

LAWS OF WISCONSIN.

CHAPTER 237.

[Published April 6, 1876.]

AN ACT to amend sections one (1), and two (2), of chapter one hundred and thirty-eight (138), of the general laws of 1870, entitled, "An act for the destruction of lynxes, wolves and wild-cats."

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

SECTION 1. Section one (1), of chapter one hundred and thirty-eight (138), of the general laws of 1870, entitled, "An act for the destruction of lynxes, wolves and wild-cats," is hereby amended so as to read as follows: That any person who shall kill any wolf within this state, shall be entitled to receive a compensation or reward for each wolf so killed the sum of five dollars (\$5). Amended.
Bounty on
wolves.

SECTION 2. Section two (2), of said chapter one hundred and thirty-eight (138), of the general laws of 1870, is hereby amended so as to read as follows: That any person who shall kill any wild-cat or lynx within this state, shall be entitled to receive a compensation or reward for such wild-cat or lynx so killed, the sum of (\$3). Amended.
Bounty on
lynxes and
wild cats.

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

Approved March 9, 1876.

CHAPTER 238.

[Published March 30, 1876.]

AN ACT to revise, consolidate and amend an act, entitled, "An act to incorporate the city of Waupaca," approved March 5, 1875.

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

CHAPTER 1.

CITY AND WARD BOUNDARIES.

SECTION 1. All that district of country in the county of Waupaca, contained within the limits and bound. General powers
of corporation.

aries hereinafter described, shall be a city by the name of the city of Waupaca, and the people now inhabiting, and those who shall hereafter inhabit the district of country herein discribed, shall be a municipal corporation by the name of the city of Waupaca, and shall have the general powers possessed by municipal corporations at common law, and in addition thereto, shall possess the powers herein specially granted, and the authorities thereof shall have perpetual succession, shall be capable of contracting and being contracted with, suing and being sued, pleading and being impleaded in all courts of law and equity, and shall have a common seal, and may change and alter the same at pleasure.

City bounda-
ries.

SECTION 2. The territory lying in the county of Waupaca, and being all of sections nineteen (19) and twenty (20), except the north half of the northeast and northwest quarters of said sections, all of sections twenty-nine (29) and thirty (30), and the north half of the northeast and northwest quarters of sections thirty-one (31) and thirty-two (32), of township twenty-two (22) north, of range twelve (12) east, shall comprise the territory and limits of the city of Waupaca.

Ward bounda-
ries.

SECTION 3. The city shall be divided into four wards, as follows: The First ward shall be all that portion of said city embraced within sections nineteen (19) and thirty (30), south of the Waupaca river, and north of the following line, viz: commencing at the junction of Division and Union streets, running west on Union street to Franklin, north on Franklin to Fulton, and west on Fulton street to west line of said city. The Second ward shall be all that portion of said city embraced in sections twenty-nine (29) and thirty-two (32), lying south of Waupaca river and east of the west line of said sections. The Third ward shall be all that portion of said city lying north of Waupaca river. The Fourth ward shall embrace all that portion of said city in sections thirty (30) and thirty-one (31), and not included in foregoing ward boundaries.

In whom cor-
porate author-
ity vested.

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

CHAPTER II.

ELECTIONS.

SECTION 1. The elective officers of said city shall be a mayor, a treasurer, an assessor, a police justice of the city at large, and one alderman from each ward, who shall be ex-officio supervisor, and shall be entitled to represent his ward on the county board of supervisors, and one justice of the peace for each ward, which said officers shall hold their respective offices as follows: The mayor, treasurer, assessor and aldermen, for one year; the police justice and justices of the peace, for two years. The mayor, treasurer, assessor and police justice shall be qualified voters and residents of said city, and the ward officers shall be qualified voters and residents of the respective wards for which they are elected.

City officers—
terms and
qualifications.

SECTION 2. The qualified voters of the city of Waupaca shall hold an election on the first Tuesday of April in each year, for the election of city and ward officers. Said elections shall be held for the officers herein designated, at such place, convenient for the electors, as shall be designated by the common council, and shall be presided over by the mayor and aldermen, or, in case of their absence or disability, the voters present at the hour of opening the polls shall elect, viva voce, a sufficient number of inspectors to make five with the alderman or aldermen, or said mayor present, who shall be sworn in accordance with the laws of this state. Such inspectors shall appoint two clerks of election, who, before entering upon the discharge of their duties as such clerks, shall also be severally sworn in accordance with the laws of this state, and such inspectors shall see the names of the voters registered, and the ballots safely deposited in the ballot-box; shall decide all questions that may arise as to the legality of the votes presented; shall count the ballots at the close of the polls, and shall certify and seal two returns, and the day following the election shall direct and return one of said returns to the city clerk of the city of Waupaca, the other to the county clerk for the county of Waupaca. Three of said board of inspectors shall constitute a quorum at any election. The mayor of the city and the members of the common council shall constitute a board of canvassers, who shall, within five days af-

City elections—
how conducted

ter such election, meet at the common council chamber and canvass such returns, and after the aforesaid returns have been canvassed by said board, the mayor shall notify, by certificate, the persons elected to the respective offices. The polls shall be kept open from nine o'clock in the forenoon until five o'clock in the afternoon. Said elections shall be conducted in accordance with this act and the existing laws of the State of Wisconsin, and any frauds or violation of said laws at such elections shall be punishable in the same manner as any violation of the election laws of the state. The ward officers shall be voted for on the same ticket with the city officers, but the ticket shall have designated thereon the number of the ward for which it is voted; and there shall be ballot-boxes for each ward numbered to correspond with the different wards of the city, and the tickets shall be put into the boxes corresponding to the number of the ward for which it is voted; and the ballot of each elector shall be put into the box of the ward of which he is a resident; and there shall be kept separate poll-lists for each ward.

Election to fill
vacancy.

SECTION 3. In the event of a vacancy in the office of mayor, police justice or alderman, by death, removal or other disability, the common council shall order a new election and shall give five days' notice thereof. Any vacancy in other offices shall be filled by the common council. The person appointed or elected to fill a vacancy shall hold his office and discharge the duties thereof for the unexpired term, with the same rights and subject to the same liabilities as the person whose office he may be elected or appointed to fill.

Tie vote.

SECTION 4. All elections by the people shall be by ballot, and a plurality of votes shall constitute an election. All elections by the council shall be viva voce. When two or more candidates for an elective office shall receive an equal number of votes for the same office, the election shall be determined by the casting of lots in the presence of the council, at such time and in such manner as they may direct.

Qualification
of electors.

