

authorized and empowered to construct, maintain and keep in repair, a dam across the Chippewa river, on section twenty-two, in town twenty-nine north, of range eight west, at Eagle Rapids, in Chippewa county, Wisconsin, at such height as not to raise the water to exceed twelve feet above low water mark, at the mills of S. Webb & Co., at the head of said rapids: *provided*, ^{Limit of height of dam.} said dam shall not exceed twenty-two feet from low water mark to the top of said dam, said dam to be provided with a suitable chute and slide for the free passage of lumber and logs; said slide not to be less than twenty-four feet wide, and of suitable length to pass rafts without danger or delay; said dam also to contain a sufficient number of flood gates to draw the water from the pond created by said dam, and also a proper sluice or chute for the running of logs in low water over the said dam.

SECTION 2. Section eleven of said chapter is here- ^{Amended—} by amended by adding thereto the following: *provided*, ^{how title to} that for the purpose of acquiring title to any land ^{land to be ac-} which the said dam will cause to overflow, or which ^{quired.} may be necessary to flow by reason of the erection of said dam to the height herein provided, the said company shall proceed in the same manner as is provided by chapter one hundred and nineteen of the general laws of 1872, in relation to the organization of railroad companies, so far as the same shall be applicable hereto, and shall be entitled to all the rights and powers granted by said act to and in such lands.

SECTION 3. This act shall take effect and be in force from and after its passage and publication.

Approved March 18, 1873.

CHAPTER 232.

[Published March 20, 1873.]

AN ACT to amend an act entitled an act to incorporate the city of Wausau.

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

SECTION 1. That from and after the passage of this ^{city limits.} act, all that district situated in the county of Marathon, and state of Wisconsin, and described as follows: All

Name and powers.	of sections thirty-six (36), twenty-five (25), twenty-six (26) and thirty-five (35), all in township number twenty-nine (29) north, of range seven (7) east, shall be known and designated as the city of Wausau, and by that name shall be capable of contracting and being contracted with, of suing and being sued, pleading and being impleaded, answering and being answered unto, in all courts and places, and in all matters whatever, with powers of purchasing, receiving, holding, occupying and conveying real and personal estate, and shall be competent to exercise all the rights and privileges, and be subject to all the duties and obligations appertaining to a municipal corporation.
Division into wards.	SECTION 2. The said city shall be divided into four wards, the boundaries of which shall be as follows, to-wit: All of that territory lying west of the Main street of the village of Wausau shall constitute the first ward, and that portion lying east of Main street and south of Washington street, shall constitute the second ward, and that portion lying east of Main and north of Washington street, shall constitute the third ward.
How corporate authority vested.	SECTION 3. The corporate authority of said city shall be vested in one municipal officer, styled the mayor, in one board of aldermen, consisting of two members from each ward, who with the mayor, shall be denominated the common council, together with such other officers as are hereinafter mentioned or may be created under this act.
Elective officers and their terms of office.	SECTION 4. The elective officers of said city, shall be a mayor, a treasurer, a marshal, one police justice for the city-at-large, a city clerk, a chief engineer for the city-at-large, a city attorney, two aldermen, an assessor and one justice of the peace for each ward, which said officers shall hold their respective offices as follows: the mayor, assessor, treasurer, marshal, chief engineer, city clerk and city attorney for one year; the aldermen, police justice and justices of the peace, for two years; the term of office shall commence on the first Monday after their election. Each of said officers shall continue in office for his respective term, and until his successor is elected and qualified, and shall have such powers and perform such duties as are prescribed by this, or as may be prescribed by this, or as may be prescribed by any ordinance of said city, not inconsistent with this act, or which may not be incompatible with their respective offices.
Election of city and ward officers.	SECTION 5. On the first Tuesday of April of each year, the qualified electors of said city of Wausau shall elect one mayor, one assessor, one treasurer, one police

justice, one chief engineer of the fire department, one clerk and one city attorney, which said officers shall be qualified voters resident in said city, and on the same day, and at the same place of holding said election, the said qualified electors shall also elect aldermen and one justice of the peace for each ward; the aforesaid officers shall be residents of the respective wards. The election shall be held in the first ward at the Lake Superior house, in the second ward at the Forest house, and in the third ward at the engine house. The voters present shall have power to proceed by nomination and *viva voce* election, to elect three inspectors and two clerks, whose duties shall be (after being sworn by any officer competent to administer an oath by the laws of this state), to see that said election shall be conducted in accordance with the laws of the state of Wisconsin, and any fraud or violation of said laws at said election shall be punishable the same as any violation of the election laws of this state; and at every subsequent first Tuesday in April thereafter, elections shall be held in the same wards in said city, for the officers above designated, and said elections shall be presided over by the aldermen in the respective wards, or in case of their absence or disability, the voters present at the hour of opening the polls, shall elect by *viva voce*, a sufficient number of inspectors to make three, with the alderman or aldermen present, who shall be sworn in accordance with the laws of the state. They shall appoint two clerks, who shall severally take and subscribe the oath of office; and shall see that the names of the voters are registered, and the ballot safely deposited in the ballot box; shall decide all questions that may arise as to the legality of the vote presented; shall count the ballots at the close of the polls, and shall certify and seal two returns, and the day following the election shall direct and return one of said returns to the clerk of the city council, and the other to the clerk of the county of Marathon. The mayor of the city, and such members of the common council as shall hold over, shall constitute a board of canvassers, who shall, within five days after the election, meet at the common council chamber, and canvass such returns; and after the aforesaid returns have been canvassed by said board, the mayor shall notify, by a certificate, the persons elected to the respective offices. The polls shall be open from 9 o'clock, A. M., until 6 o'clock, P. M.

SECTION 6. In the event of a vacancy in the office of mayor or alderman, by death, removal or other disability, the common council shall order a new election,

Places of election.

Inspectors of election.

Time of each annual election fixed.

Clerks of election—their duties.

Board of canvassers.

