time or negotiable order, or borrow any money except in the manner and for a purpose expressly declared by statute or by this act, but the common council may, in case of temporary necessity, by unanimous vote of the council, and not otherwise, borrow money in anticipation of the tax to be levied for the current year, not exceeding one per centum of the assessed valuation of the property of said city, according to the last assessment and may give orders on the treasury payable at a future date thereof, with or without interest; but no such order shall be made payable at a later date than the first day of March following the date of issue of such order, and for the payment of such order the city tax for the same year or a sufficient amount thereof shall stand irrevocably pledged.

Property can not be sold for city execution.

**SECTION 3.** No real or personal property of the city or any of the inhabitants, or of any individual or corporation therein shall be levied on or sold by virtue of any execution issued to stay any judgment against said city.

City nor officers liable for defective sidewalks.

**SECTION 4.** Neither the city nor any officer thereof shall be liable for any damage that may happen by reason of any defect or insufficiency of any sidewalk, street, highway or bridge in said city, unless some member of the common council or the street commissioner shall have first had actual notice of such defect or insufficiency and

reasonable time thereafter to repair the same or place the same in good order, or unless the same shall have existed for so long a time that notice may be presumed.

SECTION 5. No action for personal injury shall lie or be maintained against the city unless a statement in writing, signed by the person injured, or claiming to be injured, by any act or neglect of the city or any of its officers, of the injury and time, place, and circumstances thereof, and the amount of damages claimed, shall be presented to the common council within thirty days after the occurring or happening of the injury alleged, nor unless such action be commenced within one year after the date of such injury.

Regarding  
actions against  
city.

SECTION 6. No such action shall lie or be maintained against said city, unless the person claiming injury shall permit the mayor or common council, by a physician of his or its appointment, to make personal examination of the alleged injury as often as is reasonable, after the time of its infliction, until the amount of damage is adjusted.

Regarding  
actions against  
city.

SECTION 7. No action shall hereafter be maintained by any person against the city upon any claim or demand other than a city order unless such person shall first have presented his claim or demand to the common council of said city; nor unless such claim shall have been presented within one year after the same shall have accrued.

SECTION 8. The determination of the common council, disallowing in whole or in part any claim of any person, shall be final and conclusive, and a perpetual bar to any action in any court founded on such claim, unless an action be brought within one year thereafter; provided, however, that when the council shall refuse or neglect to act upon a claim to it duly presented, this chapter shall not be construed as to prevent the institution and maintenance of an action by said claimant against said city.

Determination  
to be final.

## CHAPTER XI.

### FINANCES AND TAXATION.

SECTION 1. All funds in the city treasury, except school, state and county funds shall be under

Control and  
management  
of finances.

the control of the common council, and shall be drawn upon the order of the mayor, countersigned by the clerk, duly authorized by a vote of the common council, and in no other manner; and all orders drawn upon the treasury shall specify the purpose for which they are drawn, and shall be payable generally out of any funds in the treasury belonging to the city.

Contraction of debts.

SECTION 2. No debt shall be contracted by the city, or order drawn upon the city treasurer, unless the same shall be authorized by a majority of the common council, and the vote authorizing the same shall be entered by ayes and nays upon the journal of the council, whenever the shall be asked by any one member, and no money shall be appropriated for any purpose whatever, except such as is expressly authorized by this act, or for the payment of indebtedness now existing. City orders shall be receivable for all city taxes, except school and special taxes for bridge and school purposes, and except taxes levied for the payment of principal or interest of any outstanding bonds of said city which shall be collected in money or in orders drawn upon such funds respectively, and all orders shall be payable to the person or to the order of the person in whose favor they may be drawn.

Tax for current expenses.

SECTION 3. The common council shall annually levy a tax not exceeding two per centum upon the total assessed valuation of the city, to defray the current expenses thereof, including highway tax and bridges, such sum as a majority of the electors thereof shall vote at any annual or special meeting.

Forfeitures and penalties.

SECTION 4. All forfeitures and penalties accruing to the city for a violation of this act, or of any of the ordinances, by-laws, rules and regulations of the city, and all moneys received for licenses, shall be paid into the city treasury and become a part of the general fund, except as otherwise provided by this act. No penalty or judgment recovered in favor of the city shall be remitted or discharged, except by a unanimous vote of the common council.