SECTION 5. All persons who are qualified electors of the State of Wisconsin, and who shall be bona fide residents in the city at the time of any election of the city of Waupaca and in the ward for which they offer their vote shall be deemed qualified electors of said city and ward

SECTION 6. If either of the inspectors of election shall suspect that any person offering to vote does not possess the necessary qualifications of an elector, or if such vote be challenged by an elector, the inspectors, before receiving any such vote shall require the voter offering his vote to take the following oath: "You do solemnly swear (or affirm as the case may be) that you are twenty-one years of age; that you are a citizen of the United States (or have declared your intentions to become a citizen, conformably to the laws of the United States on the subject of naturalization), that you have resided in the State of Wisconsin one year next preceding this election; and that you are now an actual resident in the city of Waupaca, and within ward No.—, and that you have not voted at this election; and that you have made no bet or wager depending on the result of this election." And if the person offering to vote shall take such oath, his vote shall be received; and if such person shall take such oath falsely, he shall be deemed guilty of willful and corrupt perjury, and, upon conviction thereof, shall suffer the punishment provided by law for persons guilty of perjury. If any person, not a qualified voter, shall vote at any election, or if any person duly qualified shall vote for any other ward than the one in which he resides or shall vote more than once at any election, he shall be deemed guilty of a misdemeanor, and on conviction thereof he shall forfeit and pay a sum not exceeding one 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 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 any election, or if any clerk shall not write down the name of every voter as he votes, or shall willfully make untrue and incorrect counts and tallies of votes, each and every inspector or clerk shall be liable to prosecution, and on conviction thereof shall severally forfeit and pay a sum not exceeding five hundred dollars nor less than one hundred dollars. All such prosecutions shall be tried in the circuit court for the county of Waupaca, unless removed as in other cases, under the statute relating to change of venue.

Challenge of votes.

Oath of elector.

Penalty for illegal voting.

SECTION 7. Special elections to fill vacancies or for any other purpose, shall be held and conducted by the

Special elections.

board of inspectors or a quorum thereof, as provided by this act and returns thereof shall be made in the same time, manner and form as of general or annual elections.

Officers to hold over.

SECTION 8. There shall be an alderman and justice of the peace elected for the fourth ward of said city, at the election on the first Tuesday of April next. The aldermen for the other wards, who shall hold over by virtue of their election on the fourth Tuesday of last March shall be the aldermen for their respective wards for the year ensuing the next election, viz: first Tuesday of April, 1876, and until their successors are elected and qualified.

When office shall be deemed vacant

SECTION 9. Any officer removing from the city and any ward-officer removing from the ward for which he was elected, and any officer who shall neglect or refuse to qualify on or before the second Tuesday of April next after his election, shall be deemed to have vacated his office, and the common council shall proceed to fill such vacancy as herein provided. All officers appointed or elected to fill any vacancy shall enter upon the duties of such office immediately after receiving notice of such election or appointment.

Terms of office.

SECTION 10. The term of every officer elected under this law shall commence on the second Tuesday of April of the year for which he was elected, and shall, unless hereafter or heretofore otherwise provided, continue for one year and until his successor is elected and qualified. And each of said officers shall have such powers and perform such duties as are prescribed in this act or may be prescribed in any ordinance of said city, not inconsistent with this act, or which may not be incompatible with the nature of their respective offices.

When council may order new election.

SECTION 11. 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 being first given, and said election shall be conducted in all respects, so far as practicable, in the same manner as annual elections are herein provided for.

CHAPTER III.

OFFICERS—THEIR POWERS AND DUTIES.

Officers to take oath of office

SECTION 1. Every person elected or appointed to any

office under this act, shall, before he enters upon the ^{and give bonds.} duties of his office, take and subscribe an oath of office, and file the same, duly certified by the officer taking the same, with the city clerk; and the treasurer, chief of police, street superintendent, police justice and justices of the peace, and such other officers as the common council may direct, shall severally, before they enter upon the duties of their respective offices, execute to the city of Waupaca a bond, in such sum and with such security and such conditions as the common council may direct; and the common council may from time to time require new or additional bonds, and remove from office any officer refusing or neglecting to give the same.

SECTION 2. The mayor, when present, shall preside ^{Mayor—his powers and duties.} over the meetings of the common council, and have a vote therein, and shall take care that the laws of the state, and the ordinances of the city within the corporation are duly enforced and observed, and that all officers of the city discharge their respective duties. He shall also appoint a chief of police and such further number of policemen as the common council may at any regular meeting authorize, of which there shall be at least one in each ward, all of whom shall have all powers and perform the duties of common constables, which appointments shall be approved by the common council before they shall enter upon the duties of their office; and the compensation of the chief of police shall not exceed two dollars and fifty cents per day, to be determined by the common council; and the said policeman shall receive the fees allowed constables for the same services, and in addition may be paid such compensation for extra services ordered by the mayor or common council, not exceeding one dollar per day, as the common council may determine. The mayor may also appoint as many special or temporary police on election days or other public or unusual occasions, as he may think proper, but no such special or temporary police shall be paid any compensation for his services out of the city treasury, unless otherwise ordered by a vote of a majority of the common council. The common council may by ordinance prescribe the powers of police and other peace officers. The mayor shall communicate in writing to the common council, once a year, such information as he may deem necessary and at all times give such information as the common council may require. The mayor shall have the power to adminis-

ter oaths and affirmations, take acknowledgments of deeds and other instruments, and perform marriage ceremonies.

President of council.

SECTION 3. At the first meeting of the common council in each year, or as soon thereafter as may be, 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 from any cause to discharge the duties of his office, the president shall exercise all the powers and discharge all the duties of mayor. In case the mayor and president shall be absent from any meeting of the common council, they shall proceed to elect a temporary presiding officer who, for the time being, shall discharge the duties of mayor. The president, or temporary presiding officer, while presiding over the council or performing the duties of mayor, shall be styled acting mayor, and acts performed by them shall have the same force and validity as if performed by the mayor. But the president of the council, as acting mayor, shall sign no order, warrant, or other proceeding whatever which the mayor has refused to sign, and communicated such refusal to the council.

City clerk.

SECTION 4. The common council shall elect a city clerk. He shall keep the corporate seal and all the papers and records of the city. He shall have the right to procure suitable and proper books, blanks and stationery for his office at the expense of the city. He shall attend the meetings and keep a record of the proceedings of the common council. The records of the common council, kept by him, shall be evidence in all legal proceedings, and copies of all papers filed in his office and transcripts from the records, certified by him under the corporate seal, shall be evidence in like manner as if the original were produced. He shall keep a full and accurate account of all certificates of appropriation and orders drawn on the city treasurer in a book provided for that purpose, and shall also keep an accurate account with the treasurer and charge him with all the tax-lists delivered to him for collection, and all sums of money paid into the treasury. Whenever the clerk shall be absent from any meeting, the city council may appoint a clerk pro tem. The city clerk shall have power and authority to administer oaths and affirmations and take acknowledgments of deeds and

other instruments. He may appoint a deputy in writing, under his hand, and file such appointment in his office and such deputy in case of absence or disability of the clerk, shall act in his place.

