

made upon the garnishee, if such defendant can be found in his county; and if such defendant cannot be found within such county, but shall to the knowledge of such officer have an agent or attorney residing therein, then such copy of affidavit and notice may be served upon such agent or attorney.

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

Approved February 24, 1875.

CHAPTER 58.

AN ACT to appropriate to the Green County Agricultural Society a certain sum of money.

The people of the state of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. There is hereby appropriated to the "Green County Agricultural Society," out of any money in the State Treasury, not otherwise appropriated, the sum of one hundred dollars for the year 1873. Appropriated.

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

Approved February 24, 1875.

CHAPTER 59.

[Published March 4, 1875.]

AN ACT to incorporate the city of Oconomowoc.

The people of the state of Wisconsin, represented in Senate and Assembly, do enact as follows:

CHAPTER I.

THE CITY OF OCONOMOWOC—ITS CORPORATE POWERS.

SECTION 1. All that district of country in the county of Waukesha, and state of Wisconsin, hereinafter described, is hereby set off and separated from the Corporate powers.

towns of Summit and Oconomowoc and the village of Oconomowoc, and shall be a city by the name of "Oconomowoc," and the people inhabiting and those who shall inhabit said district, shall be a municipal corporation by the name of the city of Oconomowoc, and shall have the general powers possessed by municipal corporations at common law, and, in addition thereto, shall have and possess the powers hereinafter specifically granted, and the authorities thereof shall have perpetual succession, and shall be capable of contracting and being contracted with, suing and being sued, pleading and being impleaded, and of answering and being answered unto in all the courts of law and equity and other places, and shall have a common seal, and may change or alter the same at pleasure.

CITY BOUNDARIES.

City boundaries.

SECTION 2. All of section number thirty-two (32), the west half of section thirty-three (33), and the west half of the east half of section thirty-three (33), all that part of La Belle Lake lying south of the north line of said section thirty-three (33), extended west to the northwest corner of said section thirty-two (32), and all other bodies of water and lakes included within said lands and boundaries, comprising what now constitutes the present village of Oconomowoc, and a part of the town of Oconomowoc and all in township number eight; also the north half of section number five (5), the northwest quarter of section number four (4), and the west half of the northeast quarter of section number four (4), in township number seven (7), and being a part of the town of Summit, and all of range number seventeen (17) east, in the county of Waukesha and state of Wisconsin, shall be included in and constitute the limits of the city of Oconomowoc.

WARD BOUNDARIES.

Ward boundaries.

SECTION 3. The city shall be, and is hereby divided into three wards, called first, second and third wards, limited and bounded as follows: All that portion thereof, bounded on the north by the north line thereof, on the west by the east shore of La Belle Lake, from said north line to the Oconomowoc river at the iron bridge, and from said iron bridge south to

the center line of Milwaukee street, by the center line of Main street; on the south by the center line of said Milwaukee street from said center line of main street to the east line of said city; on the east by that part of the east line of said city from the said center line of Milwaukee street to the north line of said city, shall constitute the limits of the first ward. All that portion of said city lying south of said Oconomowoc river at said iron bridge and west of the center line of Main street, running therefrom and continued south to the south line of said city, shall constitute the second ward. All that portion of said city lying south of said part of the center line of Milwaukee street and east of that part of the center line of Main street extending in a direct line from the center line of Milwaukee street to the south line of said city shall constitute the third ward.

CHAPTER II.

TIME OF HOLDING ELECTIONS.

SECTION 1. The annual election for ward and city officers shall be held on the first Tuesday in April in each year, at such places as the common council shall designate; and the polls shall be kept open from 10 o'clock in the forenoon till 6 o'clock in the afternoon, with this proviso: That an adjournment may be had in the discretion of the inspectors of election for one hour between the hours of 12 o'clock M. and 1 o'clock P. M., upon due notice thereof given at the opening of the polls. Previous notice of six days shall be given of such elections signed by the clerk stating the time and place of holding the same and of the city and ward officers to be elected.

Elections.

SECTION 2. The elective officers of said city shall be: a mayor, who by virtue of his office shall be supervisor of said city, and as such shall represent said city in the county board of supervisors of said county of Waukesha; a treasurer, one assessor, a clerk, elected by and for the city at large; one justice of the peace, one constable and three aldermen, from each ward. The mayor, treasurer, assessor, constables, clerk and justices shall be qualified voters and residents of the city of Oconomowoc, and the said ward officers shall be qualified voters and freeholders or householders in the ward for which they were elected. The city marshal, street commissioners and all other officers neces-

Elective officers.

Appointive officers.

Terms of of-
fice.

sary for the proper management of the affairs of said city, shall be appointed by the common council. All elective officers, except justices of the peace, shall, unless otherwise provided, hold their respective offices for one year and until their successors are elected and qualified; *provided, however*, the common council shall have power, for cause, to expel any of their own number, and to remove from office any officer or agent under the city government, due notice in writing being first given to the officer complained of. The justices of the peace shall hold their offices for two years, and until their successors are elected and qualified. The mayor shall have power to suspend any police officer or watchman appointed by the council, when complained of, for cause, until the council shall take up his case and dispose of it, which shall be done within ten days after such suspension. He shall also have power to fill any vacancy thus created for the time being.

Vacancies.

SECTION 3. Whenever a vacancy shall occur in the office of mayor, treasurer, justices, clerk or aldermen, such vacancy shall be filled by a new election, which shall be ordered by the common council, within ten days after such vacancy shall occur. 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 duty thereof for the unexpired term, and with the same rights and subject to the same liabilities as the person whose office he may be elected or appointed to fill.

Elections to
be by ballot.

SECTION 4. All elections by the people shall be by ballot, and a plurality of votes shall constitute an election. 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.

Electors.

SECTION 5. All persons who are qualified electors of the State of Wisconsin, shall be deemed qualified electors of said city.

Inspectors and
clerk of elec-
tions.

SECTION 6. The mayor and one alderman from each ward shall be inspectors of all elections held in said city and the clerk thereof shall act as clerk of all elections or, in his absence, the board of inspectors may appoint an elector of said city for that purpose, and at any general election two electors thereof, in

the absence of the clerk, and if the clerk be present, one elector shall be so appointed; all elections shall be by ballot and any person receiving the highest number of votes for any office shall be declared elected. The aldermen of said city at the next election, and at all elections hereafter held in said city for city affairs shall provide three ballot boxes; one to be marked ward number one (1), one marked ward number two (2), and the other marked ward number three (3), and at such elections the inspectors shall deposit each elector's ballot in the box marked for the ward in which such elector shall reside; each ballot may have written or printed thereon the names of all persons voted for at large in said city, and also for any ward officer for the ward in which the elector resides; all elections shall be conducted in the same manner, and the qualifications of electors shall be the same as provided by the general laws of the state of Wisconsin except as otherwise provided in section five (5) of chapter two (2) of this act.

How ballots
to be deposited.

SECTION 7. If either of the inspectors shall suspect that any person offering a vote does not possess the qualifications of an elector, or if such vote shall be challenged by an elector, the inspectors, before receiving the vote of any such person, shall require him to take the following oath: "You do solemnly swear (or affirm, as the case may be) that you are twenty-one years of age and that you are a citizen of the United States (or have declared your intentions to become a citizen, conformably with the laws of the United States on the subject of naturalization); that you have resided within the state of Wisconsin one year; that you have been an actual resident within this city for ten days next previous to this election, and that you have not voted at this election, and that you have made no bet or wager or become directly or indirectly interested in any bet or wager depending on the result of this election;" which oath any member of the board of inspectors is hereby authorized and empowered to administer; and if the person offering to vote shall take such oath falsely, he shall be deemed guilty of wilful and corrupt perjury, and upon conviction thereof upon indictment or information, shall suffer the punishment provided by law for persons guilty of perjury. If any person who is not a qualified voter shall vote at any election, or if any person duly qualified shall vote for any other ward

Oath of elec-
tor.

Illegal voting
penalty.

than the one in which he resides, or shall vote more than once at any one election, he shall forfeit and pay a sum not exceeding two hundred dollars, nor less than twenty-five dollars. It shall be the duty of the inspectors to keep a list of the names of all persons whose votes may be challenged as aforesaid and who shall swear in their votes. And if any inspector shall knowingly and corruptly receive the vote of any person not authorized to vote, or shall make out false returns of an election, or if any clerk shall wilfully omit to write down the name of every voter as he votes, or shall wilfully make untrue and incorrect counts and tallies of votes, each and every inspector and clerk shall be liable to indictment or prosecution by information, and on conviction thereof shall severally forfeit and pay a sum not exceeding five hundred dollars, nor less than one hundred dollars. All such indictments or informations shall be tried in the circuit court of the said county of Waukesha.

Making false
returns—pen-
alty.

Election re-
turns.

SECTION 8. When an election shall be closed, and the number of votes for each candidate or person voted for shall be counted and ascertained, the said inspectors shall make return thereof, stating therein the number of votes for each person for each and every office, and shall deliver or cause to be delivered such return to the city clerk immediately after such election. The inspectors of election immediately after such election, shall meet and canvass said returns and declare the result as it appears from the same, and the city clerk shall forthwith give notice to each person elected of his respective election. In all cases of the election or appointment of any person to office, the board of aldermen shall file with the clerk a certificate signed by three or more of said board, giving the name of the person elected or appointed, and the term for which he was elected or appointed, and the clerk shall record said certificate in the book containing the record of the proceedings of the said board. Whenever a justice of the peace shall be elected, or a marshal shall be appointed, the clerk shall forthwith give notice thereof to the clerk of the circuit court of said Waukesha county, giving the name of said justice or marshal, and the time for which either is elected or appointed, and if elected or appointed to fill a vacancy, the name of the last incumbent and upon the election of a treasurer or mayor, the clerk shall give like notice to the clerk of the board of supervisors of said Waukesha county, and the officers upon

Clerk to give
notice.

receiving such notices shall file the same in their respective offices.

SECTION 9. 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 as general or annual elections, and within such time as may be prescribed by ordinance. Special elections.

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 vacancy as herein provided. When office shall be deemed vacant.

SECTION 11. There shall be elected at the first election under this act, one alderman for each ward who shall hold his office for three years, one alderman for each ward who shall hold his office for two years, and one alderman in each ward who shall hold his office for one year, and thereafter at each annual election, one alderman in each ward, who shall hold his office for three years; *provided*, that the first election under this act shall be held at one place to be designated by the village board of trustees of the village of Oconomowoc, and said board shall act as inspectors of such election, and shall prescribe the manner of holding and conducting such election, and shall provide ballot boxes for the reception of ballots from the qualified voters of the respective wards, and shall canvass and made returns of the result of such election, as provided by this chapter and the general laws of this state, and the clerk of said village shall act as clerk thereof, and shall give the required notice thereof as required by this act. Officers and their terms.

SECTION 12. The votes for mayor and all other elective officers shall be on one ballot, and shall be deposited in the respective ward ballot boxes. Votes to be on one ballot.

SECTION 13. At the first election aforesaid, there shall be written or printed or partly written and partly printed at the head of the votes for alderman for three years, the words "alderman for three years;" at the head of the votes for alderman for two years, the words "alderman for two years," at the head of the votes for alderman for one year, the words, "alderman for one year." Form of ballot.

Commencement of term.

SECTION 14. All the village officers of the village of Oconomowoc shall hold their respective offices until their successors shall be elected or appointed and qualified under this act; and the term of every officer elected under this act shall commence the second Tuesday of April of the year for which he was elected, and shall, unless herein otherwise provided, continue for one year and till his successor is elected and qualified.

Duties to be performed by village trustees

SECTION 15. All duties herein required of the city council in regard to elections shall be performed, so far as may be necessary, by the present village board of trustees of Oconomowoc and the clerk thereof in regard to the first election and the organization of the city government under this act.

First election.

SECTION 16. The first election of officers under the provisions of this act shall be held on the first Tuesday in April, A. D. 1875. The election of justices of the peace shall be held at the same time and place, and so every two years thereafter; and the justices of the peace now residing in the village of Oconomowoc shall hold their offices until their terms of office expire in addition to any justices who may be elected under this act.

When new election to be ordered.

SECTION 17. Should there be a failure by the people to elect any officer herein required to be elected on the day designated, the common council may order a new election to be held, ten days' notice of the time and place of holding the election first being given.

CHAPTER III.

OFFICERS—THEIR POWERS AND DUTIES.

Oath of office.

SECTION 1. Every person elected or appointed to any office under the provisions of this act, except justices of the peace, 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 clerk of the city; and the treasurer, clerk, marshal, 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 Oconomowoc, a bond with at least two sureties, who shall swear that they are worth in the aggregate the penalty specified in said bond, over and above all debts, exemptions or liabilities,

Officers to enter into bonds.

and said bond shall contain such penal sum, and such conditions as the common council may deem proper; and they may, from time to time, require new additional bonds, and remove from office any officer refusing or neglecting to give the same.

SECTION 2. The mayor shall, when present, preside over the meetings of the common council, and take care that the laws of the state and the ordinances of the city are duly observed and enforced, and that all other executive officers of the city discharge their respective duties. He shall, from time to time, give the common council such information and recommend such measures as he may deem advantageous to the city. The mayor shall be the chief executive officer and head of the police of the city, and in case of a riot or other disturbance, or apparent necessity, he may appoint as many special or temporary policemen as he may deem necessary. The mayor shall have a vote in all cases.

Duties
of
mayor.