How vacancies filled.

and shall give five days' notice thereof. Any vacancies in the other offices shall be filled by the common council. The person elected or appointed to fill a vacancy shall hold the office and discharge the duties thereof for the unexpired term, with the same rights and subject to the same liabilities as the person whose office he may be elected or appointed to fill.

Manner of voting at elections, and by the council.

SECTION 7. All elections by the people shall be by ballot, and a plurality of votes shall constitute an election. All elections by the common council may at their option be *viva voce*. 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 casting lots in the presence of the common council, at such time and in such manner as they may direct. All persons entitled to vote for state or county officers, and who shall have resided in the city for ten days preceding the election, and for ten days within the ward where they offer to vote, shall be entitled to vote for any officer to be elected under this law, and having six months' residence within the said city, to hold any office hereby created.

Qualifications of voters.

Special elections.

SECTION 8. Special elections to fill vacancies for any other purpose, shall be held and conducted by the aldermen of each ward, or inspectors, as provided by this act, and returns thereof shall be made at the same time and in the same manner as of general or annual elections.

Classification of aldermen.

SECTION 9. There shall be elected at the first election under this act, two aldermen in each ward, who shall hold their office for one year, and at every annual election thereafter two aldermen in each ward, who shall hold their office for one year; the aldermen named on the tickets as member of the county board of supervisors, shall also be the member of the board of supervisors from that ward for one year.

When office deemed vacant.

SECTION 10. Any officer removing from the city, and any officer removing from the ward of which he was elected, and any officer who shall refuse or neglect to qualify within twenty days after his election, shall be deemed to have vacated his office, and the common council shall proceed to fill such vacancy as herein provided.

OFFICERS—THEIR POWERS AND DUTIES.

What officers shall take oath and give bonds.

SECTION 11. Every person appointed to fill any vacancy under this act shall, before he enters upon the duties of his office, take and subscribe an oath of office and file the same, duly certified by the officer

taking the same, with the city clerk, and the treasurer, marshal, police justice and justices of the peace and such other officers as the common council may direct, shall severally, before they enter upon the duties of their respective offices, execute to the city of Wausau, a bond, in such sum and with such security and such conditions as the common council may direct; and the common council may, from time to time, require new or additional bonds, and remove from office any officer refusing or neglecting to give the same.

SECTION 12. The mayor, when present, shall preside over the meetings of the common council, and take care that the laws of the state and the ordinances of the city within the corporation are duly enforced and observed, and that all officers of said city discharge their respective duties. He shall sign all contracts duly authorized by the council, and shall also sign all ordinances that are passed upon by the common council, and also sign all orders drawn on the treasurer; upon a vote of the common council, he shall appoint a police in such numbers as the common council may direct, and in case of a riot or disturbance of the peace, shall call out the members of the different fire companies, who on such occasions shall have the same authority, and shall be vested with the same powers as policemen. He shall communicate to the common council in writing, once a year, such information as he may deem necessary, and at all times give such information as the common council may require.

The mayor—his powers and duties.

SECTION 13. At the first meeting of the common council each year, or as soon thereafter as may be, they shall proceed to elect, by ballot, one of their number as 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, from any cause, to discharge the duties of his office, the president shall execute all the powers and duties of the mayor. In case the mayor and president shall be absent from any meeting of the common council, they shall proceed to elect a temporary presiding officer, who, for the time being, shall perform the duties of mayor. The president, or temporary presiding officer, while presiding over the council, or performing the duties of mayor, shall be styled acting mayor, and acts performed by them shall have the same force and validity as if performed by the mayor.

Election of president of the council—his powers and duties.

The chief engineer of the fire department—his powers and duties.

Particular duties specified.

The city clerk—his powers and duties.

SECTION 14. The chief engineer shall have control of the fire department of the city of Wausau, and to prescribe the duties of the officers and members thereof; and together with the mayor and aldermen shall provide all necessary apparatus for the extinguishment of fires, to require the owner or occupants of buildings to provide and keep suitable ladders and fire buckets, if they are deemed necessary by him and the council, and which, if so procured, shall be declared to be appurtenances to the real estate and exempt from seizure, distress or forced sale in any manner, and if any such owner or occupants of any building shall refuse or neglect to procure suitable ladders and buckets, if requested so to do by the council, the chief engineer may procure and deliver the same to him, and in default of payment therefor, the council is hereby empowered to levy the costs and charges therefor as a special tax upon the real estate, and which shall be collected as other taxes of the city. The chief engineer shall have the power to regulate the storage of gunpowder and other dangerous materials; to direct and prescribe the construction of places for the safe depositing of ashes; to regulate the manner of putting up stoves and stove-pipes, and the construction of chimneys and the cleaning thereof; to compel the inhabitants of said city to aid in the extinguishment of fires, and to pull down or break down and raze such buildings in the vicinity of fire as shall be directed by the mayor and aldermen, or at least by two aldermen, who may be at the fire, for the purpose of preventing its communication to other buildings; to prevent bonfires and the use of fireworks and firearms within the limits of said city or such part thereof as he sees proper, and to have control over and preserve all the reservoirs, pumps, wells and other works, and to regulate the use thereof, and generally to establish such other measures of prudence for the prevention or extinguishment of fires as may be necessary and as he deems proper.

SECTION 15. The city clerk shall keep the corporate seal and all the papers and records of the city; he shall attend the meetings and keep a record of proceedings of the common council. The record of the proceedings of the common council kept by him shall be evidence in all legal proceedings, and copies of all papers filed in his office, and transcripts from the records, certified to by him under the corporate seal, shall be evidence in all courts in like manner as if the original were produced. He shall keep a full and accurate account of all orders drawn on the city treasury, in a book pro-

vided for that purpose, and shall also keep an accurate account with the treasurer, and charge him with all sums of money paid into the treasury. Whenever the clerk shall be absent from any meeting, the city council may appoint a clerk *pro tem*. The city clerk shall have power and authority to administer oaths and affirmations.