SECTION 5. The treasurer shall receive all moneys City treasurer. belonging to the city, and keep an accurate and detailed account thereof, together with an account of all the disbursements, in such manner as the common council shall direct. He shall report to the common council as often as required, and annually at least ten days before the annual election, a full and detailed account of all receipts and expenditures after the date of the last annual report, and also of the state of the treasury, which statement shall be filed with the clerk.

SECTION 6. The chief of police shall perform such Chief of police. duties as shall be prescribed by ordinance for the preservation of the public peace, and the collection of fines and license moneys. He shall possess all the powers and perform all the duties of a constable under the laws of the state, so far as serving criminal process is concerned, and shall receive like fees, but he shall not go beyond the city limits to make arrests or to serve any process, unless the cause for making such arrest or for issuing such process arose within the city. He shall not serve any process in civil actions except actions to which the city of Waupaca is a party. The policemen of said city shall be under the control and direction of the mayor and chief of police, and shall have all the powers and shall perform all the duties of a constable under the laws of the State of Wisconsin.

SECTION 7. The common council shall have power, Further duties of officers. 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 to fix the compensation of all officers elected or appointed by them, such compensation to 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.

SECTION 8. The common council shall, at their first Official paper. meeting each year, or as soon thereafter as may be, designate a newspaper, printed and published in the county of Waupaca, and circulated in the city of Waupaca, to publish all ordinances and by-laws, and full

minutes of all their proceedings, and to do all other printing under the provisions of this act, and they may let the same by contract to the lowest responsible bidder for the term of one year; and the printer of said newspaper shall, either in person or by his foreman, file with the clerk of the city, his or their affidavits of the length of time said ordinance, by-law, or proceeding has been published, and such affidavits shall be *prima facie* evidence of the publication of such notices, ordinances, proceedings, or by-laws.

Penalty for neglect to deliver books and papers to successor.

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, moneys, books, papers, and effects of every description in his possession, belonging to said city or pertaining to the office he may have held, he shall forfeit and pay to the use of the city, one hundred dollars, besides all damages caused by his neglect or refusal so to deliver, and such successor may recover the possession of such books, papers, and effects in the manner prescribed by the laws of this state.

Peace officers—their powers and duties.

SECTION 10. The mayor, sheriff of Waupaca county, each and every alderman, justice of the peace, policemen and watchmen, shall be officers of the peace, and suppress in a summary manner all rioting and disorderly behavior within the limits of the city, and for such purposes may command the assistance of all bystanders, and, if need be, of all citizens and military companies. If any person, by-stander, military officer or private shall refuse or neglect to aid in maintaining the peace when so required, every such person shall forfeit and pay a fine of fifty dollars, and in case the civil power may be required to suppress riots or disorderly behavior, the superior or senior officer present, in the order above mentioned in this section, shall direct the proceedings.

Police justice—power and jurisdiction of.

SECTION 11. The police justice shall have and possess all the authority, powers and rights of a justice of the peace in civil proceedings, and shall have sole, exclusive jurisdiction to hear all complaints and conduct all examinations and trials, in criminal cases arising within the city, cognizable before a justice of the peace; but warrants returnable before said justice may be issued in criminal cases arising within the city, by any other justice in the city, but no fees shall be received therefor by said justice. The said justice shall have exclusive jurisdiction in all cases cognizable before a justice of the peace in which the

city is a party, and shall have cognizance and exclusive jurisdiction of all suits, prosecutions or proceedings for the recovery of any fine, forfeiture or penalty under any by-law, ordinance or regulation of the said city of Waupaca, or its charter, or for a breach or violation of any such ordinance, by-law and regulations, and in all cases of offenses committed against the same. All prosecutions for a breach or violation of any such by-laws, ordinances, regulations or offenses against the city of Waupaca or its charter, shall be commenced in the name of the city of Waupaca, and the same proceedings shall be had in all civil and criminal suits before said police justice where not otherwise herein directed, as are established and required to be had in civil and criminal actions by the laws of this state before a justice of the peace; *provided*, that in cases of prosecution for a breach or violation of any ordinance, by-law or regulation of said city or its charter, no appeal shall be allowed where judgment or fine imposed, exclusive of costs, is five dollars or less; but in all other cases appeals shall be allowed as now provided in justice's court, except in cases where the city is a party, the bond shall run to the city. In all cases of conviction for assaults, batteries and affrays within the said city, and 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 justice shall have power, in addition to the fine or penalty imposed, to enter judgment for costs of prosecution against the defendant, and to compel such 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 justice shall have the same power and authority in cases of contempt, as a court of record; *provided*, that nothing in this act contained shall be deemed to divest the circuit judges 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. In case of absence, sickness or other inability of such police justice, or for any sufficient reason, the mayor, by warrant, may authorize any justice of the peace within said city to perform the duties of said police justice, and it shall thereupon be the duty of the mayor

Prosecutions to be commenced in name of city.

No appeal in certain cases.

to inform the chief of police and policemen of such substitution, and make report thereof to the common council, and they may confirm or set aside such appointment, or appoint some other justice of the peace, and the justice of the peace so appointed, shall for the time being possess all the authority, powers and rights of said police justice; all fines and penalties imposed by the police justice for offenses against said city or its charter, or for violation of any ordinance, by-law or regulation of said city, shall belong to and be a part of the finance of said city.

Police justice to report to common council and pay over fines collected to treasurer.

SECTION 12. The police justice shall report quarterly to the common council, a list of all proceedings instituted before him in behalf of the city, and the disposition thereof, and shall, at the same time, account for and pay over to the treasurer the amount of all penalties and fines collected, which may by law accrue to the city. The city shall not be liable for or pay any costs for violations of any law of this state, and such justice shall pay to the county treasurer all fines collected for offenses against the laws of this state, in the same manner that all justices of the peace are required by law to do.

Superintendent of streets.

SECTION 13. At the first meeting of the council after the annual election in April in each year, or within ten days thereafter, the common council may elect one superintendent of streets for each ward of the city, and a city surveyor, each one of whom shall hold his office until his successor is appointed and qualifies, and the common council shall have power to fill, from time to time, vacancies that may exist in said offices.