SECTION 3. At the first meeting of the common council in each year, they shall proceed to elect, by ballot, one of their number 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 the mayor. In case the mayor and president shall be absent at any meeting of the common council, they shall proceed to elect a temporary presiding officer, who, for the time being, shall discharge all the duties of the mayor. The president, or temporary presiding officer, while presiding over the board, or performing the duties of mayor, shall be styled acting mayor, and acts performed by them, or any of them, shall have the same force and validity as if performed by the mayor; and the said common council shall also, at their first meeting in each year, elect a marshal and a street commissioner for the city, who shall hold their respective offices for the term of one year, and until others are qualified.

President.

Acting mayor.

SECTION 4. The clerk shall keep the corporate seal of said city, and all the papers and records of the city, and keep a record of the proceedings of the common council, at whose meetings it shall be his duty to attend; and copies of all papers filed in his office, and transcripts from the records of the common council, certified by him to have been compared

Clerk.

by him with the originals, and to be a correct transcript therefrom, under the corporate seal, shall be evidence in all courts and places, in like manner as if the originals were produced. He shall draw and countersign all orders on the treasury, in pursuance of any order or resolution of the common council, and keep a full and accurate account thereof, in books provided for that purpose. He shall file in his office all chattel mortgages and contracts, or bills of sale, presented to him for that purpose, and the renewals thereof, and safely keep the same, receiving therefor the same compensation as clerks of towns, and all chattel mortgages, contracts and bills of sale so filed, and the renewals thereof, shall be as valid and legal as if the same had been filed in the town clerk's office in any town: *Provided, however,* all chattel mortgages, contracts and bills of sale, documents and records on file and in the village clerk's office of the village of Oconomowoc at the time this act shall take effect, shall remain in his office and be and remain of the same force and effect as if this act had not passed. The clerk of said city shall have full power and authority to administer oaths or affirmations, and to certify to the same by virtue of his office. The clerk shall receive such compensation as the common council shall provide by ordinance or resolution.

Justice of the
peace.

SECTION 5. The justices of the peace elected under this act shall have the same and equal jurisdiction and perform all and like duties of justices of the peace, and shall qualify in the same manner, as provided by the general laws of this state, except that the official bonds or agreements required to be given by them shall be approved by the mayor of said city; and in addition to their said jurisdiction, they shall have exclusive jurisdiction in all cases arising under this act, and the ordinances, resolutions and by-laws passed by said city council unless otherwise provided. 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 in this state, and shall give like bonds to be approved by the mayor and take and subscribe like oaths therewith which shall be filed in the office of the city clerk.

Treasurer.

SECTION 6. The treasurer of said city shall perform such duties and exercise such powers as may be lawfully required of him by the ordinances of said city

or the laws of this state. All moneys raised, received, recovered or collected by means of any tax, license, penalty, forfeiture, fine or otherwise, belonging to said city under the authority of this act, shall be paid into the treasury of said city, and shall not be drawn therefrom except by an order issued by order of the common council and signed by the mayor and countersigned or attested by the clerk. He shall keep an accurate account of all moneys or other things coming into his hands as treasurer, in a book to be provided for that purpose, which shall remain the property of the city, wherein he shall note the time when, and the person from whom the amount of the several sums was received, which book shall at all reasonable times be open to the inspection of any person. He shall, every three months, and as often as the common council require, render to such council a minute account of the receipts and expenditures of his office, and at the expiration of his office he shall hand over to his successor all moneys, books, papers and property in his possession belonging to said city. The said treasurer shall also be collector of taxes in and for said city, and for his services he shall receive the same compensation, except as herein otherwise provided, and he shall have the same powers and be subject to the same liabilities, and be governed by the same laws as treasurers of towns in this state; *provided*, that he shall receive no other fees except the compensation hereinafter provided.

SECTION 7. The marshal shall attend all the meetings of the common council, unless excused by the council, and shall perform such duties as shall be prescribed by the common council for the preservation of the public peace, and collection of license moneys and fines. He shall possess all the powers and authority of constables of towns, and be subject to the same liabilities. It shall be his duty to execute and return all writs and processes to him directed, and, when necessary, in criminal cases, or for the violation of any ordinance of said city or law of this state, may pursue and serve the same in any part of this state. It shall be his duty to suppress all riots, disturbances and breaches of the peace, and to remove all obstructions in the streets and alleys of said city, and to abate all nuisances in said city, to apprehend, with or without warrant, any person in the act of committing any offense against any ordinance of said city or laws of this state, and within

Marshal.

reasonable time bring such persons before competent authority for examination; and for such services he shall receive such fees as are allowed by law to constables for like services in this state. He shall have power to appoint one or more deputies, subject to the approval of the common council, but for whose official acts he shall be responsible, and of whom he may require bonds for the faithful discharge of their duties; such deputies shall also take and subscribe the proper oath of office, which shall be filed with the city clerk, and when duly qualified as aforesaid, such deputies shall possess like powers and authority and be subject to the same liabilities with the marshal.

Further duties of officers.

SECTION 8. The common council shall have the 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; such compensation shall be fixed by resolution at the time the office is created, or at the commencement of the year, and shall not be increased or diminished during the term such officer shall remain in office or for which he is elected or appointed.

Compensation of same.

In case of failure to deliver books, papers &c.

SECTION 9. 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, books, papers and effects belonging to said city, 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 over the same; and such successor may recover possession of such books, papers and effects in the manner prescribed by the laws of this state.

Officers not to be interested in contract with the city.

SECTION 10. No mayor, street commissioner or alderman shall be a party to, or interested in any job or contract with the city or any of the wards thereof, and any contract in which any mayor, street commissioner or alderman may be so interested shall be null and void; and in case any money shall have been paid on any such contract the common council may sue for and recover the amount so paid, from the parties to such contract and the mayor, street commissioner or aldermen interested in the same.

SECTION 11. The mayor or acting mayor, sheriff of said Waukesha county, and each and every alderman, justices of the peace, marshal, under-sheriff and deputy sheriffs of said Waukesha county, constables, policemen and watchmen of said city, shall be officers of the peace, and may command the peace and suppress in a summary manner all rioting and disorderly behavior within the limits of said city; and for such purpose may command the assistance of all by-standers, and if need be, of all citizens and military companies. And if any person, by-stander, military officer, or private citizen shall refuse to aid in maintaining the peace when so required, every such person so refusing shall forfeit and pay a fine not less than five nor more than fifty dollars; and in case when the civil power may be required to suppress riot or disorderly behavior, the superior or senior officer present in the order mentioned in this section shall direct the proceedings.

Officers of the peace.

Penalty for refusing to aid the same.

SECTION 12. The justices of the peace of said city shall possess and they are empowered to exercise the same and like jurisdiction, powers and duties, and shall be subject to the same liabilities and regulations, as are conferred upon and required of justices of the peace of the several towns of this state. They shall have cognizance and exclusive jurisdiction of all suits, prosecutions, or proceedings for the recovery of any fine, forfeiture or penalty under and by virtue of any by-law, ordinance or regulation of the said city of Oconomowoc or its charter, or for any breach or violation of the provisions of said charter or of any such ordinance, by-law and regulation, and in all cases of offences committed against the same. All prosecutions for assaults, assaults and batteries and affrays not indictable, and for a breach or violation of any such by-law, ordinance or regulation shall in all cases when the same have been committed within the limits of said city, be commenced in the name of the city of Oconomowoc, and the same proceedings shall be had in all civil and criminal suits before said justices of the peace, when not otherwise herein directed, as are established and required to be had in civil and criminal actions and proceedings by the laws of this state before justices of the peace; *provided*, that in cases of prosecution for a breach or violation of an ordinance, by-law or regulation of said city or its charter, or for any assault, assault and battery or breach of the peace, or an affray not indictable committed

Powers and jurisdiction of justices of the peace.

Prosecutions in name of the city.

within the limits of said city, defendants shall have the same right of appeal under the same provisions and requirements as now are or may be provided by the laws of this state for taking appeals from justices of the peace. In all cases of conviction for assaults, assaults and batteries and affrays within the said city or in all cases of conviction under any ordinance of said city for any breach of the peace, disorderly conduct, keeping houses of ill-fame or of frequenting the same, and of keeping or maintaining disorderly and ill-governed houses, said justices shall have power in addition to the fine or penalty imposed, to enter judgment for costs of prosecution against the defendant and to compel offenders to give security for their good behavior, and to keep the peace for a period not exceeding six months, and in a sum not exceeding five hundred dollars. The said justices shall have the same power and authority in case of contempt as a court of record of this state; *provided*, that nothing herein contained shall be deemed to divest the circuit judges of this state of their authority as conservators of the peace, nor to affect in any manner the jurisdiction or powers of the circuit courts or supreme court of this state. All fines and penalties imposed by said justices of the peace for offences committed within the limits of said city or for violation of any ordinance, by-law or regulation of said city, shall belong to and be paid over to the treasurer of said city and be a part of the finance thereof.

Right of appeal

Fines to belong to city.

Justices to make reports.

SECTION 13. The said justices of the peace shall, as often as the common council of said city may require of them, report to the common council thereof all the proceedings instituted before them in which said city is or may be interested, and shall at the same time account for and pay over to the treasurer of said city, all fines and penalties collected by them and belonging to said city. Said justices of the peace shall be entitled to receive in all cases had before them in which the said city is interested the same fees as are provided by law for justices of the peace of the several towns of this state in similar cases had before them.

City assessor.

SECTION 14. The city assessor shall assess the real and personal property of said city at the time and in the manner provided for assessing towns in this state; and his compensation therefor shall be provided by the common council at the beginning of his official year.

SECTION 15. It shall be the duty of the street commissioner, within ten days after his appointment and qualification to inspect all the streets in the city, all side walks, cross walks, ditches, gutters, culverts, and all bridges and approaches thereto, and all matters and things appertaining to the streets and report in writing to the common council, recommending in his opinion what is necessary and ought to be done there-to, describing in separate items of what and where any work is needed, and itemizing such work in the order of its necessity (*in*) under "Item No. one, that of the first necessity;" "Item No. two, that of the second necessity," and so on to the end of his recom-mendations, and shall keep a duplicate copy of such report. On receipt of said report the common coun-cil shall consider the same, and may adopt the whole or any part thereof, add to, amend, strike out or change the order of any "Item" as in their judgment may seem best; and as soon as they have passed upon said report the city clerk shall certify to the street com-missioner the action had thereon. Whereupon the street commissioner shall cause such work to be done in accordance with the common council's amendments to his report, as provided in section 16 of this chap-ter: *provided*, that any party or parties may petition the common council for any work they may desire particularly to be done. Such petitions, however, shall not take precedence of the street commissioner's recommendations, until acted upon by the common council and certified to by said clerk, as herein-before provided. Such street commissioner may from time to time make such other reports as the necessity of the case may require.

Duties of
street commis-
sioner.

SECTION 16. It shall be the further duty of the street commissioner to employ men and utensils, and teams, by the day, and contract therefor, the price to be paid by the city in money for their services at such prices as individuals are paying for like services, and with the advice and approval of the committee on streets, to procure such implements and materials as are embraced in his recommendations as amended by the common council. He shall superintend all such work, and give directions to all employed under him, and shall keep an accurate account of all materials procured by him, and keep an accurate account of all teams and utensils or men employed by him, and be able to certify to their account therefor, and to do and perform or cause to be done any and all

Shall employ
men and teams.

other duties pertaining to his office that may be prescribed from time to time by the common council; *provided*, however, that no street commissioner shall contract nor create any greater expense to the city, in any one year, than the amount raised by the common council for highway purposes.

Accounts to
be paid out of
highway fund.

SECTION 17. All accounts against the city for materials furnished, and all work or services performed for the city by or under the direction of the street commissioner and used for street purposes, including the street commissioner's services, shall be paid out of the "highway fund," by orders drawn specifically against that fund and issued by the common council in the same manner as provided for issuing orders in the settlement of other accounts against the city; *provided*, however, that the expense of building any bridge or the repairs thereof, shall be provided for and paid out of the "general fund" of said city.

Bills and ac-
counts against
city.

SECTION 18. All bills and accounts against the city, created by or under the direction of the street commissioners shall be made out against the city of Oconomowoc with items and dates and in favor of the parties or persons to whom the same are due, and shall be verified by such creditors or some one in their behalf and shall have appended thereto the certificate of the street commissioner dated and signed by him (printed forms for which shall be prescribed and furnished by the common council), setting forth that said account was created by his direction, that the materials therein charged were had or the services as stated were performed and for what purpose, and that the same agrees with his account thereof and such accounts upon being so stated, verified and certified, may be presented for allowance and settlement at any regular or adjourned meeting of the common council.

Work to be
let to lowest
bidder.

SECTION 19. Whenever the spring opening or making of any new street is resolved to be done, or any street work incurring extraordinary or even considerable expense, [is] ordered to be done, the common council may, at its option, let such work by contract to the lowest responsible bidder, to be done in the time and manner prescribed by said common council, or cause the same to be done by and under the direction of the street commissioner as hereinbefore provided. The expense thereof in either case to be paid out of the "highway fund."

SECTION 20. The street commissioner shall be paid for his services and for every day's service actually rendered, shall receive such compensation as the common council and said commissioner shall agree upon at the beginning of his official year, or he shall be paid such sum per annum in lieu thereof for the service required to be performed by him as the common council and said street commissioner shall agree upon at the beginning of his official year.

Compensation
of street com-
missioner.

SECTION 21. The street commissioner on return to him of his report and recommendations to the council after its adoption or amendment by them, shall proceed without delay to do the work therein provided for and for that purpose shall employ competent and sufficient force to accomplish the same promptly and in due season, and shall keep a correct account of, and report of his doings and the amount of his expenditures, and report thereon from time to time when called upon, to the common council.