SECTION 16. The city attorney shall perform all the professional services incident to his office, prescribed by ordinances, and when required, shall furnish written opinions to the common council or its committees.

The city attorney—his duties.

SECTION 17. The treasurer shall receive all moneys belonging to the city, and keep an accurate and detailed account thereof, together with an account of all disbursements in such manner as the common council shall direct. He shall report to the common council as often as required, and annually, at least ten days before the annual election, shall make a full and detailed account of all receipts and expenditures after the date of the last annual report, and also of the state of the treasury, which statement shall be filed with the clerk.

The city treasurer—his powers and duties.

SECTION 18. The marshal shall also be the collector of the taxes, and for this service, except as herein otherwise provided, he shall have the same powers and be subject to the same penalties, be governed by the same laws and receive the same compensations as treasurers of towns. He shall perform such duties as shall be prescribed by the council for the preservation of the public peace, and the collection of license money and fines. He shall possess all the powers of constables of towns and be subject to the same penalties. It shall be his duty to execute and return all writs and processes to him directed, and when necessary in criminal cases, or for the violation of any ordinance of said city or law of this state, may pursue and serve the same in any part of the state of Wisconsin. It shall be his duty to suppress all riots, disturbances and breaches of the peace, to apprehend any person in the act of committing any offenses against any ordinance of said city or any law of this state, and forthwith to bring such person before competent authorities for examination; and for such services, he shall receive such fees as are allowed to constables for like services. He shall have power to appoint one or more deputies, whose appointment shall be approved by the common council, but for whose official acts he shall be responsible, and of whom he may require a bond for the faithful discharge of their duties.

The city marshal—his powers and duties.

Shall let the public printing to the lowest bidder.

Publication of ordinances.

Delivery of property, books, etc., to successor in office.

Peace officers—their duties.

Penalty for refusal of aid.

SECTION 19. The common council shall annually provide that all printing authorized and required by them to be done for their use or for the use of the city, shall be let by contract to the lowest bidder for the term of one year, but no bid therefor shall be considered unless made by the publisher of a newspaper printed and published in the city of Wausau, unless the bids of such publishers shall be higher than the legal rates of advertising, as fixed by law, or unless such publisher or publishers should fail to bid. All ordinances and other proceedings required by this act, or by the laws or ordinances of the common council, to be published, shall be published in the newspaper selected under the provisions of this section, and the printer of said newspaper shall, either in person or by his foreman, file with the clerk of the city his or their affidavit of the length of time said ordinance, by-law or proceeding had been published, and such affidavit shall be conclusive evidence of the publication of such notice, ordinance, proceeding or by-law.

SECTION 20. If any person, having been an officer in said city, shall not, within ten days after notification and request, deliver to his successor in office all property, moneys, books, papers and all 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 to deliver; and such successor may recover the possession of such books, papers and effects in the manner prescribed by the laws of the state.

SECTION 21. The mayor, sheriff of Marathon county, each and every alderman, marshal, chief engineer and foreman of fire companies and their assistants, watchmen, all justices of the peace, shall be officers of the peace, and suppress in a summary manner all rioting and disorderly behavior within the limits of the city; and for such purpose, may command the assistance of all by-standers, and if need be, of all citizens and military companies. If any person, by-stander, military officer or private shall refuse to aid in maintaining the peace when so required, every such person shall forfeit and pay a fine of fifty dollars; and in case where the civil power may be required to suppress riots or disorderly behavior, the superior or senior officer present in the order mentioned in this section shall direct the proceedings.

SECTION 22. The police justice shall have the same power and jurisdiction as a justice of the peace, and exclusive jurisdiction in all cases arising under the city charter and the city ordinances, and shall have the same power and authority in cases of contempt as a court of record: *provided*, that nothing herein contained shall be deemed to divest the judges of the circuit or county courts of the authority as conservators of the public peace, nor to effect in any manner the powers or jurisdiction of the circuit or county courts of the county of Marathon. The police justice shall be entitled to receive for his services the same compensation in fees as is allowed by law to justices of the peace for similar services and no other, but the city, shall not be liable to the said police justice for his said fees, except such as shall accrue in prosecutions for the violation of the charter or ordinance of the city, wherein the offender shall have been discharged from imprisonment or custody by the the authority of the common council. In case of absence, sickness or other disability of the police justice, the mayor, by warrant, may authorize any justice of the peace within said city to perform the duties of police justice, and it shall be thereupon the duty of the mayor to inform the city attorney and marshal of such substitution, and make report thereof to the common council, and they may confirm or set aside such appointment, and the justice so appointed shall for the time being possess all the authority, powers and rights of the police justice. Appeals and writs of *certiorari* may be taken from the police justice in the same manner as from the justice of the peace.

The police justice—his powers, duties and jurisdiction.

His fees.

His substitute.

SECTION 23. The police justice shall quarterly, report to the common council a list of all proceedings instituted before him in the behalf of the city, and the disposition thereof, and shall, at the same time, account and pay over to the treasurer, the amount of all penalties and fines collected, which may by law accrue to the city. The city shall not be liable or pay any costs for violation of any law of this state.

Shall make quarterly report.

SECTION 24. The common council may elect a city surveyor, and by the by-laws of said city, may prescribe his powers and duties.

May elect city surveyor.

SECTION 25. The mayor and aldermen shall constitute the common council, and the style of all ordinances shall be, "the common council of the city of Wausau do ordain," &c. The common council shall meet at such time and place, as they by resolution shall

Style of ordinances, etc.

direct. A majority of the aldermen shall constitute a quorum.

Stated meetings, rules, etc.

SECTION 26. The common council shall hold stated meetings, and the mayor may call special meetings by notice to each of the members, to be served personally, or left at their usual places of abode. The common council shall determine the rule of its proceedings, and be the judge of the election and qualification of its own members, and have power to compel the attendance of absent members.

The general and special powers of the common council defined.