Duties and compensation of assessors.

SECTION 14. The assessors shall assess all the taxable property of said city, as required by law, and shall complete and return his assessment roll to the common council on or before the first Monday of July in each year. During the last week in the month of June in each year, the assessor shall attend at the common council chamber for the purpose of hearing the complaints of persons who may feel themselves aggrieved by such assessment, and shall make such alterations and amendments thereto as justice and equity may require. The assessor shall receive for his services such compensation as the common council may determine, not exceeding the sum of three dollars per day for each day necessarily employed in making such assessment. The said assessor, together with the mayor, or in his absence or disability, the president, [and] the city clerk shall constitute a city

board of equalizers, and they shall meet at the office of the city clerk of said city, on or before the third Monday of July in each year, and proceed to equalize the said several assessments in the same manner in all respects as town boards of equalizers are now authorized by law to do.

SECTION 15. The superintendents of streets shall perform the duties, and, under the restrictions and for the compensation prescribed in section seven, of chapter six of this act, and such other duties as may be required of them by this act, and the ordinance of the common council of said city, not inconsistent with this act.

Duties of
superintendent
of streets.

SECTION 16. The city surveyor shall be a practical surveyor and engineer. He shall keep his office at some convenient place within said city, and the common council shall prescribe the duties and fix the fee and compensation for any service performed by him. All surveys, profiles, plans and estimates made by him, for the city shall be the property of the city, and shall be carefully preserved in the office of the surveyor, open to the inspection of the parties interested, and the same, together with all books and papers appertaining to said office, shall be delivered over by the surveyor at the expiration of his term of office to his successor or to the common council.

Duties city
surveyor.

CHAPTER IV.

THE COMMON COUNCIL—ITS GENERAL POWERS AND DUTIES.

SECTION 1. The mayor and aldermen shall constitute the common council, and the style of all ordinances shall be, "The common council of the city of Waupaca do ordain," etc. The common council shall meet at such time and place as they by resolution shall direct. A majority of the aldermen, including mayor, shall constitute a quorum.

Common coun-
cil—powers and
duties.

SECTION 2. The common council shall hold stated meetings, and the mayor may call special meetings by notice to each of the members, to be served personally or left at their usual places of abode. The common council shall determine the rules of its own proceedings, and be the judge of the election and qualification of its own members, and have power to compel the attendance of absent members and to enforce its rules; to punish by fine and imprisonment,

Shall hold sta-
ted meetings.

by a vote of a majority of its members, any member for disorderly or contemptuous conduct, and, by a vote of a majority of its members, may expel any member for cause.

General powers of council.

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

1st. To license and regulate the exhibition of common showmen or shows of any kind, or the exhibition of caravans, circuses or theatrical performances, billiard tables, bagatelle tables, pigeon-hole tables and bowling saloons, etc., and to provide for the abatement and removal of nuisances, under the ordinances or at common or statute law, and to grant licenses for selling spiritous, vinous or fermented liquors, and to regulate and license groceries, taverns, victualing houses, and all persons vending or dealing in spiritous, vinous or fermented liquors, and to revoke the same for a violation thereof; *provided*, that the sum to be paid for any such license shall not be less than the amount fixed and provided by the laws of the state, and that no license shall be granted for a less time than one year from the date of filing the application for such license in the office of the city clerk; and in case the person so applying for a license shall have a former license within a year next preceding such application, then such license shall be granted for the term of one year from the date of the expiration of such former license. 2d. To restrain and prohibit all descriptions of gaming and fraudulent devices and practices, and all playing of cards, dice or other games of chance, for the purpose of gaming in

To license places of amusement.

To prevent gambling.

said city, and restrain any person from vending, giving or dealing in spiritous or vinous liquors, unless duly licensed by the common council. 3d. To prevent any riots, noise, disturbance or disorderly assemblages, suppress and restrain disorderly houses or groceries and houses of ill-fame, and to authorize the destruction of all instruments used for the purpose of gaming. 4th. To compel the owner or occupant of any grocery, cellar, tallow-chandler shop, soap factory, tannery, stable, barn, privy, sewer or other unwholesome or nauseous house or place, to cleanse, remove or abate the same from time to time, as often as it may be deemed necessary for the health, comfort and convenience of the inhabitants of said city. 5th. To direct the location and management of slaughter-houses and markets, and to prevent the erection, use or occupation of the same, and to establish rates for and license venders of gunpowder and regulate the storage, keeping and conveying of the same or other combustible materials. 6th. To provide for the making, grading, improving and repairing of the streets of the city of Waupaca, and to make such other necessary public improvements as shall be deemed necessary and proper, and for the general benefit, health and welfare of the inhabitants thereof, and to provide for the making, constructing and repairing of gutters and sidewalks in said city, and to prevent the encumbering of streets, sidewalks, lanes, highways and alleys with carriages, sleighs, boxes, lumber, firewood or other materials or substances whatever. 7th. To prevent horse-racing, immoderate riding or driving, in the streets or on the bridges within said city, and to regulate the places of bathing and swimming in the waters within said city limits. 8th. To impose a tax upon dogs or to restrain the same from running at large, and to authorize the destruction of the same in a summary manner when at large contrary to the ordinances of said city. 9th. To restrain the running at large of horses, cattle, swine, sheep, poultry and geese, and to authorize the distraining, impounding and sale of the same. 10th. To prevent persons from bringing, depositing or having within said city or placing in the waters within or adjacent to the said city, any putrid carcass or other unwholesome or nauseous substances, and to require the removal of the same by any person who shall have upon his premises any such substance or putrid or unsound beef, pork, hides or

To preserve order.

To abate nuisances.

Public improvement.