Property subject to taxation.

SECTION 5. All property, real or personal, within the city, except such as may be exempt by the laws of this state, shall be subject to annual taxation for the support of the city government

and the payment of all its debts and liabilities, and the same shall be assessed in the manner hereinafter provided. The assessors elected under this act shall have and possess the same powers and perform the same duties as are, or may hereafter be conferred upon township assessors, except as far as may be altered by this act; provided, however, that the common council may prescribe the forms of the assessment rolls, and more fully define the duties of assessors.

SECTION 6. The assessor elected by virtue of this act shall in all things pertaining to his office, so far as practicable, be governed by the same laws as assessors in towns.

Duties of assessor

SECTION 7. The mayor, supervisors, clerks and assessor shall constitute the board of review, and shall meet at the chambers of the common council on the first Monday in August in each year, and shall proceed in all respects as town boards are required by law to proceed.

Board of review—how constituted.

SECTION 8. The county board of the county of Pepin in equalizing the assessment rolls of the several towns in said county, shall regard the city of Durand as an individual municipality, and may levy taxes thereon as provided by law in relation to towns, and shall cause the amount of taxes so levied to be certified to the city clerk in the manner provided by law in relation to town clerks.

City to be regarded as a town in equalization.

SECTION 9. Upon receiving the statement of the amount of taxes so levied, the city clerk shall make out on the assessment roll in columns left for that purpose, or upon a copy thereof, a complete statement of the several taxes levied for state, county, city or other purposes, and all special taxed levied by the common council, since making out of the last annual tax roll, in such separate columns as may be necessary, with the total footing carried out opposite each tract or lot of land or person named therein, which statement shall be called the "tax roll of the city of Durand," to which shall be appended a warrant signed by the mayor and clerk, and sealed with the corporate seal of said city, directed to the treasurer, requiring and commanding him to collect the taxes specified in said tax roll in the manner provided by law, and the said clerk shall, on the first day of December of the same year, or as soon there-

Assessment roll—how made.

after as practicable, deliver the same to the treasurer for collection.

Prima facie evidence.

SECTION 10. The tax roll made out as aforesaid shall be prima facie evidence in every court of record in this state, that every act or thing required by law to be done relating to assessing and levying of taxes, from the election of officers to the completion of the tax roll, inclusive, had been done regularly and correctly, as required by law.

City treasurer to collect taxes.

SECTION 11. The city treasurer, upon receipt of such tax roll, shall proceed to collect the taxes therein in like manner, and shall have like powers and shall be subject to like requirements, liabilities and restrictions as a town treasurer, except as otherwise 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 on all taxes collected after that time, including special taxes, to be added to the amount of taxes and collected with the same, and he shall receive five per cent. fees for collecting the poll taxes, which shall be in full for all services performed by said treasurer under this act or the ordinances of the city.

Return of unpaid taxes.

SECTION 12. On or before the fifteenth day of February of each year, unless the time be extended as provided by law, the city treasurer shall make out and return to the treasurer of Pepin county a list of all lands, lots and personal property upon which taxes have not been paid, and shall also settle with and pay all moneys properly payable to said county treasurer in like manner as is now or may hereafter be required of town treasurers; and all the provisions of chapter 49, of the revised statutes of 1878, and acts amendatory thereof, shall extend to and may be enforced to collect any delinquent personal property tax.

Sale of delinquent lands.

SECTION 13. The county treasurer shall sell all delinquent lands and lots returned from the city of Durand at the same time and in the same manner as other delinquent lands are sold in the county.

Directions only directory.

SECTION 14. All directions hereby given except in section 9, of this chapter, for assessing of lands, and the levying, collecting and return of taxes, and the sale thereof, shall be deemed only directory, and no error or informality in the proceedings any of the officers entrusted with the same

not affecting the substantial justice of the tax itself, shall vitiate or in anywise effect the validity of the tax or assessment.