SECTION 27. The common council shall have the control and management of the finances, and of all the property belonging in the city, and shall likewise, in addition to the powers herein vested in them, have full power to make, enact, ordain, establish, publish, enforce, alter, amend, modify and repeal all such ordinances, rules and by-laws for the government and good order of the city, for the suppression of vice and immorality, for the prevention of crime, and for the benefit of trade, commerce and health, as they shall deem expedient, declaring and enforcing penalties, and to enforce the same against any person or persons who may violate any of the provisions of such ordinance, rule or by-law; and such ordinances, rules and by-laws are hereby declared to be and have the force of law: *provided*, they are not repugnant to the constitution and laws of the United States or of this state; and for these purposes shall have authority, by ordinances, resolutions, or by-laws,

The licensing of shows, sale of liquors, etc.

1st. To license and regulate the exhibition of common showmen or shows of any kind, or the exhibition of caravans, circuses, theatrical performances, billiard 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 selling spirituous, vinous or fermented liquors and to regulate groceries, taverns, victualing houses and all persons vending or dealing in spirituous, vinous or fermented liquors, and to repeal the same for a violation thereof: *provided*, that the sum to be paid for any such license shall not be less than the amount fixed and provided by the laws of the state, and that all licenses granted shall terminate on the first day of May next following; *and provided further*, that no person thus licensed shall sell or give away spirituous, fermented or vinous liquors on election days.

Restrain gaming.

2d. To restrain and prohibit all descriptions of gaming and fraudulent devices and practices, and all playing of cards, dice or other games of chance, for the

purpose of gaming in said city; and to restrain any person from vending, giving or dealing in spirituous, vinous or fermented liquors, unless duly licensed by the common council.

3d. To prevent any riots, noise, disturbance or disorderly assemblages, suppress and restrain disorderly houses or groceries, and houses of ill-fame, and to authorize the destruction of all instruments used for the purpose of gaming. Prevent riots, etc.

4th. To compel the owners or occupants of any grocery, cellar, tallow-chandler's shop, soap factory, tannery, stable, barn, privy, sewer, or other unwholesome, or nauseous house or place, to cleanse, remove or abate the same from time to time, as often as it may be deemed necessary for the health, comfort and convenience of the inhabitants of said city; and the said common council shall have power at any regular meeting to enact, ordain, publish and provide for necessary and suitable by-laws, which said by-laws so provided for, enacted and ordained, shall be the law, rule and regulation, until the same shall be abrogated and repealed by said board in the following cases. The cleaning or abatement of nauseous places.

5th. To regulate the location of slaughter houses. To prevent the obstructing of the streets. To prevent horse-racing, fast riding or driving in the streets, and to regulate places of bathing and swimming. To restrain horses and other domestic animals from running at large and provide rules for impounding and sale of the same; to prevent the running at large of dogs. Slaughter houses, the obstruction of streets, horse racing, etc.

6th. To establish public pounds, pumps, wells, cisterns and reservoirs; to regulate and license hacks, cabs, drays, carts, and the charges of hackmen, draymen and cartmen; to erect lamps and to provide for lighting streets, public grounds and public buildings; to authorize the building and protecting of sidewalks in the city. Establish public pounds, etc

7th. To restrain drunkards and immoderate drinkers or obscenity in the streets or public places. Restrain drunkards.

8th. To compel the owners or occupants of grounds or buildings, where the same are occupied, to remove all obstructions from the sidewalks. Remove obstructions.

9th. To regulate auctions. Auctions.

10th. To appoint watchmen and prescribe their duties. Watchmen.

SECTION 28. The common council shall examine, audit and adjust the accounts of the city clerk, street commissioner, treasurer, and all other officers and agents of the city, at any such time as they may deem proper, Shall adjust accounts.

and also at the end of each year, and before their term of office expires.

May lay out, alter or discontinue streets.

SECTION 29. The city council, within the city limits shall have full power and authority to lay out, alter or discontinue any highway, street, lane, alley or public walk therein, or to grade, pave or otherwise improve the same, as they may deem necessary or advisable: *provided*, that no street, lane or alley shall be laid out by said council through any outlot containing more than five acres, unless the consent of the owner or owners thereof be first obtained in writing.

Shall act on petition of freeholders.

SECTION 30. No highway, street, lane, alley or public walk shall be laid out or altered, unless a petition, signed by at least six freeholders, residents of the city, shall be presented to the common council, asking therefor, describing the same with reasonable certainty, and if the same requires the taking of private property for public use, against the consent of the owners, not until the necessity thereof shall be first established by the verdict of a jury.

Shall give notice when private property is taken.

SECTION 31. On presenting such petition, if it shall appear that private property is required to be taken, against the consent of the owners, the city council shall cause a notice of such application to be published for two weeks, in one or more newspapers of said city, stating that on a certain day therein to be named, a jury will be summoned by the city marshal, to hear and decide upon such application, and the necessity of taking such property.

Mayor shall issue venire for jurors.

SECTION 32. On or before the day named in said notice, the mayor of the city or in his absence, the acting mayor thereof, shall issue a venire directed to the marshal of said city, requiring him to summon a jury of six disinterested freeholders thereof, who have no interest in the property proposed to be taken, and are in no wise of kin to any person who has interest therein, whose duty it shall be to view the property proposed to be taken, and hear such proofs as may be offered by any person interested in the same; such witnesses may be sworn by the city marshal.

Jury shall make out verdict in writing.

SECTION 33. If such jury shall agree, and if not, new venires may be issued, and new juries summoned until they do agree, they shall make out and deliver their verdict in writing, signed by them, to the city marshal, who shall deliver the same to the city clerk, to be filed and delivered by him to the city council at their first meeting thereafter.

Shall cause grounds to be surveyed.

SECTION 34. If the jury shall have returned a verdict that it is necessary to take private property for

public use, as required by said petition, the city council may thereupon cause said highway, street, lane, alley or public walk to be laid out or altered, if they shall deem it for the interest of the city, and thereupon shall cause the same to be carefully surveyed and recorded, and an order to be entered among their proceedings, confirming said verdict.