Impounding of cattle.

skins of any kind, or on default to authorize the removal thereof, by some competent officer, at the expense of such person or persons. 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 of the city, to regulate and to license hacks, cabs, drays, carts and the charges of cabmen, hackmen, draymen and cartmen, in the city, and to erect lamps and provide for lighting the streets, public grounds or public highways with gas or otherwise. 12th. To establish and regulate boards of health, provide hospitals and cemetery grounds, regulate the burial of the dead and the return of the bills of mortality, and to exempt burial grounds set apart for public use from taxation. 13th. To establish the size and weight of bread and to provide for the seizure and forfeiture of bread baked contrary thereto. 14th. To prevent all persons riding or driving any horse or mule, cattle and other animals on the sidewalks in said city, or in any way doing damage to said sidewalks. 15th. To prevent shooting off firearms or crackers, and to prevent the exhibition of fireworks, in any situation which may be considered by the council dangerous to the city, or any property therein, or annoying to the citizens thereof. 16th. To restrain drunkards, in moderate drinking or obscenity in the streets or public places, and to provide for arresting, removing and punishing any person or persons who may be guilty of the same. 17th. To restrain and regulate runners and solicitors for stages, cars, public houses and other establishments. 18th. To make rules and ordinances for the government and regulation of the police of the city. 19th. To establish public markets and make rules and regulations for the government of the same; to appoint suitable officers for overseeing and regulating such markets, and to punish or restrain all persons for interrupting or interfering with the due observance of such rules and regulations; to license and regulate butcher stalls, shops and stands for the sale of game, poultry, meats, fish and other articles. 20th. To regulate the place or places and manner of weighing and selling hay, and measuring and selling fuel, lime and other gross commodities, and to appoint suitable persons to superintend and conduct the same. 21st. To compel the owners of buildings or grounds, or the occupants, where the same are occupied, to remove snow, dirt or rubbish from the sidewalks, street

Board of health.

Police regulations.

Removal of dirt and rubbish.

or alley opposite thereto, and to compel such owner or occupant to remove from the lot owned or occupied by him, all such substances as the board of health shall direct; and in default, to authorize the removal or destruction of all the objectionable substances by some officer of the city, at the expense of such owner or occupant. 22d. To regulate, prevent and control the landing of persons from cars, and stages, or other conveyances, wherein are contagious and infectious diseases or disorders, and to make such disposition of such persons as to preserve the health of the city. 23d. To regulate the time and manner of holding public auctions and vendues. 24th. To appoint watchmen and prescribe their duties. 25th. To provide by ordinance for a standard of weights and measures and for the punishment of any person using or keeping for use any false weights and measures. 26th. The common council shall have jurisdiction over the entire waters within the city so as to prevent any deterioration of the waters, or any nuisance being cast therein by which the health of the inhabitants of the city or the purity of the water shall be impaired, or for any other purpose authorized in this act. 27th. 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 expense of the same.

Weights and measures.

SECTION 4. No appropriation shall be made nor shall any debt be created or liability incurred against the city except by a vote of a majority of all members of the council; and all laws, ordinances, rules and resolutions shall be passed by an affirmative vote of a majority of all the members of the common council; and all ordinances, before the same shall be in force, shall be signed by the mayor; and all resolutions or measures for the appropriation of money whereby a debt shall be created against, or a liability incurred by the city, shall be approved by the mayor before the same be in force; *provided*, that in case the mayor shall refuse to sign any ordinance or any certificate of the appropriation of money, or shall refuse to approve any resolution or by-law creating or establishing a liability against the city, three aldermen voting in the affirmative shall have power to pass such ordinance, resolution, by-law or certificate, notwithstanding the objections of the mayor; and all

How appropriations, ordinances, etc. shall be made.

ordinances, resolutions, by-laws or rules shall be published in a public newspaper printed in the county of Waupaca which may have been selected by the common council to do the printing of the city, and shall be in force from and after their passage and publication, such publication being duly proved by the affidavit of the printer or foreman of the printers of such newspaper and filed in the office of the city clerk, shall be conclusive evidence of their passage and publication, and a copy of such newspaper with the ordinance or resolution, by-law or rule therein, or any book with a printed copy pasted therein shall be prima facie evidence of such publication.

Power of council not to bar proceedings in court.

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

City officers to account to common council.

SECTION 6. The common council shall examine, audit and adjust the accounts of the clerk, treasurer, chief of police, assessor, street superintendents, and all other officers or agents of the city, at such time 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 or agent to exhibit his books, accounts and vouchers for such examination and settlement, and if any such officer or agent shall refuse to comply with the orders of the council in the discharge of their said duties, in pursuance of this section, or shall neglect or refuse to render his accounts or present his books or 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 proceedings at law against any officer or agent of said city, who may be delinquent or defaulting in his accounts, or in the discharge of his official duties, and shall make a full record of all such settlements; and the common council shall have power, by an affirmative vote of a majority of its members, upon

reasonable notice, for cause, to remove from office any officer of the city elected by the common council, or whose appointment shall have been confirmed by it.

Removal from office.

CHAPTER V.

OPENING OF STREETS, ALLEYS, ETC.

SECTION 1. The common council shall have the power to lay out public squares, grounds, streets and alleys, and to widen the same, and to make all necessary and proper improvements within the limits of said city as follows: Whenever ten or more freeholders, residing in any one ward, shall, by petition, represent to the common council that it is necessary to take certain lands within the ward where such petitioners may reside, for public use, for the purpose of laying out public squares, grounds, streets or alleys, or the enlarging or widening of the same, or for other public improvements, 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 the petitioners, to be set forth in such petition, the common council shall thereupon cause notice of such application to be given to the occupant or occupants, owner or owners of such land, or if a portion of such lands shall not be in the actual occupation of any person, and the owner or owners are non-residents of the said city, then the common council shall cause such notice, describing as near as may be, the premises proposed to be taken, to be published in the official paper for four weeks, at least once in each week.

Opening of streets, alleys, etc.—mode of procedure.

SECTION 2. Such notice shall state that on a certain day therein to be named, not less than ten days from the service of such notice, or the expiration of such publication, as the case may be, application will be made to the judge of the circuit or county court of Waupaca county, for the appointment of six jurors to view said premises, and to determine whether it will be necessary or expedient to take the same for the purposes specified in such petition.

Notice to be given owners of ground to be taken.

SECTION 3. Upon the presentation of such application and upon proof of publication or service of the notice herein required, the said judge shall thereupon appoint six reputable freeholders, residents of the city, but not residents of the ward in which such prem-

Jury to view premises to be taken.

ises may lie or interested in such application. The said judge shall thereupon issue his precept, directed to said jurors, requiring them within thirty days to view said premises to be specified in said precept, and to make return under their hands to the common council whether, in their judgment, it is necessary to take said premises for the purpose specified in such application.

In case of dis-
qualification of
jurymen.

SECTION 4. If any of the jurors so appointed shall be disqualified from acting, or shall refuse to act, the judge shall appoint others in their places, and a memorandum of such substitution, shall be endorsed upon the precept.

Jury to take
testimony.

SECTION 5. The said jurors, at such time as they may agree upon, shall proceed in a body to view the premises in question, and shall hear such testimony as may 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 witnesses.

To report pro-
ceedings.

SECTION 6. After viewing the premises and hearing such testimony as may be offered, the jurors shall make a report of their proceeding, 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 therein.

Jury to assess
damages.