When work
shall be done.

SECTION 22. If it shall appear to the common council at any time, that the street commissioner neglects, or refuses to perform any work required of him to be done, or if he shall neglect or refuse to report to the common council when called upon as provided in this chapter, such neglect or refusal shall be deemed a good and sufficient cause for his removal from his office.

Cause for re-
moval.

CHAPTER IV.

THE COMMON COUNCIL—ITS GENERAL POWERS AND DUTIES.

SECTION 1. The mayor and aldermen shall constitute the common council, and shall not receive any compensation for their services, and the style of all ordinances shall be "The mayor and common council of the city of Oconomowoc do ordain," etc. The common council shall meet at such times and place in said city as they by resolution shall direct. A majority of the common council shall constitute a quorum; but a less number may adjourn from time to time.

Common coun-
cil.

SECTION 2. The common council shall hold their first annual meeting in each year on the second Tuesday in April, and thereafter stated meetings at such times as they shall appoint, and the mayor may call special meetings by notice to each of the members to

Time of hold-
ing annual
meeting.

be served personally, or left at their several places of 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.

Powers of the
common coun-
cil.

SECTION 3. The common council shall have the management and control of the finances, except school moneys, and of all other public property in the city, and shall, likewise, in addition to the powers herein vested in them, have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify, amend and repeal all such ordinances, rules, resolutions and by-laws for the government and good order of the city for the suppression of vice, for the prevention of crime, and for the benefit of trade, commerce and health thereof, and so enforce the same as they shall deem expedient, declaring and imposing penalties, and so enforce the same against any person or persons who may violate any of the provisions of such ordinances, rules and by-laws, and all such ordinances, rules and by-laws are hereby declared to be and have the force of law. *Provided*, that they be not repugnant to the constitution and laws of the United States or of this state; and for these purposes shall have full authority, by ordinance, resolution or by-laws:

To grant li-
censes.

1st. To license, regulate, suppress and prohibit the exhibition of common showmen or shows of any kind, or the exhibition of caravans, circuses or theatrical performances, billiard tables, bowling saloons, nine or ten pin alleys, and to provide for the abatement and removal of all nuisances, under the ordinances of said city, the laws of the state, or at common law, and may grant licenses for and regulate groceries, taverns, victualing houses, and all persons vending or dealing in spirituous, vinous or fermented liquors and may prohibit and suppress the same; *provided*, that the sum to be paid for each license by the applicant therefor for so dealing in or vending spirituous, vinous or fermented liquors shall not be less nor more per annum than the amount established by the general laws of the state of Wisconsin; and that all such licenses hereafter granted shall run from the second Tuesday of April in each year to the second Tuesday of April following, inclusive; *provided, however*, that when any such license may be applied for after that date, the same

may be granted to expire on the second Tuesday in April following the date of application, on the applicant's paying pro rata therefor, but no license shall be granted for a longer term or period than one year. All license moneys shall be paid to the treasurer of said city, which shall be passed by him to the credit of the general fund of said city.

2nd. To restrain, prohibit and suppress all description of gambling and fraudulent vices and practices, and playing of cards, dice or other games of chance, with or without betting, and to restrain, prohibit and suppress any person or persons from vending, giving away or dealing in spirituous, fermented or vinous liquors, unless duly licensed by the common council, and to license, regulate and suppress hawkers and peddlers.

To prohibit gambling &c.

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. No person shall be incapacitated or excused from testifying touching any offense committed against the provisions of this act, or any ordinance of the city of Oconomowoc, by reason of him or her being implicated in any such offense, but the testimony of such witness shall in no case be used against such witness.

To prevent riots, noise &c. and to suppress disorderly places.

4th. To compel the owner or occupant of any land or platted lot, grocery, cellar, tallow chandler's shop, soap factory, tannery, stable, barn, privy, sewer, or other unwholesome or nauseous house or place in said city; to cleanse, remove or abate the same from time to time, as often as it may be necessary for the health, comfort and convenience of the inhabitants of said city.

To abate nuisances.

5th. To direct the location and management of slaughter-houses and markets, and to establish rates for and license venders of gunpowder, and regulate the storage, keeping and conveying of gunpowder or other combustible materials within said city.

To direct location of slaughter houses and regulate keeping of gunpowder.

6th. To prevent the encumbering of the streets, sidewalks, lanes or alleys, with railroad cars, locomotives, engines, carriages, carts, wagons, sleighs, boxes, lumber, pine, wood, or any other materials or substances whatever.

To prevent encumbering of streets.

7th. To prevent horse-racing, immoderate driving or riding in the streets, and to regulate the places of bathing and swimming in the waters within the limits of said city.

To prevent racing and to regulate places of bathing.

- To restrain cattle &c.** 8th. To restrain the running at large of cattle, mules, horses, swine, sheep, poultry and geese, and to authorize the distraining, impounding and sale of the same, for the penalty incurred therefor and the cost of proceedings.
- To destroy dogs.** 9th. To prevent the running at large and direct the muzzling of dogs, and to authorize the destruction of the same in a summary manner when at large unmuzzled contrary to the ordinances.
- To prevent deposit of unwholesome substances.** 10th. To prevent any person from bringing, depositing or having within said city, any putrid carcasses, or other unwholesome substances, and to require the removal of the same by any person who shall have the same upon his premises any such substances, putrid or unsound beef, pork, fish, hides, skins, or substances of any kind, and in default to authorize the removal thereof by some competent officer at the expense of such person or persons.
- To establish public grounds, pumps, wells, &c.** 11th. 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, in case of necessity, to erect lamps, and to regulate, license and suppress omnibus drivers, hackmen, coachmen, cartmen, draymen, and their charges and all others who may pursue like occupations in said city, and to provide for lighting the streets, public grounds and public buildings with gas or otherwise.
- To establish boards of health.** 12th. To establish and regulate boards of health, provide hospitals, pest houses and cemetery grounds, regulate the burial of the dead and the returns of the bills of mortality, and to exempt burial grounds, set apart for public use, from taxation.
- Regulate size and weights of bread.** 13th. To regulate the size and weight of bread, and to provide for the seizure and forfeiture of bread baked contrary thereto.
- To prevent riding or driving on sidewalks.** 14th. To prevent all persons riding or driving any ox, mule, horse, cattle or other animal on the sidewalks in said city, or in any way doing damage to said sidewalks.
- To prevent use of firearms.** 15th. to prevent the shooting of firearms or crackers, and to prevent the exhibition of any fireworks in any situation which may be considered by the council dangerous to the city or any property therein or annoying to any citizen thereof.
- To restrain drunkenness and obscenity.** 16th. To restrain drunkenness, intoxication or obscenity in the streets or public places in said city, and to provide for arresting, removing and punish-

ing any person or persons who may be guilty of the same.

17th. To restrain and regulate runners and solicitors for stages, public houses or other establishments, and to establish and regulate the police of the city. To regulate runners.

18th. To establish public markets and make rules for the government of the same; to appoint suitable officers for overseeing and regulating such markets and to restrain all persons from interrupting or interfering with the due observance of such rules and regulations. To establish markets.

19th. To license and regulate butchers' stalls, shops and stands for the sale of game, poultry, butchers' meat, butter, fish and other provisions. To license shops and stands.

20th. To regulate the place and manner of weighing and selling hay, and measuring and selling feed and lime, and to appoint suitable persons to superintend and conduct the same. To regulate selling of hay, &c.

21st. To compel the owners and occupants of buildings and grounds to remove snow, dirt or rubbish from the sidewalks, streets or alleys opposite thereto, and to compel such owner or occupant to remove from the lot owned or occupied by him, all such substances as the common council shall direct, and in his default to authorize the removal or destruction thereof by some officer of the city, at the expense of such owner or occupant. To compel removal of rubbish.

22d. To regulate, control and prevent the landing of persons from railroad cars or stages wherein are contagious or infectious diseases or disorders, and to make such disposition of such persons as to preserve the health of said city. To guard against disease.

23d. To regulate the time and place and manner of holding public auctions or vendues. To regulate auctions.

24th. To appoint watchmen and prescribe their duties. To appoint watchmen.

25th. To provide by ordinance for a standard of weights and measures, and for the punishment of the use of false weights and measures. To provide standard of weights and measures.

26th. To protect trees and monuments in said city. To protect trees and monuments.

27th. To prescribe and regulate the construction of sewers within said city. To regulate sewers.

28th. To lay out, make, open, keep in repair, alter or discontinue any highways, streets, lanes and alleys, and to keep them free and clear from incumbrances, and to protect them from injury. To lay out highways.

29th. To alter or change the name of any street or To change name of streets.

public grounds, and to give names to the same in said city.

To make ordinances.

30th. To make, ordain, amend, repeal, all such ordinances, by-laws and police regulations, not contrary to the constitution of this state, for the good order and government of said city, and which may be necessary or expedient to carry into effect the powers vested in the mayor and common council, or any officer of said city by this act, or which may be vested in any officer of said city by any ordinance thereof.

To regulate breweries, &c.

31st. To direct the location and regulate and license breweries, tanneries and packing houses.

To abate nuisances.

32d. To provide for the removal or abatement of any and all nuisances, and in case any lot, land or place in said city is or shall become a public nuisance, and whenever upon complaint made to, and the common council shall deem any such lot or lots, lands or places in said city injurious to public health by reason of stagnant water or from any other cause, they may order that such nuisance be abated by draining or filling such lot, lots, lands or places, or in any other manner, by the owner or occupant of such lot, lots, lands or places, and upon their failure so to do, the common council, by their order, may cause the said nuisance to be abated at the expense of the owner or owners of such lot or lots, lands or places, by taking the same proceedings as are required for the building of sidewalks in said city.

Passage of by-laws, resolutions, &c.

SECTION 4. All by-laws, resolutions, rules, and regulations shall be passed by an affirmative vote of a majority of the common council present, and shall be signed by the mayor and shall be in force from and after passage, and such by-laws, resolutions, rules and regulations shall be immediately thereafter recorded by the city clerk in books provided for that purpose. All ordinances shall be passed by an affirmative vote of a majority of the common council present, and shall be signed by the mayor and shall be in force from and after the expiration of fifteen days from their first publication, and all such ordinances shall, after their passage, be published either by inserting the same in some newspaper, published in said city, for two successive weeks or by posting copies of the same in three or more public places in said city by the clerk of said city, and shall be recorded by said clerk in books provided for that purpose; but before any of the said ordinances shall be recorded, the publication or posting thereof within the

said time shall be proved by the affidavit of the foreman or publisher of such newspaper or by the affidavit of the said clerk who shall have posted the same, as the case may be, and said affidavit shall be recorded therewith, and at all times and places shall be deemed and taken as sufficient evidence of the time and manner of such publication or posting, and such record of such by-laws, resolutions, rules, regulations and ordinances or copies thereof certified by the city clerk under the seal of the city, or any printed or written book containing the same, shall be *prima facie* evidence of their passage and publication or posting, and shall be deemed and taken as such in all courts and places of the provisions thereof.

SECTION 5. The powers conferred upon the common council to provide for the abatement or removal of nuisances shall not bar or hinder suits, or prosecutions or proceedings in the courts according to law. Depots, houses or buildings of any kind wherein more than twenty-five pounds of gun-power are deposited, stored or kept at any one time, gambling houses, houses of ill-fame, disorderly taverns and houses or places where spirituous, vinous or fermented liquors are sold without the license required theretor within the limits of said city, are hereby declared and shall be deemed public or common nuisances.

Common nuisances.

SECTION 6. The common council shall examine, audit and adjust the accounts of the clerk, treasurer, marshal, and all other officers or agents of the city, at such times as they may deem proper, and also at the end of each year and before the time for which the officers of 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, funds and moneys, accounts and vouchers for such examination and settlement, and if any such officer or agent refuse to comply with the orders of said council in the discharge of his said duties, in pursuance of this section, or shall neglect or refuse to render his account or present his books, funds, moneys 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 shall order suits and proceeding at law against any officer or agent of said city who may be found delinquent or defaulting in his accounts, or in the discharge of his official duties, and shall make a full record of all adjustments and settlements.

Common council to audit accounts of officers of the city.

Delinquencies and defaultations.

Corporate au-
thority.

SECTION 7. The corporate authority of said city shall be vested in one principal officer, styled a mayor, in one 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 may be created under this act.

CHAPTER V.

FINANCE AND TAXATION.

Finance.

SECTION 1. All funds in the 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 and clerk, duly authorized by a vote of the common council; and all orders drawn upon the treasurer shall specify the purpose for which they were drawn, and shall be payable out of any funds in the treasury belonging to the city standing to the credit of the fund against which said orders are drawn. All orders shall be made payable to the person or persons or to the order of the person or persons in whose favor they may be drawn.

Taxes.

SECTION 2. The common council of said city shall annually levy upon the taxable property of said city to defray the current expenses of said city and its schools, a tax sufficient for that purpose.

Estimate of
expenses to be
made and tax
levied.