SECTION 85. The city council shall thereupon, by an order entered in their proceedings, appoint three disinterested persons, freeholders of the city, commissioners, whose duty it shall be to view and examine the proposed highway, street, lane, alley, public walk or alteration thereof, and ascertain and appraise the just value of the property of the individuals, necessary to be taken therefor. They shall also ascertain and appraise the necessary cost, expenses and damages for laying out, opening or altering the same, and make report thereof, under oath, to the city council, within such time as may be limited by said order.

Council shall appoint commissioners to view premises.

SECTION 86. The commissioners shall also view, ascertain, assess, determine and report to the city council, what property, lots and parcels of land are or will be benefited by the laying out, opening or alteration of any such highway, street, lane, alley or public walk, and assess, designate, apportion and determine the costs, expenses and damages of laying out, taking, opening or altering of the same, on the property, lots and parcels of land so benefited, in just proportion, making out a list thereof, as they shall assess and apportion the same.

They shall determine and report benefits and damages.

SECTION 87. The commissioners, in all cases where property, lots or parts of lots shall be taken, shall assess the benefits thereof to the other parts of said property or lots, and make out a list thereof, and shall strike the balance between the damages and benefits so assessed, and make out a list of the same and report the same to the common council.

Shall strike balance between damages and benefits.

SECTION 88. The commissioners shall, immediately after their appointment, and before proceeding to discharge their duties as aforesaid, give notice in one or more newspapers of the city for at least one week of the time and place in which they will meet to hear any proofs or allegations of any person interested therein, and at the time and place so mentioned, they shall meet for that purpose, and may adjourn from time to time, as they may regard reasonable, but not beyond the time limited in the order for making their report, and either of said commissioners shall have power to administer an oath to any witness offered.

Shall give notice of meeting to hear objections.

Aggrieved persons may appeal from assessment.

SECTION 39. If any witness shall deem himself aggrieved by such assessment or apportionment, he may at any time within ten days after the filing of the same, appeal therefrom, by notice in writing to the city council, and ask for a review and rehearing thereof, and the city council shall thereupon appoint a day and place for such review and rehearing, at which day and place they shall proceed to hear and review the same, and shall hear such proofs and witnesses as may be offered, to be sworn by the mayor or acting mayor, and may alter or modify said assessment or apportionment, as they shall deem just and right.

Council may enter order of confirmation.

SECTION 40. If no appeal shall be taken, or if taken, whether modified or not, the city council may, if they deem it just and for the interest of the city, enter an order in their proceedings, that the same be confirmed.

No street to be laid out till damages are paid.

SECTION 41. No such highway, street, lane, alley, public walk or alteration thereof shall be laid out, opened or made, until an order shall be entered, directed to the city treasurer, to pay the owners of property which has been taken against their consent, the amount or balance so assessed or awarded in their favor.

Assessments to be a lien upon property.

SECTION 42. All sums so assessed and confirmed, shall be a lien upon property so assessed and apportioned, and for the payment of which such property, lots or parcels of land shall be liable, and the same shall be collected with, and as other taxes are collected in the city.

In all other cases, how lay out streets.

SECTION 43. In all other cases, the city council may lay out, alter or discontinue any highway, street, lane, alley or public walk, wherever they may deem the same proper or advisable, by an order entered in their proceedings, specifying and describing the same: *provided*, the same is applied for by petition, as herein-before mentioned, and two weeks' notice of the same shall have been previously published in one or more newspapers of the city.

Definition of terms.

SECTION 44. The words, public walks, shall be construed to mean any public ground or square which may be regarded necessary or desirable, for the health or convenience of the city; and the words, alter or alteration, to mean any widening, extending or other change of any highway, street, lane, alley or public walk which may be regarded useful, convenient or necessary to make.

SECTION 45. The city council shall, within the city limits, have full power and authority over all harbors, basins, slips, wharfs, docks, piers and other places for landing, fastening and mooring boats, vessels, scows, rafts, timber, lumber, merchandise or any other materials or substances whatever, and also over all rivers, creeks, streams and sloughs therein, with full power and authority to deepen, widen, dredge or otherwise improve such harbors, basins, slips, wharfs, docks, piers and places of fastening and mooring boats, vessels, scows, rafts, timber and merchandise, as they shall deem necessary for the business interests of the city.

Council to have full power over harbors, etc., and may improve the same.

SECTION 46. All such power and authority shall be exercised by the passage of ordinances therefor. And no such authority shall be exercised, except upon the application of six resident freeholders of the city, expressing in said application, with reasonable certainty, the ordinance desired; and no such ordinance shall pass or be of any effect, unless the same shall have been published at least two weeks, in one or more newspapers of the city; or unless a majority of the aldermen elected shall vote therefor, which vote shall be by the ayes and nays, and entered in the minutes of their proceedings.

How such power and authority to be exercised.

SECTION 47. And if such application shall require that private property shall be taken for public use against the consent of the owner, no such ordinance shall be passed until the necessity thereof shall first be established by the verdict of a jury in the same manner as in laying out or altering highways, streets, lanes, alleys or public walks.

Not to take private property till necessity is established.

SECTION 48. If the city council shall pass such ordinances, commissioners shall be appointed, with the same power, and the like proceedings shall thereupon be had, with the same force and effect in all respects as in laying out or altering highways, streets, lanes or alleys or public walks.

Shall proceed same as in laying out streets.

SECTION 49. The city council shall have full power and authority, within the city limits, to drain or cause to be drained, and to direct the manner of draining all marsh and wet lands therein, in such manner as they shall deem necessary and advisable.

Shall direct drainage of marshes, etc.

SECTION 50. No such authority shall be exercised except upon the like application or petition as in laying out or altering highways, streets, lanes, alleys or public walks, and if such application requires that private property shall be taken for public use against the consent of the owners, not until the necessity thereof shall be first established as therein required,

Authority shall be exercised in the same way as in laying out streets.

and whenever any ordinance for that purpose shall be passed, the same proceedings shall thereupon be had, with the same force and effect in all respects as in laying out or altering highways, streets, lanes, alleys or public walks.