SECTION 15. In addition to the amount herein limited for general city purposes, special taxes may be levied for the purchase of fire-engines, cemetery grounds, public squares, gas purposes, and other objects of public utility; but no such tax shall be levied unless the same shall first be recommended by the common council, and afterwards submitted to a vote of the people and approved by them. Whenever the common council shall recommend such a tax, it shall specify the amount to be raised and the object thereof, and cause notice thereof and of the time and place of voting thereon to be published in the same manner as in case of the annual city election.

Special taxes  
may be levied.

SECTION 16. When the treasurer shall be unable to pay any order drawn on the city treasury, it shall be his duty to report the fact to the common council at the first stated meeting thereafter. Thereupon the council shall direct its finance committee to examine the accounts of the treasurer and if all funds in his hands have been paid out, the council shall take such action as will enable the city to preserve its credit.

Duty of treasurer to report when out of funds.

SECTION 17. Out of the taxes collected by the city treasurer, the state tax shall first be paid, then all school taxes, then county taxes, then judgments, then all special taxes in the order in which they were levied. Delinquent returns shall be received by the county treasurer in payment of county taxes in the manner provided by law.

What taxes shall first be paid.

SECTION 18. The common council shall meet on Tuesday evening, one week previous to the holding of the charter election, for the purpose of disposing of the unfinished business, and shall not thereafter during its term of office allow any bills against the city, but may anticipate and provide for the payment of salaries of officers for the balance of its term.

When council shall meet.

SECTION 19. All surplus funds belonging to the city not needed for immediate use, may be invested as the council may direct, or borrowed for the temporary use of the other funds of the city, and all interests and profits arising from such investment shall belong to the city and shall be ac-

Surplus funds, dispensation of.

counted for in the same manner as other funds are accounted for.

## CHAPTER XII.

### ACTIONS TO RECOVER PENALTIES.

Actions to re-  
cover penalties.

**SECTION 1.** All actions brought to recover any penalty or forfeiture under this act or the ordinances, or by-laws or police or health regulations made in pursuance thereof, shall be brought in the corporate name of the city. It shall be lawful to declare generally in debt for such penalty or forfeiture, stating the chapter and section of this act or the section of the ordinance, by-law or regulations under which the penalty or forfeiture is claimed, and to give the special matter in evidence under it.

Prosecutions—  
how conducted.

**SECTION 2.** All prosecutions for any violations of the provisions of this act, or any by-law, ordinance, or regulation, shall be conducted in the same manner as provided by the laws of this state for the trial of similar actions in justice courts.

Printed copy to  
be good evi-  
dence.

**SECTION 3.** A printed copy of an ordinance, by-law or resolution passed by the common council, and published in a newspaper or in a pamphlet or book form, purporting to be published by authority of the common council, shall be prima facie evidence of its due passage and publication and shall be received in evidence on trial of all cases cognizable before any court of this state.

No fees re-  
quired in  
advance.

**SECTION 4.** Witnesses and jurors shall attend before justices of the peace in all city and criminal suits, without the payment of fees in advance or a tender thereof upon process duly served, and in default thereof, their attendance may be compelled by attachment.

Shall not be  
incompetent.

**SECTION 5.** No person shall be incompetent to the office of judge, justice, witness or juror by reason of his being an inhabitant of said city in any proceeding or action in which the city shall be a party in interest.

How action  
shall be com-  
menced.

**SECTION 6.** When any action or suit shall be commenced against said city, the service thereon may be made by leaving a copy of the process of summons with the mayor or clerk of said city



and it shall be the duty of said mayor or clerk of said city so served forthwith to inform the common council thereof, or take such action or proceedings as by the ordinance or resolution of said council may be in such cases provided.

SECTION 7. All penalties and forfeitures recovered and collected under and by virtue of this act, shall be paid into the city treasury for the use and benefit of said city.

Penalties and forfeitures to be paid into city treasury.

SECTION 8. The general laws for the preservation of bridges, and the punishment provided by such laws for the wilful and malicious injuries done thereto, are hereby extended to and shall include all of the bridges extending across water-courses in said city, and shall apply to any wilful or malicious damage which may be done to them by any persons or persons whatever; and the common council of said city may, from time to time, make such by-laws or ordinances as they may deem necessary for the preservation of such bridges, and enforce the same by adequate penalties.