SECTION 3. On or before the third Monday of November, in each and every year, the common council shall by resolution, to be recorded by the clerk, determine and specify the amount of money necessary to be raised by a tax to pay all indebtedness of the said city at the time being, and to defray the estimated incidental expenses of said city during the ensuing year; and by said resolution shall order the clerk thereof to assess the amount so specified equally upon all the taxable property of said city, as the same shall appear from the last equalized assessment roll of the said city. And the said clerk, after he shall receive from the clerk of the board of supervisors of said Waukesha county, the amount of said state, county and other taxes, as certified by such clerk to be raised by tax in said city, in any year, shall assess the amount certified by said clerk, together with the amount ordered or specified by said common council, together with such school taxes voted to be raised for that year, in the same list of taxes with all delinquent street, school or other taxes; and when the said assessment

or tax list shall be completed, the said common council shall annex thereto their warrant, signed by the mayor, and attested by the clerk of said city, commanding the treasurer of the city of Oconomowoc to collect the taxes specified in the list annexed, and pay over the money by him collected, reserving as his fees the same as the town treasurers receive according to law, and return the said warrant and list as required by law of the several town-treasurers of the towns in Waukesha county. The clerk of said city, before delivering said tax roll to said treasurer, shall make a true copy thereof, with the warrant, and file the same in the clerk's office of said city.

SECTION 4. No account shall be allowed by the common council unless the same is properly verified by the owner thereof, or some person in his or her behalf.

Accounts
to be verified.

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

When claim
against city is
disallowed.

SECTION 6. The city clerk, upon such appeal being taken, shall immediately give notice thereof to the mayor and common council, or shall take such measures as by ordinance or resolution of said common council he may be required to do, and shall make out a brief return of the proceedings in the case before said common council, with their decision thereon, and shall file the same, together with said notice and all papers in the case in his possession, with the clerk of the circuit court for the county of Waukesha, and such appeal shall be entered, tried and determined in the same manner as appeals from justices of the peace, and costs thereupon shall be awarded in like manner; *provided, however*, that whenever an appeal is taken from the allowance made by said common council upon any claim, and the recovery upon such appeal shall not exceed the amount allowed by said council, exclusive of interest upon such

When appeal
is taken.

allowance, the appellant shall pay the cost of appeal, which shall be deducted from the amount of the recovery; and when the amount of the costs exceeds the sum recovered, judgment shall be rendered against the appellant for the amount of such excess.

Disallowed
claims.

SECTION 7. No action shall hereafter be maintained by any person against the city of Oconomowoc, upon any claim or demand other than a city bond or order unless such person shall first have presented his claim to the common council of said city. 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 appeal shall be taken from the decision and determination of such common council as hereinbefore provided, or unless such council shall consent and agree to the institution and maintainance of an action by such claimant against the city; *provided, however,* that when the common council shall refuse or neglect to act upon any claim duly presented to them, this chapter shall not be construed as to prevent the institution and maintainance of any action by said claimant against said city.

CHAPTER VI.

OPENING OF STREETS AND ALLEYS.

Condemnation
of lands for
public use.

SECTION 1. The common council shall have power to lay out public squares, grounds, streets and alleys and to widen the same as follows: Whenever ten or more freeholders residing in the said city shall, by petition, represent to the common council that it is necessary to take certain lands within the city for the public use, for the purpose of laying out public squares, grounds, streets or alleys, or the enlarging the same, the courses and distances, metes and bounds of the lands proposed to be taken, together with the names and residences of the owners of such premises, if the same shall be known to such petitioners, to be set forth in said petition, the common council shall thereupon cause notice of such application to be given to the occupant or occupants of such lands, if any there be, or if any portion of said lands shall not be in the actual occupation of any person, then the common council shall cause such notice describing as near as may be, the premises proposed to be taken, to

be published or posted in the same manner as is provided for the publication or posting of ordinances in section four of chapter four of this act.

SECTION 2. Such notice shall state that upon a day therein to be named, not less than ten days from the service of such notice, or the expiration of such publication or posting, as the case may be, application will be made to one of the justices of the peace of the said city of Oconomowoc for the appointment of six jurors to view said premises, and to determine whether it will be necessary to take the same for the purpose specified in said petition.

Jurors to view premises.

SECTION 3. Upon the presentation of such application, and the proof of the publication or posting, as the case may be, or service of the notice herein before required, the said justice of the peace shall thereupon appoint six reputable freeholders, residents of said city, not interested in the result of such application. The said justice of the peace shall thereupon issue his precept, directed to said jurors, requiring them within ten days to view the premises to be specified in said precept, and to make returns under their hands to the common council of said city, whether in their judgment it is necessary to take said premises for the purposes specified in such application, and the said jurors, before entering upon the discharge of their duties, shall take and subscribe an oath that they are disinterested in the result of such application and that they will faithfully and impartially discharge their duties as such jurors in the premises, which oath may be administered by any person authorized to administer oaths, which shall be filed in the office of the city clerk.

Justice of peace to issue precept.

SECTION 4. The city marshal shall serve such precept immediately on the jurors therein named, by reading the same to every one that can be found; and immediately after such service he shall return the said precept to the justice of the peace who issued the same, together with his doings thereon endorsed.

Marshal to serve precept.

SECTION 5. If any of the jurors so appointed cannot be found within said city, or shall be disqualified from acting, or shall refuse to act, the justice of the peace shall appoint others, qualified to act, in their places, and a memorandum of such substitution shall be endorsed on the precept.

If jurors cannot be found.

SECTION 6. Any officer authorized to administer oaths shall thereupon administer an oath to said jurors, that they are freeholders of said city, residing

Jurors to be sworn.

therein, and not interested in the premises proposed to be taken, and that they will faithfully and impartially discharge the trust reposed in them.

Jurors shall view property, take testimony and make report.

SECTION 7. The said jurors, at such time as they shall agree upon, shall proceed in a body to view the premises in question, and shall hear such testimony as shall be offered by any party interested, which testimony shall be reduced to writing by one of the jurors; and either of the jurors shall be authorized to administer the necessary oaths to the witnesses. After viewing the premises in question, and hearing such testimony as may be offered, the jurors shall make a report, in writing, of their proceedings, which shall be signed by them respectively, and which shall state whether, in their judgment, it is necessary to take the premises in question for public use, which said report, testimony and precept shall be returned to the common council within the time limited in said precept. Should the jurors report that it is necessary to take the premises, the common council shall enter an order among their proceedings confirming said report, and directing the same jurors, within twenty days thereafter, or at such future time as shall be necessary to again view said premises for the purposes of ascertaining and determining the amount of the damages to be paid to the owner or owners of said property proposed to be taken, and to assess and return, within the limited time, such damages to the common council. And after the jurors shall have made their report as to the taking of any lands or premises under this act, and the same shall have been confirmed, the common council shall have power to appoint new jurors in the place of any who shall neglect to serve in ascertaining the amount of compensation as above; and all the jurors, before entering upon the discharge of their duties in the premises, shall severally take an oath before some competent officer, that they are freeholders in said city and reside therein, and are not interested in the premises to be taken, and that they will faithfully and impartially discharge the trust reposed in them.

In case of building being on land to be taken.

SECTION 8. If there should be any building in whole or in part, upon the land to be taken, the jurors before proceeding to make their appointment, shall first estimate and determine the value of such building to the owner, aside from the value of the land, and the injury to him in having such building taken from him; and secondly, the value of such building to him to remove.

SECTION 9. At least ten days personal notice of such determination shall be given to the owner or his agent, if known, and a resident of the city, or left at his usual place of abode. If not known, or a non-resident of the said city, notice to all parties interested shall be given by publication, in the same manner as is provided herein for the publication of ordinances in section four of chapter four of this act; such notice shall specify the building and the award of the jurors. It shall require the parties interested to appear by a day therein named, or give notice of their election to the common council, either to accept the award of the jurors and allow such building to be taken with the land appropriated, or their intention to remove such building. He shall have such time for this purpose as the common council may allow.

Personal notice to be given.

SECTION 10. If the owner shall refuse to take the building at the value to remove, or fail to give notice of his election as aforesaid within the time prescribed, the common council shall have power to direct the sale of such building at public auction for cash, giving ten days notice of such sale. The proceeds shall be paid to the owner, or deposited to his use.

Building to be sold if owner refuses to remove it.

SECTION 11. The said jurors, within the time limited, shall view and examine the premises proposed to be taken, and all such premises as will, in their judgment, be injured or benefitted thereby. And hearing such testimony as may be offered by any party interested, and which shall be reduced to writing by one of the jurors, they shall proceed to make their assessment, and to determine and appraise to the owner or owners, the actual value in money of the real estate so proposed to be taken, and the injury arising to them respectively in consequence of the taking thereof, which shall be awarded to such owners respectively as damages. In the estimate of damages to the lands, the jurors shall include the value of the building or buildings (if the property of the owner of such lands) as estimated by them as aforesaid, less the proceeds of the sale thereof, or if taken by the owner at the value to remove, in such case, they shall only include the difference between such value and the whole estimated value of such building or buildings, according to section eight of this chapter.

Jurors to examine and appraise premises.

SECTION 12. If the lands or buildings belong to different persons, or if the land be subject to lease,

When lands belong to different persons.

judgment or mortgage, or if there be any estate in it less than an estate in fee, the injury done to such persons or interests respectively, shall be awarded to them by the jurors.

Award to be signed and returned.

SECTION 13. The award of said jurors shall be signed by them, and returned, together with the testimony taken, and the precept to the common council, within the time limited in such precept.

Owner of property may appeal from assessment.

SECTION 14. Any person whose property is taken or against whom any assessment is made may, within ten days from the return of the jurors to the common council, appeal from said assessment of damages to the circuit court of Waukesha county, by causing a written notice of such appeal to be served on the clerk of said city, and executing a bond in the manner prescribed in section five of chapter five of this act, and such appeal shall be tried by the court and jury as in ordinary cases. The common council shall also have the right to appeal, by filing with the said clerk a notice thereof within ten days, as aforesaid.

Damage to be paid before land is appropriated.

SECTION 15. The land required to be taken for the purposes mentioned in this act, shall not be appropriated until the damages awarded therefor to the owner thereof, or party entitled thereto, shall be paid or tendered to the owner or party entitled thereto or his agent, or in case the said owner or party entitled thereto, or agent, cannot be found, or is unknown, deposited to his or their credit, in some safe place of deposit, and then and not before, such lands may be taken and appropriated for the purposes required, and the same shall thereafter be subject to all the laws and ordinances of the city, in the same manner as streets, alleys and public grounds opened or laid out.

Damages to be paid within one year.

SECTION 16. The damages assessed shall be paid or tendered or deposited as herein required, within one year from the confirmation of such assessment and report; and if not so paid, tendered or deposited, all the proceedings in such case shall be void.

Payment to be made at any time within one year.

SECTION 17. The city may pay or tender or deposit as herein required, at any time within one year from the confirmation of such assessment, and report the damages assessed in any such case, and whenever said damages have been so paid, tendered or deposited, it shall be the duty of the common council to enter an order among their proceedings to take and appropriate such lands for the purposes required.

Contract or

SECTION 18. When the whole of any tract or lot

or other premises, under lease or other contract, shall be taken by virtue of this act, all the covenants, contracts or engagements between landlord and tenant or any other contracting parties, touching the same or any part thereof, shall upon the confirmation of such report, respectively cease and be absolutely discharged.

lease or land to
cease.

SECTION 19. When only part of a lot or tract of land or other premises so under lease or other contract shall be taken for any of the purposes aforesaid, all the covenants, contracts or agreements respecting the same, upon the confirmation of such report, shall be absolutely discharged as to the part thereof taken, but shall remain valid as to the residue thereof, and the rents, considerations and payments reserved, payable and to be paid for or in respect to the same, shall be so proportioned so 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.

When only
part of lot or
tract is taken.

SECTION 20. When any known owner of lands or tenements affected by any proceedings under this act shall be an infant, or labor under legal disability: the judge of the circuit court of Waukesha county, or, in his absence or inability to act in the premises, the county judge in said county, may, upon the application of the common council, or such party or his next friend, appoint a guardian for such party, and all notices required by this act shall be served upon such guardian.

When owner
shall be an in-
fant.

SECTION 21. Whenever any public grounds, street or alley shall be laid out, widened or enlarged under the provisions of this chapter, the common council shall cause an accurate survey and profile thereof to be made and filed in the office of the city clerk.

Survey and
profile to be
made.

CHAPTER VII.

ASSESSING, LEVYING AND COLLECTING OF TAXES.

SECTION 1. All property, real or personal, within the city, except such as may be exempt by the laws of the state, shall be subject to taxation for the support of the city government, its schools, and the payment of its debts and liabilities, and the same shall be assessed in the manner hereinafter provided; and the assessor elected under this act shall have and possess the same powers that are or may be conferred

Taxes and as-
sessment.

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 adding to such rolls as they may from time to time deem advisable.

Board of equalization may alter assessment roll.

SECTION 2. The assessor shall return the said assessment roll to the board of equalization of the city on or before the last Monday in June in each and every year. The board of equalization may supply omissions in said roll, and for the purpose of equalizing the same, may alter and add to, take from and otherwise revise and correct the same.

When lands have been omitted from assessment roll.

SECTION 3. If it shall appear to the assessor that any lot or parcel of land was omitted in the assessment-roll of either or both of the preceding two years, and that the same was then liable to taxation, he shall in addition to the assessment of that year, assess upon the lot or tract so omitted, for such year or years that it shall have been omitted, the just value thereof, noting the year when such omission occurred, and such assessment shall have the same force and effect as it would have had if made the year when the same was omitted; and the common council shall direct in addition to the tax for the current year, such tax to be levied upon such lot or tract as the same would have been chargeable with had not the same been so omitted, and such tax shall be collected as other taxes or assessments for the current year. All lands shall be subject to taxes that may have been omitted, in whosoever hands the same may have come. Should the tax or assessment upon any parcel of land be set aside or declared void by reason of any defect or informality in the assessing, levying, selling or conveying of the same, but not affecting the equity and justice of the tax itself, the common council shall cause the tax or assessment so set aside or declared void, to be relieved in such manner as they shall by ordinance direct; *provided*, that if the defect was in the assessment, the same shall be again assessed at such time as the common council shall direct, and the said tax or assessment so assessed shall be levied and continue a lien upon such lot or tract, and shall be collected as other taxes and assessments are collected under this act.