Council may appoint street commissioners for each ward.

SECTION 51. The common council shall have power to appoint a street commissioner for each ward, and may, by by-laws, define his powers and duties, and for that purpose may make and enact such by-laws as they may from time to time deem proper, for the surveying and grading of streets, and for the payment of damages for the construction of sidewalks. Such by-laws shall not conflict with any provisions or ordinances herein mentioned, or with the laws of the state of Wisconsin.

All city funds, except school fund, to be under control of council.

SECTION 52. All funds in the city treasury, except school, state and county funds, shall be under the control of the common council, and shall be drawn out upon the order of the mayor, countersigned by the clerk, duly authorized by 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 were drawn, and shall be payable generally out of any funds in the treasury belonging to the city, and all such orders shall be received in payment of any debt or demand due to, or tax or assessment levied by authority of the city, except taxes levied for school purposes.

City debts must be authorized by majority vote.

SECTION 53. No debt shall be contracted against the city, or order drawn upon the treasury of the city, 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 noes upon the journal of the council; and no money shall be appropriated for any purposes whatever, except such as is expressly authorized by this act.

Fines, forfeitures, etc., to be paid into general fund.

SECTION 54. All forfeitures and penalties accruing to the city for a violation of this act or of any of the ordinances, rules, by-laws and regulations of the city, and all moneys received for licences, shall be paid into the city treasury and become 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 vote of two-thirds of all the aldermen elect.

All property subject to taxation.

SECTION 55. All property, real or personal, within the city, except such as may be exempt by the laws of the state, shall be subject to annual taxation for the support of the city government and the payment of its debts and liabilities, and the same shall be assessed in

the manner hereinafter provided. The assessor of each ward, elected under this act, shall have and possess the same powers that are or may hereafter be conferred upon township assessors, except so far as they may be altered by this act: *provided, however*, that the common council may prescribe the form of assessment rolls, and more fully define the duties of assessors, and make such rules and regulations in relation to revising, altering or perfecting such rolls as they may, from time to time, deem advisable.

Powers of the assessor.

SECTION 56. On or before the first Monday of May of each year, the assessors shall meet at the common council chamber, and shall organize by electing one of their number as chairman, who shall be authorized to administer such oath as shall be necessary in the discharge of his duties as assessor, and on or before the first day of July of each year, the said assessors shall make out an accurate and complete assessment roll, which shall contain a description, as near as may be, of all lands, lots or parcels of land within the city, sufficient to identify the same, and also of all persons or bodies politic, liable to pay taxes on personal property, and opposite to each lot or parcel of land shall be affixed the value thereof, and opposite to the name of each person and body politic shall be affixed the value of personal property assessed to each. When there are buildings on any lot or tract of land, the value of the same shall be set forth separately, when so desired by the owner thereof. The assessor may assess any lot or tract of land to the owner or occupant in such parcels or subdivisions as they may deem proper, but it shall not be necessary to enter the name of the owner opposite to any tract or parcel of land. The assessment roll shall be certified to by the assessor. The assessment roll shall be made out by wards, and show the taxable property, both real and personal, of each ward separately.

Meeting of assessors and making out of the assessment roll.

Buildings to be assessed separately, and may assess lots in subdivisions.

SECTION 57. On the first and second Mondays of July, and at such other time and times as he may appoint, the assessor shall appear at the common council chamber, for the purpose of hearing any objections of parties deeming themselves aggrieved by such assessment, and after hearing the same the assessor shall make such alterations or revisions as justice or equity may require.

When hear objections.

SECTION 58. On or before the first Monday of July in each year, the assessor shall return his assessment roll to the common council, by depositing the same with the clerk; the common council may supply omis-

Return and correction of assessment roll.

sions in said roll, and for the purpose of equalizing the same, may alter, add to, take from, and otherwise revise and correct the same, but shall not have power to increase the amount of said tax, except by the value of such real property as may have been omitted by the assessor.

When corrected shall be filed with the clerk.

SECTION 59. When the assessment roll shall have been revised and corrected, the same shall be filed with the clerk, and an order approving the same shall be entered in the proceedings of the common council, on the first Monday of August of each year, or within ten days thereafter; the common council shall determine the amount of taxes to be levied for general city purposes, and shall, by resolution, levy the same, but no such resolution shall be adopted except by a vote of two-thirds of the members elect, which shall appear in the proceedings of the common council.

Taxes to be and remain a lien till paid.

SECTION 60. All taxes or assessments, general or special, levied under this act, shall be and remain a lien upon the lands and tenements upon which they may be assessed, and may be collected of the owners or occupants, and upon all personal property of any person or body politic assessed for personal taxes, from the date of the warrant for the collection thereof, until such taxes shall be paid; and no sale or transfer of such real or personal property shall affect such lien. Any personal property belonging to a person taxed may be taken and sold for the payment of taxes upon personal or real property.

City clerk to transmit copy of roll to county clerk.

SECTION 61. Before the annual meeting of the board of supervisors of the county of Marathon, and by the time required by the laws of the state for the return of the assessment from the several towns, the city clerk shall transmit a copy of the assessment roll to the clerk of the board of supervisors of said county, who shall lay the same before said board at their annual meeting.

City to be regarded as a town.

SECTION 62. The board of supervisors shall have the right to regard the city of Wausau as a town, in equalizing the assessment rolls of the several towns in said county, as provided by law, but in such equalization shall consider the assessment roll as an entire roll, and shall not change the relative valuation of the different wards.

Shall proceed without regard to ward divisions.

SECTION 63. The said board of supervisors may levy a tax or taxes, as now is or may hereafter be provided by law in relation to towns, but shall proceed therein without regard to the division of the city into wards, and shall cause the amount of taxes so levied to be certified to the city clerk, in the manner provided

by law, in relation to towns or town clerks, and in all transactions of the board of supervisors of said county, said city shall be regarded as a town, except as herein otherwise provided.