SECTION 7. Should the jurors report that it is necessary to take such premises, the common council shall enter an order among their proceedings, confirming said report, and directing the same jurors, within one month thereafter, or such further time as may be deemed proper, to again view said premises, for the purpose of ascertaining and determining the amount of damages to be paid to the owner or owners of the property proposed to be taken, and also what lands and premises will be benefited by such taking, and to assess and return within the time limited such damages and benefits to the common council.

When lands
occupied by
buildings.

SECTION 8. If there should be any building standing, in whole or in part, upon the lands to be taken, the jurors before proceeding to make their assessment, shall first estimate and determine the whole 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 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, notice to all persons interested shall be given by publication in the official paper three successive weeks; such notice shall specify the building and award of the jurors. It shall also 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 said building at the rate set thereon by the jurors to remove. If the owner shall agree to remove such building he shall have such time for this purpose as the common council shall allow.

Notice of determination to be given.

SECTION 10. If the owner 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 for him in the city treasury.

Building to be sold in certain cases.

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 good judgment, be injured or benefited thereby. After hearing such testimony as may be offered by any party interested, and which shall be reduced to writing by one of said jurors, they shall proceed to make their assessment and to determine and appraise to the owner or owners the value 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 owner or owners respectively, as damages, after making due allowance therefrom, for any benefit which such owners may respectively derive from such improvement. In the estimate of damages to the land, the jurors shall include the value of the building or buildings (if the property of the owners of such land), 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.

Duty of jury in making assessment.

To ascertain difference to be paid to or received by owner.

SECTION 12. If the damage to any person be greater than the benefit received, or if the benefit be greater than the damages, in either case, the jurors shall strike a balance and carry the difference forward to another column, so that the assessment will show what amount is to be received or paid by such owner or owners respectively, and the difference only shall be in any case collected of them or payable to them.

When lands subject to lease judgment or mortgage.

SECTION 13. If the lands or buildings belong to different persons, or if the land be subject to lease, judgment or mortgage, or if there be any estate in it less than an estate in fee, the injury done to such person or interest respectively, may be awarded to them by the jurors, less the benefits resulting to them respectively from the proposed improvement.

Award of jurors.

SECTION 14. Having ascertained the damages and expenses of said improvement, as aforesaid, the jurors shall thereupon apportion and assess the same, together with the costs of the proceedings, upon the real estate by them deemed benefited, in proportion to the benefits resulting thereto from the proposed improvement, as nearly as may be, and shall describe the real estate upon which the assessment may be made. The award of the said jurors shall be signed by them and returned, together with the testimony taken, to the common council, within the time limited in the order of their appointment; and thereupon, if the common council shall deem it expedient, they may, by ordinance, order such street to be opened or widened, or such improvements to be made, and an assessment made in pursuance of such award; and if the common council shall not deem it expedient to open or widen such street, or to make such improvements, they shall, by resolution, order all further proceedings upon such petition to be discontinued.

Proceedings may be ordered discontinued.

When lands may be taken.

SECTION 15. The land required to be taken for the purpose mentioned in this act, shall not be appropriated until the damages awarded therefor to the owner thereof shall be paid or tendered to the owner or his agent, or in case the said owner or agent cannot be found, or is unknown, deposited to his or their credit in some safe place of deposit, under the direction of the judge of the circuit or county court of Wanpaca county; 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.

SECTION 16. Whenever any improvement chargeable to the property adjacent thereto shall have been determined upon, the proportion of the costs properly chargeable to each lot, part of lot or parcel of land, subject to contribute to the payment of the same, shall be ascertained, and the city clerk shall forthwith issue to each person occupying such premises, liable to contribute, a certificate stating the amount assessed and chargeable to the premises occupied by such person, and the amount so chargeable to any particular lot or parcel of land shall be, from the time it is so ascertained a lien and charge thereon, and upon no other property, and the said amount shall be entered against such lot or lots in the tax warrant for the year in which the assessment is made and collected in the same manner as other taxes. The damages assessed shall be paid or tendered or deposited as herein required, within twelve months from the confirmation of such assessments and reports; and if so paid, tendered or deposited, the proceedings in such case shall be void.

City clerk to give notice of assessments.

When damages to be paid.

SECTION 17. When the whole of any lot or tract of land or other premises, under lease or under 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 confirmation of such report, respectively cease and be absolutely discharged.

When land to be taken is under lease or mortgage.

SECTION 18. 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 covenants, contracts or agreement respectively, the same upon the confirmation of such report, shall be absolutely discharged as to the part thereof so taken, but shall remain valid as to the residue thereof, and the rents, considerations and payments reserved, payable and to be paid for and in respect to the same, shall be so proportioned that the part thereof justly and equitably payable for such residue thereof, and no more, shall be paid or recoverable for or in respect to the same.

When part of land is under lease or mortgage.

SECTION 19. When any known owner of lands [or] tenements affected by any proceedings under this act shall be an infant or labor under any disability, the judge of the circuit court of Waupaca county, or the judge of any court of record in said county, may, upon the application of the common council, or such party or his next friend, appoint a guardian for such

When owner of land is under legal disability

party, and all notices required by this act shall be served on such guardian.

Jurors to take oath.

SECTION 20. After the jurors shall have made their report as to the necessity of taking any lands 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 or refuse to serve; and the jurors, before entering upon the discharge of their duties, shall severally take an oath before some competent officer, that they are freeholders of said city, and not interested in the premises proposed to be taken, and that they will faithfully and impartially discharge the trusts reposed in them.

Appeal from assessment.

SECTION 21. 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 damage or benefit, to the circuit court of Waupaca county, where such appeal shall be tried by the court and jury, as in ordinary cases. The common council shall have the same right of appeal. After the award and assessments heretofore provided for shall have been made, and it shall have been found that the amount of such assessments over and above the amount of the awards shall not be sufficient to pay the whole cost of any such contemplated improvement, the amount of such deficiency shall be assessed by the common council upon the city.

Survey and profile to be made.

SECTION 22. Whenever any public grounds, street or alley shall be laid out, widened or enlarged, or other public improvements be made, under the provisions of this chapter, or this act, the common council shall cause an accurate survey and profile thereof to be made and filed in the office of the city clerk.

Common council may acquire property, lay out streets, etc.

SECTION 23. Nothing in this chapter shall be construed as preventing the common council from acquiring private property for the uses in this chapter designated by gift, agreement, purchase, or in any other manner which may be provided by the laws of this state, and of laying out public squares, grounds, roads, streets, highways and alleys through the same, and to make all necessary and proper improvements, as fully as under the provisions of the foregoing chapter.

CHAPTER VI.

IMPROVEMENTS OF STREETS AND SIDEWALKS, ETC.