Defect or informality.

Board of equalization—how organized.

SECTION 4. The mayor, the city clerk, the assessor, and senior alderman from each ward, shall consti-

tute the board of equalization. For the first two years the common council shall designate which one of the aldermen from each ward shall serve upon such board, and such board of equalization shall meet on the first Monday of July, each and every year, at nine o'clock in the forenoon, and shall proceed in all respects as town boards are by law required to proceed, so far as the same is applicable, reviewing, correcting, equalizing the assessment-roll of the city. The mayor shall be president of the board of equalization and the city clerk the clerk thereof.

SECTION 5. When the assessment roll shall have been revised and corrected, the same shall be filed with the clerk. Thereupon the common council shall by resolution, levy such sum or sums of money as may be sufficient for the several purposes for which taxes are herein authorized to be levied, particularly specifying the purposes for which the same are levied.

Levy of taxes.

SECTION 6. All changes of assessment-roll by the board of equalization shall be duly recorded by the city clerk.

Changes of assessment roll.

SECTION 7. All taxes and 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 on all personal property of any person or body politic assessed, for personal taxes, from the delivery of the warrant for the collection thereof to the treasurer until such taxes shall be paid, and no sale or transfer of such real or personal estate shall affect such lien; any personal property belonging to the person taxed may be taken and sold for the payment of taxes upon real or personal property.

Taxes and assessments to be lien upon property.

SECTION 8. It shall be the duty of the city clerk, immediately upon the reception of the corrected assessment roll, and a certificate of the amount of state, county and school tax apportioned to said city, to calculate and carry out the total amount of such taxes, together with all the city and other local taxes, placing in an additional column prepared for that purpose in the assessment roll the expense of collection, setting down opposite the several sums set down as the valuation of real and personal property, the respective sums assessed as taxes thereon.

Duty of clerk on receipt of corrected roll.

SECTION 9. The city clerk shall immediately make out a duplicate copy of such assessment roll when thus completed, and deliver the same to the treasurer.

Shall make duplicate copy.

SECTION 10. To each assessment roll so delivered

Shall annex warrant.

a warrant, under the hand of the city clerk and the corporate seal of said city, shall be annexed, substantially in the following form:

The State of Wisconsin—

To the city treasurer of the city of Oconomowoc, in the county of Waukesha:

Form.

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

Given under my hand and the corporate _____ seal _____ of _____ the _____ city _____, this _____ day of _____, 18—.

_____ City Clerk.
_____ Mayor.

Roll to be
prima facie
evidence.

SECTION 11. The said assessment roll and warrant thereto annexed shall be *prima facie* evidence in all courts that the lands and persons therein named were subject to taxation, and that the assessment was just and equal.

General laws
of state to be in
force.

SECTION 12. All the general laws of this state, which are now or may hereafter be in force, relative to the assessment, collection and return of taxes, shall be in force in said city, except as hereinotherwise specially provided, and the city treasurer shall proceed to collect the taxes, and all assessments of said city in the same manner as is required by law of the

town treasurers to collect taxes, except as herein provided.

SECTION 13. Upon the receipt of any tax-roll and warrant by the treasurer, he shall give public notice of four days in a newspaper published in said city, or by posting the same in three or more public places in said city that such tax list has been committed to him for collection, and that he will receive payment for taxes at his office therein on and after the day in such notice to be specified.

Notice to be given.

SECTION 14. The treasurer shall be entitled to receive and collect as fees for collection of taxes two per cent. on all taxes collected by or paid to him on or prior to the tenth day of January in each year, and five per cent. upon all taxes or assessments paid to or collected by him after the said tenth day of January; and in case of a distress or sale made by him of goods and chattels for the payment of any tax, he shall be entitled to receive such fees as are allowed constables on sales of goods upon execution; the city treasurer shall collect the fees hereinbefore prescribed and shall keep in a book to be provided for that purpose, a true account and statement of all fees by him received as city treasurer from any source whatever, and such book shall be open at all reasonable times, to the inspection of any person; and the city treasurer shall when required, make a report to the common council, duly certified on oath, of all fees or other moneys received by him as treasurer, and he shall receive no other or further compensation for his services as treasurer than as hereinbefore provided, except that [the] common council shall provide him all necessary books, blanks and stationery requisite to the discharge of his duties.

Fees of treasurer.

To keep record of fees.

SECTION 15. The treasurer shall, on or before the the last Monday in January, in each year, pay to the county treasurer the state tax assessed upon the lots and tracts of land and personal property in said city.

Treasurer to pay state tax.

SECTION 16. All the directions hereby given for the assessing of lands and the levying and collecting of taxes and assessments shall be deemed only directory, 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.

Directions deemed only directory.

SECTION 17. In case the city treasurer is unable to

Process for

collection of personal property tax. . . . collect any tax assessed upon any personal property, and payable by any person named in the tax-list, he shall proceed in all things according to chapter eighteen, of the revised statutes of this state, and the acts amendatory thereto, in bringing such delinquent person before some justice of the peace, and such proceedings shall be had as are prescribed by chapter one hundred and ninety-eight, of the general laws of 1860, and [and] any act that may be hereafter passed amendatory to said acts, or in addition thereto.

CHAPTER VIII.

FIRE DEPARTMENT.

Powers of council in guarding against fires. . . . 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, shall not be erected or repaired, and to direct that all and every building within the limits prescribed, shall be made and constructed of fire proof materials, and to prohibit the repairing or rebuilding of wooden buildings within the fire limits, where 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 damage, and to prescribe the penalties for the violation of any resolution or ordinance passed under this section.

To prevent construction of dangerous chimneys, &c., and to take other precautions. . . . SECTION 2. The common council shall have the power to prevent the dangerous construction and condition of chimneys, fire-places, hearths, stoves, stove-pipes, ovens, boilers and apparatus used in and about any building and to cause the same to be removed or placed in a safe condition, when considered dangerous; to prevent the deposit of ashes in unsafe places; to provide as many fire buckets as they shall prescribe, and to regulate the use of them in time of fire; to regulate and prevent the carrying on of manufactures, dangerous in causing or promoting fire; to regulate and prevent the use of fire-works and fire-arms; to compel the owners and occupants of buildings to have scuttles in the roof, 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 to provide penalties for the violation of any resolution or ordinance passed under this section.

SECTION 3. The common council shall have full 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 their meetings to be prohibited and their apparatus to be delivered up. Each company shall not exceed seventy able bodied men, between the ages of eighteen and fifty years, and may elect its own officers, except chief engineer and assistant engineer, who shall be appointed by the council, and form its own by-laws, not inconsistent with the laws of this state or the ordinances and regulations of said city, and shall be formed only by voluntary enlistments. Every member of said company hereby authorized to be formed, shall be exempt from poll-tax, and from serving on juries and military duty, except in case of war, insurrection or invasion, during the continuance of such membership; and any person having served for the term of ten years, in either of such companies, shall be forever thereafter exempt from poll-tax, and military and jury duty, except as in the cases before mentioned.

To purchase fire engines and to authorize the organization of fire companies.

SECTION 4. The mayor shall have power to appoint two fire wardens for each ward, subject to confirmation by the common council, who shall perform such duties as the common council may prescribe, and they may at any time enter into any building, house, store, barn or inclosure for the purpose of inspecting the same.

Fire wardens.

SECTION 5. One half of the net proceeds of all fines and penalties recovered and collected for the breach of any ordinance, by-law or regulation made in pursuance of this chapter, shall be paid by the city treasurer to the fire department.

Fines and penalties to be paid to fire department.

SECTION 6. When any person shall refuse to obey the lawful order of any engineer, fire-warden or alderman of the city, the mayor or city marshal, at any fire, it shall be lawful for the officer giving such order to arrest, or direct orally the marshal, consta-

Punishment for refusal to obey lawful orders of officers.

ble or watchman or any citizen, to arrest such person, and to confine him temporarily in any safe place until such fire shall be extinguished, and in the same manner such officers or any of them may arrest or direct the arrest and confinement of any person at such fire who shall be intoxicated or disorderly; and any person who shall refuse to arrest or aid in arresting any person so refusing, shall be liable to such penalty as the common council may prescribe, not exceeding twenty dollars.

Sack company.

SECTION 7. The common council shall have power to organize a sack company, which shall be known by such name as they may select, and shall consist of not more than thirty members. Such company shall constitute a part of the fire-department, and at fires shall be subject to the control of the engineers. The members of said company, either collectively or individually, are hereby authorized and empowered to act as a special police in and for said city of Oconomowoc, and are hereby vested with all the power and authority which now is or may hereafter be vested in any other police of said city, and shall be entitled to all the rights and immunities of members of the fire department, except exemption from jury duty. At fires they shall take charge of all property which may be exposed or endangered, and shall, as far as may be in their power, preserve the same from injury or destruction. Such company may, from time to time, adopt such by-laws as they may deem necessary, not inconsistent with the laws of this state or the ordinances of said city. The members thereof shall not be entitled to any compensation for any service rendered in their official capacity. They shall, in case of riot or other disturbances of the peace, have access to all licensed places of amusement in the city, and shall perform such services as may be necessary for the peace and good order of the same.

To act as special police.

Treasurer of fire department—his duties.

SECTION 8. The treasurer of the fire department shall receive and pay out all moneys belonging to said department, and shall secure the faithful performance of his duty by his bond to said city, in such penal sum as shall be required, and with surities, to be approved by the common council. Such moneys shall only be paid out on orders signed by the chief engineer or acting chief engineer, and countersigned by the clerk of said department.

Officers of fire companies—their duties.

SECTION 9. There shall be elected by the members of each company aforesaid, annually, at their annual

meeting, a clerk or secretary and a treasurer, who shall, on or before the first Monday of May in each year, return to the city clerk a list containing the name of each member of their respective companies; and when any member of either of said companies shall cease to be a member thereof by resignation, expulsion or otherwise, notice thereof shall be given to the city clerk.

SECTION 10. The city clerk is hereby required to keep a record of the members of the several companies organized under this chapter, and such record shall consist of the returns made by the several clerks or secretaries, as above provided; and no person shall be exempt from jury duty unless his name is entered on such list. In case any person shall, for any cause, cease to be a member of either of said companies, the clerk shall note that fact on the list thereof, and shall return to the clerk of the board of supervisors of the county of Waukesha a list of all persons who are members of either or all of said companies exempt from jury duty, on or before the day now appointed, or which may hereafter be appointed for the annual meetings of said board, and said board shall not place the names of such persons on the jury list for the ensuing year.

Duty of city clerk as to fire department.

CHAPTER IX.

ACTION TO RECOVER PENALTIES, ETC.

SECTION 1. All actions brought to recover any penalty or forfeiture under this act, or the ordinances, 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.

Action to be brought in corporate name of city.

SECTION 2. In all prosecutions for any violation of any of the provisions of this act, or any by-law, ordinance or regulation, the first process shall be a summons, unless oath be made for a warrant as in criminal cases before justices of the peace under the general statutes of the state for the time being.

Process.

SECTION 3. When the action is commenced by summons, such summons may be substantially in the following form:

Form of summons.

County of Waukesha—City of Oconomowoc—ss.

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

You are hereby commanded to summon A. B., if he shall be found within your county, to appear before the undersigned, one of the justices of the peace in and for said city, at my office in said city, on the — day of —, 18—, at — o'clock in the — noon, to answer to the city of Oconomowoc in a plea of debt to the damage of said city, two hundred dollars or under.

Given under my hand, at the said city, this — day of —, 18—. C. D., Justice of the Peace.

Return
summons.

of SECTION 4. Such summons shall be made returnable and be served in the same manner as is now or may be hereafter prescribed by the laws of the state for the commencement of actions before justices of the peace by summons; all proceedings in the action except as hereinafter provided, shall be governed by the laws of the state for the time being, relative to actions commenced by summons, and triable before justices of the peace.

Form of complaint.

SECTION 5. When an action is commenced by summons, the complaint may be substantially in the following form:

The city of Oconomowoc against A. B.—In justice's court, before C. D., justice.

The plaintiff complains against the defendant, for that the defendant, on the — day of — 18—, at the said city did violate section — of chapter — of this act, or section — of an ordinance or by-law, or regulation of said city, describing it by its title, which said — is now in force. By reason of such violation an action hath accrued to the city of Oconomowoc, to recover of the defendant the sum of — dollars debt, wherefore the plaintiff demands judgment against the defendant for the sum aforesaid, besides the costs of this action.

Oath for warrant.

SECTION 6. In all cases where oath is made for a warrant for the complaint, it shall be made on oath of the complainant, and no other affidavit shall be necessary, which last mentioned complaint may be substantially in the following form:

The city of Oconomowoc against A. B.
In Justice Court before C. D., Justice:

COUNTY OF WAUKESHA—ss:

———, being duly sworn, complains on oath to C. D., one of the justices of the peace in and for the city of Oconomowoc, in said county, that A. B., on the —— day of ——, 18—, at said city, did violate (section ——, of chapter ——, of this act, or section —— of an ordinance, or by-law, or regulation of said city, describing it by its title,) which said —— is now in force, as this complainant verily believes; and prays that the said A. B. may be arrested and held to answer to said city of Oconomowoc therefor.