SECTION 64. Upon receiving the statement of the amount of taxes so levied, the city clerk shall make out upon the assessment roll in columns left for that purpose, or upon a copy thereof, a complete statement of the several taxes levied for the state, county, city or other purposes, and all delinquent taxes, if any, of the previous year, and all special taxes levied by the common council.

City clerk to make out complete statement

SECTION 65. The tax list made out and preserved as aforesaid shall be *prima facie* evidence in every court of record in this state, that any act or thing required by law to be done, relating to assessors or levying taxes, from the election of officers to the completion of the tax list inclusive, has been done regular, correct, and as required by law.

Tax list shall be *prima facie* evidence.

SECTION 66. Immediately after making out the tax list aforesaid, the clerk shall make out a duplicate copy thereof, to which shall be appended a warrant, signed by the mayor and clerk, and sealed with the corporate seal of said city, directed to the marshal, requiring and commanding him to collect the taxes and assessments specified in said duplicate copy of the tax list, in the manner provided by law; and said clerk shall, on or before the 25th day of December of the said year, or as soon thereafter as practicable, deliver the same to the city marshal for collection, and make a record of said delivery of the tax list aforesaid in his office.

Clerk shall make out duplicate list, and append tax warrant.

SECTION 67. The city marshal, upon receipt of said duplicate copy of the tax list, shall proceed to collect the same in like manner, and shall have like powers, and be subject to like requirements, liabilities and restrictions, as town treasurers, except as otherwise provided in this act. The city marshal shall receive two per cent. fees upon all taxes paid to him before the first day of January, and five per cent. upon all taxes collected after that time, to be added to the amount of taxes, and collected with the same.

City marshal to collect tax.

SECTION 68. On or before the fifteenth day of February of each year, the said marshal shall make out and return to the treasurer of Marathon county, a list of all lands and lots upon which the taxes have not been paid, and shall also settle with and pay over all moneys properly payable to said county treasurer, in like manner as now is or may hereafter be required of town treasurers. The said marshal

Shall make out list of delinquent real and personal property.

shall also by the same time, make out and deliver to the city clerk a list of all delinquent personal property tax for the same year. The county treasurer shall add the same interest, penalties or fees, to such delinquent returns as allowed or required by law, upon delinquent returns for the several towns.

County treasurer to sell delinquent lands.

SECTION 69. The county treasurer shall sell all delinquent lands and lots returned from the city of Wausau, at the same time and in the same manner as the other delinquent lands are sold in said county.

Exempt property subject to special taxes.

SECTION 70. All real estate exempt from taxation by the laws of this state shall be subject to all special taxes for the building of sidewalks and improvement of streets in front of the same.

Errors of officers not to invalidate tax.

SECTION 71. All the directions hereby given for the assessing of lands and the levying, collection and return of taxes and assessments, shall be deemed only directing, and no error or informality in the proceedings of any of the officers entrusted with the same, not affecting the substantial justice of the tax itself, shall vitiate or in any wise affect the validity of the tax or assessment.

Shall pay in delinquent taxes belonging to city to treasurer.

SECTION 72. It shall be the duty of the county treasurer of the county of Marathon, and he is hereby required, where lots, tracts, pieces or parcels of land have been returned by said city treasurer as delinquent for any general tax of this state, or for any tax authorized under this act, immediately after the sale of said delinquent lots, tracts, pieces or parcels of land by him, to pay said city treasurer the amount which may have been returned delinquent belonging to the city, either in cash or certificates of sale of said lots, tracts, pieces or parcels of land so returned as delinquent.

May guard against fires.

SECTION 73. The common council, with the chief engineer, for the purpose of guarding against the calamity of fire, shall have power to enact all suitable by-laws for the organization, maintenance and government of fire companies in said city, and may, in their by-laws, enact such regulations as the majority of said board may deem expedient for the safety of the property of the citizens of said city from accident or losses by fire.

All work to be let by contract.

SECTION 74. All work for the city or either ward thereof shall be let by contract to the lowest responsible bidder, at the option of the council, and due notice shall be given of the time and place of letting such contracts.

SECTION 75. All actions brought to recover any penalty or forfeiture under this act, or the ordinances, by-laws, police or health regulations, made in pursuance thereof, shall be brought in the corporate name of the city. It shall be lawful to declare generally in debt for such penalty or forfeiture, stating the clause of this act or by-laws or ordinance under which the penalty or forfeiture is claimed, and to give the special matter in evidence under it. All prosecutions may be commenced by summons or by warrant, as the exigencies of the case may seem to require: *provided*, that nothing herein contained shall be so construed as to prevent any peace officer from arresting without process any person found in a state of intoxication, or guilty of immoderate drinking, improper reveling, obscenity, or noisy, boisterous or disorderly conduct in the streets or public places, and taking such person or persons forthwith before the police justice, or keeping them in confinement until such time as said justice can reasonably hear and dispose of such offenders.

How actions to be brought to recover penalties, etc.

Peace officer may arrest without process

SECTION 76. Executions shall issue forthwith on the rendition of judgment, unless the same be stayed or appealed according to the laws of this state. The execution, except in cases *ex contractu*, shall require the defendants in any such action, in case no goods or chattels, lands or tenements whereof the judgment can be found, to be imprisoned in the jail of Marathon county, for a term not exceeding three months, in the discretion of the justice or judge rendering judgment, unless the same be sooner paid or discharged by the common council.

The issue and service of executions.

SECTION 77. No person shall be an incompetent 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.

Not to make incompetent.

SECTION 78. If any election by the people or common council shall not, for any cause, be held at the time or in the manner herein prescribed, or if the common council shall fail to organize as herein provided, it shall not be considered reason for arresting, suspending or absolving said corporation; but such election or organization may be had on any subsequent day, by order of the mayor; and if any of the duties enjoined by this act, or the ordinances or by-laws of the city, to be done by any officer at any time specified, and the same are not done and performed, the common council may appoint another time at which said acts may be done or performed.