SECTION 1. Every ordinance, resolution or by-law providing for the repairing, construction or reconstruction of any sidewalk or gutter, or for the grading, repairing or improving any street or alley at the expense, in whole or in part, of the owners of the lots or parcels of land abutting or fronting such sidewalk, gutter, street or alley, shall, on being introduced at a meeting of the common council, be referred to some appropriate committee, and any such ordinance, resolution or by-law, shall not be passed or adopted sooner than fourteen days after the introduction thereof, nor until ten days after the proceedings of the council had relative thereto, at the meeting when such ordinance, resolution or by-law was introduced shall have been published in the official newspaper of said city.

Ordinances for repair or construction of streets—how to be passed.

SECTION 2. The common council of the city of Wau-paca 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 his 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 superintendents of streets to see that all ordinances of the city relating to the obstruction and cleaning or clearing of sidewalks, streets, alleys, public grounds, reservoirs, gutters, sewers, waters and water courses in said city are duly observed and kept, and direct and control the persons employed therein. Under the supervision of the common council the superintendent of streets shall have a general supervision over all the works let by contract for the improvement of streets or sidewalks in said city unless the common council shall otherwise provide.

Duty of superintendent of streets.

SECTION 4. Sidewalks shall be constructed, reconstructed or repaired upon the proper established grade of any street in said city, of such width, in such

Construction and repair of sidewalks.

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 shall be ordered. If the owner or owners of any such lot or piece of ground shall not construct such sidewalk as aforesaid, in the manner, of the materials, or at the time as so directed, the common council may cause the same to be constructed forthwith at the expense of such owner or owners. The contract for the construction of any such sidewalk shall be let to the lowest, reasonable, responsible bidder, and notice shall be given by publication in the official paper of the city by at least one insertion thereof of the time, place and manner of receiving such bids. The common council shall levy a special tax upon each lot or piece of ground in front of which any sidewalk shall be constructed by contract sufficient to pay the cost of constructing the same; *provided*, that no such contract shall be let until twenty days after notice shall have been given to such owner or owners of the ordinance, resolution or order, requiring the construction of such sidewalks by the publication of the same by at least one insertion in the official paper of the city; *provided, further*, that nothing herein contained shall prevent the common council from directing the work to be done by the superintendents of streets or by the city without letting the same as hereinbefore provided.

Powers of council in ordering construction or repair of sidewalks.

SECTION 5. The common council shall have power, by a vote of a majority of all its members, to order the building, construction, reconstruction or repair of sidewalks in the city of Waupaca, in such manner as they may deem proper. The city clerk shall, in case the city council propose to let the work to the lowest bidder, receive proposals for constructing and repairing sidewalks, and shall open them in the presence of the council, which shall award the contract to the lowest responsible bidder; *provided*, such bid is a reasonable one, subject to such provisions, in case of violation of contract, and to such other particular provisions as the council may prescribe. The proceedings for ordering the repair of sidewalks, and levying and collecting special taxes on the respective lots to pay for the same, shall be the same as herein provided as in case of constructing a new sidewalk, except as otherwise provided in this section. No contractor for building or repairing sidewalks, shall receive any pay

therefor from the city, under any circumstances, until the tax levied for that purpose shall have been paid to the city or county. Whenever a sidewalk shall be out of repair, and so remain for the space of twenty-four hours, which in the opinion of the superintendents of streets will not cost to exceed the amount of five dollars, in front of any one lot, to repair the same, they shall be authorized, and it is hereby made their duty to cause the same to be immediately repaired; and when the same is completed they shall make out an itemized bill of the cost of such repairs, specifying the lot or block, or piece or parcel of land in front of which said work was done, verified by their oaths, and shall deliver the same to the city clerk; and said clerk shall forthwith present the same to the owner of such lot, piece or parcel of land, if a resident of the city of Waupaca, for payment; and if the owner of such lot, piece or parcel of land shall refuse or neglect to pay the same for ten days, then the clerk shall report the fact to the council, and the council shall thereupon levy a special tax upon said lot, piece or parcel of land, to pay the same, in the same manner as special taxes are levied for the construction of sidewalks. In case the owner of such lot, piece or parcel of land does not reside in the city of Waupaca, the said superintendents shall return said account to the common council, with their certificate stating the fact, and the council shall thereupon levy a special tax to pay the same, in the manner in this section provided.

SECTION 6. Every male inhabitant of the city of Waupaca, over twenty-one years of age, and under sixty, except active members of the fire department, and such as shall be exempted on account of sickness, infirmity, poverty, or other cause, as hereinafter provided, shall pay into the city treasury annually, the sum of one dollar and fifty cents each, as a poll-tax. It shall be the duty of the assessor of the city of Waupaca, during the month of May in each year, to make out duplicate lists of all the persons liable to said tax in the city of Waupaca, and said assessor shall, on the first Monday of June of each year, deliver one of said lists to the city clerk and one to the treasurer of the city of Waupaca. The said 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

Poll tax.

How collected.

or before the first day of July of each year, shall be liable to and pay a penalty of two dollars, together with the cost of prosecution, to be prosecuted by said treasurer in the name of the city of Waupaca. The process in such case shall be by warrant, and in case judgment shall be rendered against the defendant in such action, and he shall refuse or neglect to pay such judgment, he shall be imprisoned in the county jail not to exceed ten days. The said assessor, in making such list, shall designate the ward in which such person on said list resides, and the treasurer shall credit each ward of the city with the amount thus collected from the inhabitants of such ward. The moneys collected as above shall be kept as a distinct fund, and shall be expended under the direction and supervision of the superintendent of streets of the respective wards, on the repair and improvement of streets of the respective wards in which said tax is paid, and to be drawn out upon itemized accounts of the street commissioners of such wards, certified to by the aldermen of the ward in which said work is done, and audited by the common council. The mayor, assessor and city clerk 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.

Powers and duties of superintendents of streets.

SECTION 7. The superintendents of streets for the respective wards shall, before entering upon the duties of their office, execute to the city a bond in the penal sum of five hundred (500) dollars with two sufficient sureties, to be approved by the council, conditioned for the faithful performance of the duties of their office and for such other duties as may be required of them by the council, and for the proper expenditure of the money which may be collected or come into their hands by virtue of their office. They shall have a general supervision of all streets, subject to the common council; they shall expend the money realized from the poll tax in their respective wards, at such places in each ward as they shall see fit; they shall, on or before the first day of September in each year, report to the council in writing, under oath, a true and correct statement of all moneys received by them, by virtue of this act, and from whom received,

and how, where and when expended, and the said superintendents of streets shall be held strictly responsible for the full and complete execution of this act so far as the same relates to streets according to the terms thereof, and the council may at any time remove them or any of them from office for neglect of duty, and appoint a competent man in their place. The street superintendents shall receive for their services not more than two dollars for each day actually and necessarily occupied by them in the discharge of their duties.