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

It shall be sufficient to give the number of the section and chapter of this act, or the section of the ordinance, by law or regulation violated in the foregoing forms of complaint, and said complaint may be sworn to before any officer authorized to administer oaths; upon the filing of such complaint with the justice of the peace, he shall issue a warrant substantially in the following form:

County of Waukesha — City of Oconomowoc—ss:

The State of Wisconsin to the sheriff or any constable of said county, and to the marshal of the city of Oconomowoc, greeting: Form of warrant.

Whereas, —— has this day complained to me in writing, on oath, that A. B. on the —— day of ——, 18—, at said city, did violate section —— of chapter —— of this act, (or section —— of an ordinance, or by law, or regulation of said city, describing it by its title), which said —— is now in full force, as the complainant believes; therefore you are commanded to arrest the body of said A. B., and bring him before me forthwith to answer to the city of Oconomowoc, on the complaint aforesaid. Given under my hand, at the said city, this —— day of —— 18—.

C. D., Justice of the Peace.

Upon return of the warrant, the justice may proceed summarily with the case, unless it be adjourned by consent or for cause. If the case be adjourned, the defendant, if required by the court so to do, shall recognize, with security to be approved by the court, for his, or her, or their appearance in such sum as the court shall direct; or in default thereof, may be

put in charge of the officer who made the arrest, or be committed to the lockup of said city of Oconomowoc, or to the common jail of Waukesha county. The complaint made as aforesaid shall be the only complaint required, and the plea of not guilty shall put in issue all subject matter not embraced in the action.

Copies of ordinances, &c., to be received as evidence.

SECTION 7. A printed copy of an ordinance, by-law or regulation passed by the common council and published in a newspaper or in 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.

Witnesses and jurors.

SECTION 8. Witnesses and jurors shall attend before a justice of the peace in all city and criminal suits, without payment of fees in advance, or a tender thereof upon process duly served, and in default thereof their attendance may be compelled by attachment.

Findings in city prosecutions.

SECTION 9. In city prosecutions the findings of the court shall be guilty or not guilty. If guilty, the court shall render judgment thereon against the defendant for the fine, penalty or forfeiture prescribed in this act, or in the ordinance, by-law or regulation, for the violation of which the person or persons shall have been adjudged guilty, and for costs of suit; but if not guilty the costs of suit shall be taxed against the city. Upon the rendition of judgment against the defendant, and the nonpayment thereof, the justice shall forthwith issue execution, as in cases of tort, in case the action was commenced by summons, or a commitment in case it was commenced by warrant, and shall, in either case, determine and enter upon his docket the length of time the defendant shall be imprisoned, which shall in no case exceed six months, and also insert such time in the execution or commitment. Such execution shall be in the following form:

County of Waukesha—City of Oconomowoc, ss:

Form of execution.

The state of Wisconsin, to the sheriff or any constable of said county, and to the keeper of the common jail of said county, or to the keeper of the lock-up of said city, greeting:

Whereas, The said city of Oconomowoc, on the — day of —, 18—, recovered a judgment before the undersigned, one of the justices of the peace, in

and for said city, against _____, for the sum of _____ dollars and _____ cents, (the fine, penalty or forfeiture), and the sum of _____ dollars and _____ cents, the cost of suit, for the violation of (section _____ of chapter _____, of this act, or section _____, of an ordinance, or by-law, or regulation of said city, describing it by its title). You are hereby commanded to levy distress of the goods and [and] chattels of said _____ excepting such as the law exempts, and make sale thereof according to law, to the amount of said sum, together with your fees, and twenty-five cents for this writ, and the same return to me in thirty days, and for want of such goods and chattels whereon to levy, to take the body of said _____, and herein convey and deliver (to the keeper of the common jail in Waukesha county, or to the keeper of the lock-up of said city, as the case may be), and the said keeper is hereby commanded to receive, keep in custody (in said jail or lock-up, as the case may be), the said _____, for the term of _____, unless the said judgment, together with all the costs and fees, are sooner paid, or he be discharged by due course of law.

Given under my hand, this _____ day of _____, 18—
C. D., Justice of the Peace.

The form of the commitment shall be substantially the same as that of the execution, omitting all that relates to the levy and sale and return of writs.

Form of commitment.

SECTION 10. In all cases where judgment is rendered against a defendant for the recovery of fines or penalties mentioned in this act, or the ordinances now in force or hereafter to be ordained, the defendant may appeal from such judgment to the circuit court of the county of Waukesha; *provided*, such defendant within twenty-four hours enter into a recognizance, with one or more sufficient sureties, to be approved by such justice, conditioned to appear before said circuit court and abide the judgment of the court therein. The justice from whose judgment an appeal shall be taken, shall make a special return of the proceedings had before him, and shall forthwith cause the summons or warrant and return, together with the proceedings and a copy of the entries on his docket in the action, together with the recognizance, to be filed in the office of the clerk of said court; and the city may appeal from any such judgment without giving such recognizance, as in other cases before justices of the peace.

Appeals to circuit court.

1

No notice of trial required.

SECTION 11. Said appeal shall stand for trial by jury, unless a jury be waived in the manner provided by law, in said circuit court, at the next term thereof after the day the judgment of the justice shall be rendered, and no notice of trial shall be required to be given to or by either party.

Judgment to be entered.

SECTION 12. If the judgment of the justice shall be affirmed, or if upon the trial the defendant shall be convicted, the court shall inflict the penalty provided by this act, or the ordinance, resolution, by-law or regulation under which he or they are prosecuted, and enter judgment against him or them and their sureties for such penalty, together with the costs in both courts and enforce the same by execution as in actions of tort.

Residence not to be ground for incompetency.

SECTION 13. No person shall be an incompetent judge, justice, juror or witness by reason of his being an inhabitant of said city, in any proceeding or action in which the city shall be a party in interest.

Ordinances, &c., to remain in force.

SECTION 14. All ordinances, resolutions, by laws and regulations now in force in the village of Oconomowoc, and not inconsistent with this act, shall remain in force until altered, modified or repealed by the common council, after this act shall take effect.

All actions to be vested in and prosecuted by city.

SECTION 15. All actions, rights and penalties, fines and forfeitures, in suits or otherwise, which have arisen or accumulated under the several acts consolidated herein, shall be vested in and prosecuted by the corporation hereby created.

Service of process against city.

SECTION 16. When any suit or action shall be commenced against said city, the service of all process and papers therein may be made by leaving a copy of such process and papers, by leaving a copy thereof with the mayor or clerk of said city, and it shall be the duty of the said mayor or clerk so served, forthwith to inform the common council thereof or to take such course or proceedings as by ordinance or resolution of said council may be in such case provided.

Penalties, fines &c., to be paid into city treasury.

SECTION 17. All penalties, fines and forfeitures recovered and collected under and by virtue of this act, or the ordinances, resolutions, by-laws and regulations made and passed in pursuance thereof, shall be paid into the city treasury, for the use and benefit of said city, except as provided in chapter eight of this act.

Exempt from execution.

SECTION 18. All fire engines, hose-carts, hooks and ladders and wagons therefor, and all other apparatus

and implements used to extinguish fire, and all houses or buildings owned or occupied by said city for such engines, hose, hose-carts, hooks and ladders and other apparatus and implements, shall be exempt from attachment or execution issued in any action, or on any judgment wherein the said city shall be a party.

SECTION 19. The mayor shall have power to grant pardons or commutations after convictions, for all offenses against the ordinances of the city, upon such conditions as he may deem proper. He shall communicate any such actions to the council at its next meeting with reasons therefor.

Mayor may grant pardons.

CHAPTER X.

IMPROVEMENT OF STREETS AND SIDEWALKS.

SECTION 1. Every ordinance, resolution, order or by law for the repairing, construction [or] reconstruction of any sidewalk or gutter at the expense, in whole or in part, of the owners of the lots or parcels of land abutting or fronting such sidewalk or gutter, shall, on being introduced at a meeting of the common council, be referred to some appropriate committee, and any such ordinance, order, resolution or by-law, shall not be passed or adopted sooner than seven days after the introduction thereof, nor shall such ordinance, order, resolution or by-law take effect until after its publication or posting thereof in the manner provided in section four of chapter four of this act.

Construction and repair of sidewalks, gutters, &c.

SECTION 2. The common council of the city of Oconomowoc shall have power to establish the grade of the streets of said city, and to change and re-establish such grade as they shall deem expedient; *provided*, that whenever they shall change or alter the grade of any street, any person who shall claim to have sustained damages by such change or alteration of grade, shall have a right of action against the city for the recovery of such damages, but no suit shall be commenced against the city therefor until application has been made to the common council to pay such damages, and said council shall have refused or neglected for three months to pay or settle the same.

Grade of streets.

SECTION 3. It shall be the duty of the city marshal to see that all the ordinances of the city relating to obstructions and cleansing of sidewalks, streets,

Duty of marshal.

alleys, public grounds, reservoirs, gutters, sewers, water and water-courses in said city are duly observed and kept. The committee on streets, to be appointed by the mayor, shall have a general supervision over all works let by contract or otherwise for the improvement of streets or sidewalks and gutters in said city, unless the common council shall otherwise provide.

Manner of construction of sidewalks, &c.

SECTION 4. Sidewalks and gutters shall be constructed, reconstructed or repaired upon the proper established grade made by the city of any street in said city, of such width, in such manner, of such materials, and in such time as the common council by ordinance, resolution or order shall direct, by the owner or owners of any lot or piece of ground in front of which such sidewalk or gutter shall be ordered. If the owner or owners of any such lot or piece of ground shall not construct such sidewalk or gutter as aforesaid, in the manner, of the material, or at the time so directed, the common council may cause the same to be constructed forwith, at the expense of such owner or owners. The common council shall levy a

Special tax.

special tax upon each lot or piece of ground in front of which any sidewalk or gutter shall be constructed, sufficient to pay the cost of constructing the same—the said tax to be collected at the time and in the manner as is provided herein for the collection of other taxes, provided that lands used exclusively for farm purposes, not platted, shall not be liable for, nor the owner or owners thereof be required to build or maintain sidewalks along or fronting such lands under the provisions of this chapter.

Street commissioner to cause repairs.

SECTION 5. Whenever a sidewalk shall be out of repair and so remain for the space of twenty-four hours, which in the opinion of the street commissioner will not cost to exceed the amount of ten dollars, in front of any one lot or piece of ground, to repair the same, he shall be authorized, and it is hereby made his duty, to cause the same to be immediately repaired; thereupon, after such work is completed, the common council shall levy a special tax upon said lot or piece or parcel of land, to pay the same in the same manner as special taxes are levied for the construction of sidewalks.

Work of improvement to be let to lowest bidder.

SECTION 6. The common council of said city shall have power, and may in its discretion, by an affirmative vote, let to the lowest responsible bidder, whose bid it shall deem reasonable and proper, or as they

may otherwise order, the construction of any sidewalk or gutter, or the making of any improvement on or along any street or highway in said city limits which shall have been ordered, levy and collect a tax upon each lot or piece of ground in front of which said sidewalk, gutter or improvement shall have been ordered and constructed under such contract or otherwise sufficient to pay the cost of constructing the same, as provided in section four of this chapter.

SECTION 7. Costs and expenses of surveying streets, alleys, sewers and gutters, and of estimating work thereon, in the execution of any public improvement, shall be chargeable to and payable by the city. Costs and expenses of surveying, &c., payable by city.

SECTION 8. All work provided for in this chapter shall be done under the supervision of street committee, and shall be approved by them before it shall be accepted by the council. Work to be done under supervision of street committee.

SECTION 9. The common council of the city of Oconomowoc shall on or before the first Monday in May in each year, determine and levy the amount of highway tax in said city for the ensuing year, for the purpose of constructing and repairing streets and highways in said city, which amount shall not be more than five mills on the dollar upon all of the taxable property of said city, as the same shall appear by the last assessment roll of said property. Highway tax.

SECTION 10. The city clerk shall, within twenty days after said highway tax shall be so levied, make out and deliver to the city treasurer, a list of all persons liable to pay highway taxes in said city, which list shall also contain a statement of all the taxable personal property, and a description of all lots or parcels of land within said city, with the value of each lot or parcel set opposite to such description, as the same shall appear on the assessment roll of the previous year; and if such lot or tract was not separately described in such roll, then in such proportion to the valuation which shall have been affixed to the whole tract of which such lot or parcel forms a part, and the amount of such tax shall be carried out in a separate column opposite the name of each person or persons, corporation or corporations to whom each item of taxable property upon said list is to be assessed, and such highway tax determined and levied shall be due and payable within thirty days from and after the first public notice given by the city treasurer that said tax-list is in his hands for collection. Duty of city clerk in levy of highway tax.

SECTION 11. The city clerk shall make a duplicate Duplicate list to be made.

of such list, both of which shall be signed by the mayor and countersigned by the city clerk, one of which lists shall be filed in the office of the city clerk, and the other shall be delivered to the city treasurer.

Warrant to be annexed.

SECTION 12. The city clerk shall annex to each such tax-list a warrant, signed by the mayor and the city clerk, which shall be in substance in the following form:

Form.

To A. B., treasurer of the city of Oconomowoc :

You are hereby required to collect from the several persons and corporations named in the annexed tax list, and from the owners of the real estate described therein, the taxes set opposite to such persons, corporations and property within the time limited by this chapter, and to apply the taxes by you so collected, and make returns thereof on or before the third Monday of November next.