Failure of election not to dissolve corporation.

How serve process against city. SECTION 79. Whenever any suit or action shall be commenced against said city, the service thereof may be made by leaving a copy of the process with the mayor, and it shall be the duty of the mayor forthwith to inform the common council thereof, or take such other proceedings as the ordinances or resolutions of said council may provide.

May hold property. SECTION 80. Said city may lease, purchase or hold real or personal property for the convenience of the inhabitants thereof, and may sell and convey the same, and the same shall be free from taxation.

How taxes in Maine to be levied. SECTION 81. All taxes apportioned, levied and assessed in or against the town of Maine previous to the passage of this act, shall in all respects be collected in the same manner as though this act had not been passed, and to carry out this provision, the officers of the said town and of the county of Marathon shall have the same rights, powers and duties as though this act were not passed.

Town business and funds transferred. SECTION 82. The town business of the present town of Maine, up to the time of the taking effect of this act, shall be settled by the city of Wausau, as constituted by this act, and the amount of funds remaining, or the indebtedness of the town, shall be apportioned between the town of Maine (according to the amount of taxable property in the part of said town now taken for the city of Wausau) and the city of Wausau.

Shall be represented in county board. SECTION 83. The city of Wausau shall be represented in the board of supervisors of the county of Marathon by one supervisor from each ward.

No salary to mayor or aldermen. SECTION 84. No compensation or salary shall be paid out of the city treasury to the mayor or any alderman of the city for his services, and they are hereby prohibited from being in any manner interested in any contract made by the authority of said city.

Regulations for the issuing of licenses. SECTION 85. Every license issued by the authority of this act, or the ordinance of the city, shall be signed by the city clerk, and sealed by the corporation seal, but no such license shall be issued by said clerk until the person applying for the same shall have deposited with the clerk the receipt of the city treasurer for the amount required to be paid therefor; nor shall any license be issued for dealing in, selling or vending spirituous, vinous or malt liquors, until the same shall have been authorized by the common council, and the applicant shall have filed his receipt as aforesaid, together with a bond, as required by the ordinances of the city, and the sum fixed to be paid for any such license, shall

be paid to the city treasurer in money for the use of the city. Every such license shall contain a clause prohibiting the selling, vending or giving away of any spirituous or malt liquors on general or special election days.

SECTION 86. Every person having such license, who shall vend, sell or give away any spirituous, vinous or malt liquors on any election day, shall be liable to prosecution under this act or the ordinances of the city, or may be indicted or informed against in the circuit court of Marathon county, and upon conviction thereof any such offender shall forfeit and pay a sum not exceeding two hundred dollars, nor less than fifty dollars, or be imprisoned in the jail of Marathon county not more than thirty days, nor less than ten days, at the discretion of the court, and the license held by such person shall be forfeited and void.

Penalty for selling liquors on election days.

SECTION 87. No suit or proceeding shall be commenced or prosecuted to recover title or possession of any lot, piece or parcel of land situated within the limits of the city of Wausau, held or claimed by virtue of any deed purporting upon its face to be executed upon account of any sale for taxes or assessments levied after the passage of this act, until the person commencing such proceedings shall have deposited with the court in which such proceeding is or shall be commenced, for the use of the holder or claimant under such deed, an amount of money equal to the amount of taxes, costs and charges paid in procuring such deed, and all subsequent taxes, costs and charges upon the lot or land described in such deed, and paid by such holder or claimant, together with twenty-five per cent. interest thereon from the time of such payment to the commencement of such suit or proceeding, and in the event that such deed shall be defeated or impeached on the trial of such cause, the money so deposited shall be awarded to the holder or claimant under such deed, except in cases where the taxes were paid before the sale, or the lands redeemed according to law. In the trial of every such cause on the part of the defendant, such deed shall be first read in evidence to the jury, and shall be evidence to the jury, and shall be evidence in such suit or proceeding to the extent specified and provided in section one hundred and nine, chapter fifteen, title five of the revised statutes.

How suits to recover property sold for taxes to be commenced and conducted.

Deed shall be read in evidence.

SECTION 88. The use of the jail of Marathon county, until otherwise provided, shall be granted to said city for the confinement of offenders, and every such offender shall be delivered to the sheriff of said county,

Shall have use of county jail.

for whose custody, safe keeping and delivery the said sheriff shall be responsible as in other cases.

Private property not liable for city debt.

SECTION 89. No real or personal property of any inhabitant of said city, or any individual or corporation shall be levied upon or sold by virtue of any execution issued to satisfy or collect any debt, obligation or contract of said city. The same provisions of statute that apply to towns in regard to paupers shall apply to said city.

Dissolution of connection between town and city, and transfer of duties.

SECTION 90. From and after the second day of April, A. D. 1873, the connection between the town of Maine and that part of said town included within the city limits, for all town purposes, shall be dissolved. The duties now and hereafter imposed on supervisors and other town officers and village officers so far as they relate to the city of Wausau, shall be performed by the aldermen of the several wards and the other officers of said city. All that part of the town of Maine, not included within the city limits, shall constitute the town of Maine, and the first town meeting shall be held at such place as the chairman of the board of supervisors of said town shall appoint.

Public act.

SECTION 91. This act shall be considered a public one, and shall be construed favorably in all courts and places.

SECTION 92. This act shall take effect and be in force from and after its passage.

Approved March 18, 1873.

CHAPTER 233.

[Published March 24, 1873.]

AN ACT to fix the terms of court in Winnebago county.

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

Terms of the circuit court fixed.

SECTION 1. The general terms of the circuit court for Winnebago county shall hereafter be held as follows: On the Tuesday next after the second Monday of April, and on the Tuesday next after the fourth Monday of November in each year.

Repealed.

SECTION 2. All acts and parts of acts heretofore passed fixing the time for holding terms of court in Winnebago county at any other time than herein contained are hereby repealed.