General laws to guard.

## CHAPTER XIII.

### MISCELLANEOUS PROVISIONS.

SECTION 1. At the first city election held under the provisions of this charter, there shall be elected two aldermen in each ward who shall hold their office for the term of one year, and one alderman who shall hold his office for the term of two years, and the aldermen elected at each annual election thereafter shall hold their office for the term of two years.

Term of aldermen.

SECTION 2. The laws of the state for the relief and support of the poor in towns, shall apply to said city, and the common council shall appoint one or more of its number to act as overseers of the poor of the city, who shall perform all the duties of overseers of the poor in towns.

Poor laws.

SECTION 3. All moneys, property, effects and credits belonging to the present village of Durand shall belong to the city of Durand, and shall be transferred to the proper officers of said city by the persons in charge of the same as soon as such officers shall be elected and qualified; and the title

Village moneys to be paid to city.

to all real estate and public grounds now belonging to said village of Durand, shall pass to and vest in said city of Durand.

Control of territory by common council.

SECTION 4. All lands in said incorporated territory which are now appropriated to the public uses as streets, alleys, public walks, parks, cemetery or other public grounds, shall continue dedicated to such public use, and shall be in the charge and subject to the control of the common council, which may, by ordinance or resolution prohibit and prevent the diversion of said lands to other or different uses, or the imposition thereon of additional easements, burdens or users, or may, in its discretion, license, control and regulate such other concurrent uses not inconsistent with the use to which the same may be dedicated, as in its judgment shall seem reasonable, necessary and proper.

Debts against city—how collected.

SECTION 5. Any lawful debt, claim, demand or right of action against the present village of Durand, shall, on the adoption of this charter, become a lawful debt, claim, demand or right of action against the city of Durand, which shall be deemed to all interests and purposes the legal successor to said village and invested with all its rights and subject to all its liabilities.

In case of failure to hold election in time.

SECTION 6. If any election by the people or council shall, for any cause, not be held at the time or in the manner herein prescribed, or if the council shall fail to organize or to perform any other act, as herein provided, it shall not be considered reason for arresting, suspending or absolving said corporation; but such election or organization may be held on any subsequent day by order of the council; and if any of the duties enjoined by this act or the ordinances or by-laws of the city to be done by any officer at a specified time, be not then done or performed, the council may appoint another time at which said acts may be done or performed.

Supervisor.

SECTION 7. In case of the inability of the supervisor of either ward, to act or sit on the county board of supervisors, the mayor shall appoint one of the aldermen from such ward to act during the inability of such supervisor.

General law does not repeal.

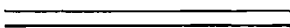
SECTION 8. No general law contravening the provisions of this act, shall be considered as re-

pealing, amending or modifying the same, unless such purpose be expressly set forth in such law.

SECTION 9. Within ten days after the election and qualification of the city treasurer of said city for the year 1887, the treasurer of the town of Durand shall pay into his hands all moneys in the town treasury known as the cemetery fund; and the town clerk shall deliver to the city clerk all books, papers and records pertaining to the tract of land known as Durand cemetery. City and town treasurers' duties.

SECTION 10. This act is hereby declared to be a public act, and shall be liberally and favorably construed in all courts of this state, and shall take effect and be in force from and after its passage and publication. Public act.

Approved April 1, 1887.



[No. 124, S.]

[Published April 19, 1887.]

## CHAPTER 255.

AN ACT annexing certain territory to the city of Chippewa Falls, and amending chapter 164, of the laws of Wisconsin for 1885, entitled, "an act to revise the charter of the city of Chippewa Falls."

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

SECTION 1. All of government lot number four, of section thirty-three, of town twenty-nine, range eight west, and all of government lot number five, of section four, of town twenty-eight, range eight west, is hereby detached from the town of Eagle Point, of Chippewa county, Wisconsin, and is hereby made a part of the city of Chippewa Falls in said county, and the same is hereby made a part of the First ward of the said city of Chippewa Falls. Territory attached to city.

SECTION 2. All of the south half of the northeast quarter, the east half of the northwest quarter and the northwest quarter of the northeast quarter, of section thirty-one of town twenty- Territory attached.