Dated— day of — 18—,

_____ City Clerk.
_____ Mayor.

Powers of city treasurer in collecting taxes

SECTION 13. The city treasurer shall have the same powers and proceed to collect the said taxes, in the same manner as in the collection of general taxes, and such taxes so collected shall be passed to the highway fund and kept and paid out as such; and in case the said treasurer shall be unable to collect any portion of said tax, he shall, on or before the third Monday in November of each year, make out and deliver to the city clerk of said city, a verified copy of the public notice given by him, together with a list of all such unpaid taxes, which list shall contain the names of all persons, corporation or corporations, and the description of all real estate or personal property included in said tax roll, and the amount of such tax against each said descriptions or items so uncollected, which said list shall be sworn to by said city treasurer, before some officer authorized to administer oaths.

List of unpaid taxes.

SECTION 14. Upon the receipt of such list, the city clerk shall at the time of making out the general annual tax-roll of said city for that year, place in a separate column on said roll, the amount of said delinquent tax against the proper description of real estate and personal property, which shall be collected or returned in the same manner as general taxes are collected or returned by law.

CHAPTER XI.

EDUCATION—PUBLIC SCHOOLS.

SECTION 1. The territory embraced within the limits of school district number ten (10) of the city of Oconomowoc joint with the town of Oconomowoc, and district number three (3) of the city of Oconomowoc and Summit in Waukesha county, shall hereafter form one district for school purposes, and the said district so formed shall be called and known as the Oconomowoc city school district.

School district.

SECTION 2. The present school districts mentioned in the preceding sections shall be perpetuated with all the rights and powers now possessed by said districts respectively, and each of said districts shall be continued and maintain its organization for the purposes hereinafter named.

Present districts to be perpetuated.

First. For the erection, keeping in repair, and keeping insured, all school buildings, used for public school purposes (excepting the high school) within the limits of each of said districts.

For erection and keeping in repair school buildings.

Second. For the payment of all debts outstanding, or hereafter contracted, by said districts, with the interest thereon.

For payment of debts.

Third. For the purchase of any site or sites for any school building in said districts (except for high-school purposes), and for the election of school officers in the manner provided, or which may hereafter be provided by law, and for the purpose of taking the census provided for by law, which when taken shall be returned to the city clerk, and to the clerk of the city school board in duplicate.

For purchase of sites for school buildings.

SECTION 3. The said school districts shall hereafter hold school meetings in the manner provided by law, and at the time hereinafter mentioned, at which meetings officers shall be elected and taxes may be voted for purposes named in the last preceding section, and any tax voted at such meeting, shall be collected and paid over to the treasurer of such districts in the manner provided by law, and the officers so elected shall have and exercise all the powers and perform all the duties now provided by law that may be necessary to carry out the purposes named in the last preceding section; *provided, however,* that said district boards shall not exercise any of the powers or perform any of the duties vested in the school board created in this act.

Shall hold meetings for electing officers voting tax, &c.

General management and supervision of schools.

SECTION 4. The director of said school district No. ten (10) and the director and treasurer of said school district No. (3) three, (as now constituted and hereafter to be elected), together with the city superintendent of schools of the city of Oconomowoc, and two representatives to be appointed by said common council of said city, one of whom shall hold office for one year and one for two years from and after the fourth Monday in July after this charter takes effect, and one representative to be appointed by said council each and every year thereafter for the term of two years, (*who*) shall have the general management and supervision of the public schools within said district. The city superintendent of schools shall be ex-officio president of said board and shall have the right to vote only in case of a tie, except as hereinafter provided. The officers above named shall be called and known as "The Oconomowoc city school board." The city school board shall also have and exercise all the powers conferred upon district school boards by the laws of this state which are not inconsistent with the powers reserved in this act to the district boards named in section one of this act, and the said Oconomowoc city school board are hereby authorized and empowered to adopt a code of by-laws for its own government and also to ordain and establish such rules and regulations as may by said board be deemed necessary to carry out the spirit of this chapter and enforce its provisions, and whenever such rules or regulations do not controvert this act they shall be as obligatory upon said district as though such rules and regulations were incorporated herein.

School board.

Duties of school board.

SECTION 5. It shall be the duty of said city school board each year to elect one of their number clerk, and said board shall also elect a treasurer of said district who shall be a resident voter in said district, and the persons so elected shall hold their offices for one year unless removed by the board. The board may also at any meeting thereof fill any vacancy that may occur in either of said offices from removal, resignation or other cause.

Duties of clerk.

SECTION 6. It shall be the duty of the clerk to keep a record of all meetings held by the said board; he shall sign all contracts or agreements made in pursuance of any vote or resolution of said board, which contracts or agreements by or in behalf of said board or said district, shall also be signed by the president or the president pro tem of said board. The

said clerk shall also perform all the duties prescribed by law for clerks of joint school districts which are not inconsistent with the provisions of this chapter.

SECTION 7. The treasurer of said school district shall have the custody of all moneys collected or received under the provisions of this chapter and all moneys payable within the limits of said district from the income of the school fund, or from county school taxes levied and collected within the county of Waukesha, shall be paid over to the treasurer of said district, and all moneys so received by him shall be paid out by said treasurer upon orders drawn upon the treasurer by the clerk of said board, pursuant to a vote or resolution of said board, which order shall be countersigned by the president or president pro tem. of said board. The treasurer shall also before entering upon the duties of his office, execute a bond to said district in the usual form of school district treasurers' bonds. Said bond shall be in such penal sum as shall be approved by the board and the said board may at any time require the said treasurer to give a new bond with additional security; and in case the said treasurer shall fail to give any bond or bonds as required by said board, his office shall thereafter be deemed vacant.

Duties of treasurer.

SECTION 8. The said school board created by this chapter shall, in addition to the powers enumerated and conferred by section four of this chapter, have the right and they are hereby authorized and empowered at their annual meeting, or at any adjournment of said annual meeting, to vote to raise by tax upon the property of said district, such sums of money as may be necessary for the purposes of sustaining and maintaining the public schools of all grades in the district hereby created, for the year then next ensuing; *provided*, that the amount so levied in any one year, for the purposes mentioned in this section, shall not exceed the sum of seven dollars for each scholar embraced in the school census last taken of said district hereby created; *provided herein*, that if in the opinion of a majority of the board a greater sum shall be necessary, the same may be voted at a meeting of the qualified electors of said district, called in the manner hereinbefore provided.

Powers of school board.

To levy tax.

SECTION 9. The said school board are hereby authorized and empowered, by a vote of five of their number, including the city superintendent, who shall, for this purpose, be entitled to a vote, to select and

To determine upon site for high school building.

determine upon a site for the high school building within said city, and in making such selection due and proper regard shall be had to the cost of said site, and its fitness for the purposes of said high school building; and in case five members of said board are unable to agree upon the selection of a site for said high school buildings, then, and in that case, they shall select two disinterested persons who reside outside of the limits of the district hereby created, and the persons so selected shall select and determine upon such site; and in case they are unable to agree upon such site, they shall name and select a third disinterested non-resident of said district to act with them to determine which of the sites about which they disagree shall be taken, and the decision of and determination of any two of the persons so selected shall be final and binding upon said board and upon said district; *provided, however,* that no site shall be selected or purchased at a cost exceeding four thousand dollars without a vote in favor of such purchase, at a meeting of the qualified electors of said district, called in the manner hereinbefore provided.

To contract
for erection of
high school
building.

SECTION 10. The said "Oconomowoc city school board" are hereby authorized and empowered to contract for the erection of a suitable building for a high school in said district and within said city upon the site selected and purchased pursuant to the provisions of this chapter, at a cost not exceeding the sum of ten thousand dollars for the building; unless a greater sum shall be voted by the qualified electors of said district at a meeting called in the manner hereinafter provided, and the said city school board are hereby authorized and empowered, and it is hereby made the duty of said board to levy a tax upon the property of said district to an amount sufficient to pay all indebtedness against said district contracted in the purchase of said site, and in the erection of said high school building with the interest thereon; *provided, however,* that not more than three thousand dollars of the cost of such site and building or the indebtedness contracted therefor with the interest on the whole amount of said indebtedness, shall be levied or collected in any one year.

To borrow
money.

SECTION 11. The said board are hereby authorized to borrow money for and upon the credit of said district for the purpose, in whole or in part, of purchasing and paying for said site and erecting said high school building, and for that purpose the

said board is hereby authorized and empowered to issue the note or notes, bond or bonds of said district, of such size or denomination, and at such rate of interest, not exceeding ten per cent., as the said board shall think necessary and proper, *provided*, that not more than three thousand dollars of the principal sum of said notes or bonds shall be made payable in any one year, and that the whole principal sum payable in and by said bonds and notes, shall not exceed the sum of fourteen thousand dollars, unless a greater sum has been voted by the qualified electors of said district at a meeting called in the manner hereinafter provided. All bonds and notes issued pursuant to the provisions of this section shall be valid and binding upon the district, and it shall be the duty of the said school board to cause the amount thereof, principal and interest, to be levied and collected and paid over as the same becomes due to the holder or holders thereof.

SECTION 12. The annual meetings in said districts number (10) ten and (3) three, named in section one of this chapter, shall be held on the last Monday of July in each year, at eight o'clock in the afternoon, unless a different hour shall have been fixed upon by a vote of said districts, and said annual meetings may be adjourned from time to time by a vote of a majority of the qualified electors at any annual or adjourned annual meeting. The terms of office of any member of the present school boards in said districts numbers (10) ten and (3) three that would in due course of law, but for the passage of this act, expire on the fourth Monday of September of each year, shall terminate on the fourth Monday of July of each year.

Annual meetings.

Terms of office extended.

SECTION 13. The persons comprising the school board of education as hereinbefore provided, with the mayor or acting mayor of the city of Oconomowoc, shall, on the first Monday of August in each year, hereafter meet at the common council room, in the city of Oconomowoc, or at such other place within said city as shall be designated by said mayor or acting mayor, for the purpose of electing a superintendent of schools within the district hereby created. The mayor or acting mayor shall act as chairman of said meeting. The said election shall be by ballot, and the said mayor or acting mayor shall not vote on such election unless there be a tie, in which case he shall give a casting vote; and the compensation of super-

Election of superintendent of schools.

intendent shall be fixed at the time, and by the board appointing him; and the amount of such compensation shall be levied and collected as other school taxes; and no other officer created by this chapter shall receive any compensation for his services, except the clerk of the city school board. The city clerk shall attend said meeting and keep a record of its proceedings, and he shall certify the said election to the common council of the city of Oconomowoc, to the clerk of the circuit court of Waukesha county, and to the clerk of the board of supervisors of said county, by a proper certificate thereof, which shall be filed by said clerks in their respective offices upon the receipt thereof.

Powers of
school superin-
tendent.

SECTION 14. The person elected superintendent of schools in the manner provided in the last section, shall hold his office for the term of one year and until his successor is elected and qualified, and as such superintendent he shall have and exercise all the powers and perform all the duties prescribed by this chapter; and in addition thereto he shall have the same power as the superintendent of schools of Waukesha county not inconsistent with the provisions of this act.

vacancy—how
ed.

SECTION 15. In case there shall at any time be a vacancy in the office of superintendent of schools, from resignation or other cause, said vacancy may be filled by the officers named in section thirteen of this chapter, at any meeting thereof called by the mayor or acting mayor, or any two members of said district board above named.

Superintend-
ent of schools
to give bond.

SECTION 16. Every person elected or appointed to the office of superintendent of schools, pursuant to the provisions of this chapter, shall, within two days after his election and before entering upon the duties of his office, execute to the said "The Oconomowoc city school district," a bond, with one or more sufficient sureties, in such penalty as shall be fixed by the said city school board, conditioned for the faithful application and legal disbursement of all moneys that may come into his hands as superintendent, and for the faithful discharge of the duties of his office, which bond shall be approved by said city school board, and by the mayor or acting mayor of the city of Oconomowoc; and in case said bond is not executed and approved in the manner above provided, and filed with the clerk of said school board within the time prescribed in this section, the office shall be deemed vacant.

SECTION 17. The school board created by this chapter shall have the supervision and control of all the public schools in the said "The Oconomowoc city school district," and it shall be the duty of the said board to employ a principal and suitable teachers in said public schools as they may think necessary, and shall fix and determine the compensation to be paid to each of said teachers and the duties to be performed by them respectively; said board shall also have and exercise all the powers conferred by law upon school district boards which are not inconsistent with this chapter and its provisions.

Powers and duties of school board.

SECTION 18. Meetings of the electors of the district hereby created may be called at any time by the said board at some suitable and convenient place within said district. Notice of such meeting shall be given by publication thereof in some newspaper printed in the city of Oconomowoc for two weeks successively or by posting in six public places in said city notices thereof; the first publication or posting of such notice to be at least ten days prior to the time of such meeting. When convened pursuant to such notice, said electors may elect a chairman and the clerk of the board shall be secretary of such meetings, and said meetings may be adjourned from time to time, and at any such meeting any business may be done or transacted which is authorized by the laws of this state to be done at annual school district meetings, and which is not inconsistent with the powers of this chapter vested in the Oconomowoc city school board or reserved to said districts numbers ten and three.

Meetings—how to be called.

How conducted.

SECTION 19. The Oconomowoc city school board as a board of education or otherwise shall not be required to elect by order or resolution or otherwise that such city or city school district shall for the next ensuing year or any other year be exempt from the provisions of chapter one hundred and seventy-nine, general laws of 1861, entitled, "an act to create the office of county superintendent of schools," but said boards and the schools under its control, shall be exempt from the provisions of said chapter, except in the matter of making reports to the county superintendent, and doing such other acts as shall be necessary to maintain its connection with the school system of the state, anything in this act to the contrary notwithstanding.

Exempt from provisions of chap. 179 general laws of 1861.

SECTION 20. No outlay for any site for a high No outlay

without petition. school or graded school, or erection of any high school or graded school building as contemplated by this chapter, shall be made without a petition therefor, signed by at least fifty resident freeholders and tax-payers of said city school district.

CHAPTER XII.

MISCELLANEOUS PROVISIONS.

Appropriations SECTION 1. No moneys shall be appropriated for any purpose whatever, except such as are expressly authorized by this act.

Penalties and judgments. SECTION 2. No penalty or judgment recovered in favor of the city shall be remitted or discharged, except by a two-thirds vote of the aldermen elect.

Survey of lines and boundaries. SECTION 3. The common council may at any time cause a new and accurate survey to be made of the lines and boundaries of all the streets, alleys, sidewalks, public grounds, wharves and blocks in said city and may cause to be established such permanent land marks as they may deem necessary, and to cause an accurate plat or plats thereof to be made and certified to by the surveyor, which shall be filed in the office of the city clerk, and recorded in the office of the register of deeds of the county of Waukesha, and in like manner they may cause an accurate map of the said "The Oconomowoc city school district" provided for and mentioned in chapter eleven of this act and have the same filed and recorded (when certified to by the surveyor) with said city clerk and register of deeds.

Surveys and land marks to be evidence. SECTION 4. The surveys and land marks so made and established shall be prima facia evidence of the lines and boundaries of all streets, alleys, sidewalks, public grounds, wharves and blocks, in all cases in which they shall be drawn into controversy in all courts in this state.

Council to establish grades. SECTION 5. The common council may, at such time as they may deem proper, establish the grades of all streets, alleys and sidewalks of said city, or any or either of them, and shall cause accurate profiles thereof to be made, one of which shall be filed in the office of the register of deeds of Waukesha county, and one shall be filed in the office of the city clerk; and should the grade so established be at any time thereafter altered, all damages, costs and charges therefor shall be paid by the city to the owner of any lot

or parcel of land or tenement which may be affected or injured in consequence of the alteration of such grade; *provided, however*, that nothing in this section contained shall be so construed as to prevent the street committee of the said city from ordering or causing to be done the grading of any street within said city to a temporary grade, to be established by the common council.

SECTION 6. The city may have, purchase and hold real and personal estate sufficient for the convenience of the inhabitants thereof, and may sell and convey the same; and the same while owned, occupied or held by said city shall be exempt from taxation. City to possess real estate.

SECTION 7. Real estate exempt from taxation by the laws of this state shall be subject to special taxation as other real estate under this act. Special taxation.

SECTION 8. When the city of Oconomowoc deeds or leases any real estate or any interest therein owned by said city, the party of the first part shall be the city of Oconomowoc and the person or persons authorized to execute such deed or lease need not be named in the body thereof. Deeds to be granted in name of city.

SECTION 9. The mayor of said city is hereby authorized, when the common council shall, by ordinance or resolution for that purpose, describe the real estate and interest to be conveyed under and direct him so to do, to execute a deed or lease of such real estate or interest therein belonging to the said city. The said deed or lease shall be signed by the mayor of the city and countersigned by the city clerk, and sealed with the corporate seal of said city, and duly witnessed and acknowledged as is provided for the execution of deeds and conveyances. Transfer of real estate.

SECTION 10. When any such deed or lease is so executed, the city clerk shall attach to such deed or lease a true copy, by him duly certified, of the ordinance or resolution aforesaid, and the same shall be recorded by the register of deeds with said deed or lease; and such copy so attached, and record thereof, shall be in all courts of this state prima facie evidence of the authority of the mayor to make and execute such deed or lease. Clerk to attach copy of ordinance.

SECTION 11. If any election by the people for common council shall, for any cause, not be held at the time or in the manner herein prescribed, or if the council shall fail to organize as herein prescribed, it shall not be considered reason for arresting, suspending or absolving said corporation, but In case election for common council shall not be held.

such election or organization may be held at any subsequent day by order of the common council, and if any of the duties enjoined by this act or the ordinances or by-laws or regulations of said city, to be done by any officer, at any time specified, and the same arrest [are not] there [then] done or performed, the common council may appoint another time at which said act may be done and performed.

Act not re-
pealed by gen-
eral laws.

SECTION 12. No general law of this state contravening the provisions of this act shall be considered as repealing, annulling or modifying the same unless such purposes be expressly set forth in such law as an amendment to this chapter or this act.

Poll tax.

SECTION 13. Every male inhabitant in the city of Oconomowoc over twenty-one years of age and under fifty, except active members of the fire department, and those otherwise exempt by the general laws of this state, shall pay into the city treasury annually, the sum of one dollar and fifty cents each, as poll tax. It shall be the duty of the assessor of the city of Oconomowoc during the month of April of each year to

Assessor to
make lists.

make out duplicate lists of all persons liable to said tax in the city of Oconomowoc, and said assessor shall, on the last Monday of April of each year, deliver one of said lists to the city clerk, and one to the treasurer of said city of Oconomowoc. The said

Treasurer to
collect poll tax.

treasurer shall thereupon immediately proceed to collect the same, and all persons liable to pay such tax, who shall not have paid the same after demand, either personal or by written notice left at their usual place of abode, on or before the first day of July of each year, shall be liable to and shall pay a penalty of two dollars, in addition to said poll tax together with the costs of prosecution, to be prosecuted for by said treasurer in the name of the city of Oconomowoc.

Process of col-
lection.

The process in each case shall be by warrant, as provided for in chapter nine of this act, entitled, "Actions for the recovery of penalties," etc., and in case judgement shall be rendered against the defendant in such action, and he shall refuse or neglect to pay such judgement, he shall be imprisoned in the county jail of Waukesha county or in the lock-up of the city of Oconomowoc, ten days. The moneys collected as

Money to be
kept as a dis-
trict fund.

herein provided for, shall be kept as a district fund, and shall be expended for the benefit and improvement of the streets of the city of Oconomowoc. The mayor, city clerk and treasurer, shall constitute a board to determine the liability of persons to pay such

tax, and all persons claiming to be exempt from such tax must apply to said board within twenty days from the time when said lists shall be delivered to the treasurer as aforesaid. The city treasurer shall receive the same fees for collecting said tax as he does for collecting taxes assessed upon real and personal property; *provided*, that if any person shall desire to, he shall be permitted to perform one day's work upon the streets of the city in which he resides, and the certificate of the street commissioner, that such person has performed one full day's labor on said streets shall be received by the city treasurer in full discharge of such tax.

Fees of treasurer.

SECTION 14. The jurisdiction of the justices of the peace of the city of Oconomowoc shall be co-extensive with the county of Waukesha, and the said justices of the peace shall have exclusive jurisdiction to try all criminal cases, and conduct all examinations within said city in which the said city is a party under the laws of which justices of the peace have jurisdiction, and according to this act. And the justices of the peace of said city shall have and possess all the rights, powers and privileges of justices of the peace; and all the laws of this state concerning justices' courts, shall apply to the justices' courts of the city of Oconomowoc, except so far as the said laws conflict with the provisions of this act.

Jurisdiction and powers of justices.

SECTION 15. In all cases where an action might be brought by the city of Oconomowoc against any person, company or corporation, such action may be commenced and prosecuted in the name of the city, by any elector of said city, provided that the complaint is made by any person other than a police officer of said city of Oconomowoc, sheriff of Waukesha county, or any officers of said city. The justice may, in his discretion, require seventy-five cents as in civil courts before justices of the peace.

Actions to be prosecuted in name of the city.

SECTION 16. The common council shall have power to require the owner of any lot or grounds in the city to set out ornamental trees in the street or streets fronting on the same, and in default thereof to cause the same to be done, and to levy a special tax upon such lot or grounds to pay the expenses of the same.

Ornamental trees.

SECTION 17. This act is hereby declared a public act, and shall be liberally construed in all courts of this state.

Nature of act.

SECTION 18. Whenever the city clerk may be ab-

City clerk,

pro tem. sent and not attend any meeting of the common council, said council may appoint one of their number clerk *pro tem.*

Fees of treasurer. SECTION 19. The city treasurer shall be entitled to fees as his compensation for collecting and disbursing all moneys received and paid out by him for the said city, at a rate not exceeding two per cent., excepting for the collecting and paying over those taxes otherwise provided for in this act.

Jurisdiction of city over certain street. SECTION 20. The said city of Oconomowoc shall have full and complete jurisdiction over, and control of, all that certain highway or street, the centre line of which is on and forms a part of the north boundary line of said city, extending from the northeast corner of said city of Oconomowoc, west to the east shore of La Belle Lake, with full power hereby given to said city to establish the grade of such street and lay out highway taxes thereon for improving and repairing the same in the same manner and to the same extent, said city is hereby authorized by this act to establish the grades of, and improve and repair any of the streets which are wholly within the limits of said city.

Publications, compensation for same. SECTION 21. All publications required by this act to be published in any newspaper, shall be so published under the laws of the state, and the compensation to be paid therefor shall in all cases, (unless otherwise contracted by the common council), be at the rates established and prescribed by the laws of said state, which rate shall not exceed sixty cents for every folio of such published matter for its first insertion, and thirty-five cents per folio for each succeeding insertion in said newspaper.

Council may change boundaries of wards. SECTION 22. The common council shall have the right and power, at any time after said city shall have been organized under this act, by ordinance to change the boundaries of the said several wards of the city, and to make and establish new wards therein whenever the common council may deem best; *provided*, that whenever the common council proceed to alter or change the boundaries of said wards, or to establish new wards in said city, due regard shall be had to the population and the valuation of property in each ward, so that all the wards in said city, when so changed or established, shall be as near equal in their respective populations and assessments as practicable.

Equality to be observed. **Village property to become vested in city.** SECTION 23. All the personal and real property now belonging to the village of Oconomowoc shall,

on and after this act takes effect, belong to and become the personal and real property of the city of Oconomowoc.

SECTION 24. The mayor and common council of the city of Oconomowoc shall possess all the powers and shall exercise all the duties vested in town boards of supervisors of this state for all purposes whatever, except as otherwise provided by this act.

Mayor and council to possess powers of town supervisors.

SECTION 25. The town clerks of the respective towns of Summit and Oconomowoc, in Waukesha county, shall, on or before the first Monday of May, 1875, severally make out, certify to, and deliver to the city clerk of the city of Oconomowoc, lists of all the real and personal property, together with the names of owners thereof, being within the said towns of Summit and Oconomowoc, and being in those portions of such towns which by this act are taken from said towns and added to and included in and made a part of the city of Oconomowoc as same appears from their last assessment rolls of said towns, and also in the same manner and at the same time, make out, certify to, and deliver to said city clerk lists of the names of all persons in such portions of said towns who are liable to pay a poll-tax.

Town clerks to make out lists of property and of persons liable to pay poll tax.

SECTION 26. All that portion of the town of Summit, in Waukesha county, which by the provisions of this act is separated from said town of Summit, and is attached to and included in said city of Oconomowoc and become a part and parcel thereof, together with all the inhabitants who now reside in and who may hereafter reside within said portion of said town of Summit, shall from and after the passage of this act be attached to and become a part and parcel of the second Assembly district of said Waukesha county, comprising the towns of Menominee, Brookfield, Lisbon, Pewaukee, Merton, Delafield and Oconomowoc and the village of Oconomowoc; and said Assembly district shall hereafter include within its limits the whole of said city of Oconomowoc as constituted by this act and all the qualified electors of said city of Oconomowoc shall hereafter be considered and taken as qualified electors thereof and of said Assembly district at all general and special elections, with full right to vote thereat as provided by law and this act.

Assembly district.

SECTION 27. All acts or parts of acts inconsistent with and conflicting with the provisions of this act are hereby repealed; but the repeal of said acts or parts

Repealed.

of acts shall not in any manner affect, injure or invalidate any contract, claims, penalties or demands that may have been entered into, performed, commenced, or that may exist under or by virtue or in pursuance of said acts, or any former act incorporating the village of Oconomowoc, or any of them, but the same shall exist and be enforced and carried out and completed as fully and effectually, to all intents and purposes, as if this act had not been passed; and all the members of the present board of trustees of the village of Oconomowoc shall hold their offices and exercise the duties thereof until the mayor and members of the common council of said city of Oconomowoc shall be elected and qualified, and no longer.

SECTION 28. This act shall take effect and be in force from and after its passage.

Approved February 25, 1875.

CHAPTER 60.

[Published March 1, 1854.]

AN ACT to provide for holding terms of court in Lincoln county, and for the election of a county judge therein.

The people of the state of Wisconsin, represented in Senate and Assembly, do enact as follows:

County of Lincoln organized for judicial purposes.

SECTION 1. From and after the first day of May next, the county of Lincoln shall be fully organized for judicial purposes, and shall enjoy all the rights and privileges appertaining to other counties so organized in this state.

Time of holding court.

SECTION 2. There shall be held annually in said county, at the county seat thereof, one term of court on the fourth Monday of September.

Laws now in force to apply.

SECTION 3. All writs and proceedings shall issue and be made returnable, as required by law in other counties, and laws now in force applicable to the summoning and empanelling of jurors shall have force in said county of Lincoln.

Officers to be elected.

SECTION 4. The qualified electors of the county of Lincoln shall, on the first Tuesday of April next, elect a sheriff, clerk of the court and district attorney for said county, who shall hold their offices until the first day of January, 1877; at the same election a