SECTION 8. The common council of said city shall have power, and may, in its discretion, by a vote of a majority of all the members, advertise and let to the lowest responsible bidder, whose bid it shall deem reasonable and proper, the construction of any sidewalk or gutter, or the making or improvement on or along any street or highway in said city limits which shall have been ordered, and levy 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, sufficient to pay the costs of constructing the same without giving notice requiring the owner or owners of such lot or lots, or pieces of ground to construct the same.

Letting of contract for repair or construction of streets.

SECTION 9. The common council of the city of Wau-paca shall have the power, by an affirmative vote of a majority of all its members, to order and contract for the making, grading, paving and repairing and cleansing of streets, and parts of streets, alleys, public grounds, reservoirs, gutters, and sewers in the manner hereinafter mentioned, and direct and control the persons employed therein.

Council to order and contract for work on streets, alleys, etc.

SECTION 10. The costs and expenses of surveying streets, alleys, sewers, and gutters, and of estimating work thereon, in the execution of any public improvement, shall be chargeable to and payable by the city. The cost and expense of opening, grading or graveling, planking, paving or repairing of streets and alleys shall be chargeable to and payable wholly or in part by the lots or land fronting on such street or alley, so that each lot or parcel of land shall pay for work between the front of each lot or parcel of land and the center of such street or alley, or such portion thereof as the common council shall determine. Sewers and gutters may be ordered by the common council, and built at the expense of the lots or parts of lots benefited thereby; and fronting upon the side of the street

Expenses chargeable to city.

Chargeable to property.

along which said sewer or gutter shall be constructed; *provided, however,* that when sewers or gutters are constructed through alleys, no lots shall be assessed therefor except those situated in the block through which such sewers or gutters may be constructed; *and provided further,* that in all cases when improvements or work of any kind are chargeable by virtue of this section upon lots benefited, all such improvements across streets, alleys and public grounds shall be made and paid for by the city in proportion to the width of the street, alley, or public ground.

Estimate of expenses to be made.

SECTION 11. Whenever the common council shall determine to make any public improvement as authorized by this chapter, they shall cause to be made an estimate of the whole expenses thereof, and of the amount thereof to be assessed and charged to each lot and parcel of land, and in case of grading, of the number of cubic yards to be filled in or excavated in front of each lot, and the proportion thereof across each street, alley or public ground as aforesaid; and such estimate shall be filed in the office of the city clerk, for the inspection of parties interested, before such work shall be ordered to be done. The common council may authorize the letting of such work by contract to the lowest bidder, at the expense of the lots upon which such work is chargeable in whole or in part, as aforesaid, all bids for doing the same to be approved by the council; and the said council shall have power to reject any and all bids, and may require such contractors to perform such contract within such time and under such conditions, and to give such security for the performance of such work as they shall direct; such contract when approved by the council, to be executed on the part of the city by the mayor and countersigned by the city clerk, notice of the time and place of receiving such bids to be published for ten days in the official paper of said city. The common council, instead of letting such work by contract to the lowest bidder, may, by an affirmative vote of a majority of the members of the council, order the grading, repairing or improving of any street, or the making of any public improvement to be done directly by and under the supervision of the street superintendent for the proper ward or wards at the uniform expense, in whole or part, of the lots or parcels of land abutting or fronting on such street or public improvement.

Contract to be let to lowest bidder.

SECTION 12. Whenever the general interests of the city require deep cutting or extraordinary filling in any street and the owners of the lots and lands fronting on such deep cutting or filling shall deem themselves aggrieved thereby, and shall present to the council in writing that the expenses of such excavation or filling will exceed the proportion that should be justly or equitably charged upon the property assessed therefor, the council shall require the chief of police to summon five freeholders, not residents of the ward, nor interested in said lots or lands, who after being sworn faithfully and impartially to discharge the trust reposed in them, shall examine the premises within five days therefrom, and if [in] their opinion the cost of such work will exceed the amount that should be justly and equitably chargeable upon said premises it shall be their duty to determine what portion of such work shall be chargeable to such lots or parcels of land respectively, and what lots and parcels of land on the street so to be improved will be benefited by such deep cutting or filling, and how much or what portion shall be chargeable to them, and to make report thereof in writing as soon as practicable, but within ten days after such examination to the common council; and such proportion as shall be properly chargeable to the lots or parcels first mentioned, shall be assessed upon and collected from the same in the same manner as herein provided; in case such owners shall not do such work, and the remainder shall be assessed upon the lots benefited by such improvement, in proportion to their respective benefit as determined by said jury, the sum so assessed shall become a lien upon the premises assessed, and shall be collected therefrom, as a special assessment, in the same manner as other special assessments for improvements are collected; *provided*, that should said jury find that said petitioners were not entitled to any division of the expense so assessed upon their lots or parcels of land, then the expense of all proceedings under this section shall be paid by said petitioners, and the common council may require a bond for the payment of the same upon the filing of the petition; *provided, also*, that the petition of no owner feeling himself aggrieved shall be received unless the same be presented within twenty days after the publication of the notice requiring the same to be done; and *provided further*, that when it shall appear to the council that any such lands belong to non-residents, in

In case of extraordinary cutting or filling.

Proviso.

fants, or persons laboring under legal disability, who shall not be represented by any agent or guardian, or not benefited by the making of streets in front of such lots or lands to the amount of the costs and expenses thereof, it shall then be the duty of the said council to cause to be summoned a jury as herein provided.

Supervision of
work.

SECTION 13. All work provided for in this chapter shall be done under the supervision of the common council or a committee thereof, and superintendents of streets.

Certificate to be
issued for work
done.

SECTION 14. Whenever any work has been done under contract as provided in this act, and the work shall have been approved by the common council such contractor shall be entitled to a certificate therefor, stating the amount of work done by such contractor, and the nature thereof, and the description of the lot or parcel of land upon which the same is chargeable, which said certificate may be transferred by endorsement thereon; and if the amount is not paid before the time of making out the assessment roll, the same may be filed with the city clerk, and the common council shall order the same assessed upon said lots of land respectively, as a special tax, and to be collected therefrom for the benefit of the holder of said certificate, as other taxes on real estate are collected by virtue of the laws of this state, except that personal property shall not be seized or sold for the payment thereof, and if the notice to do the work required shall have been given as herein prescribed, no informality or error in the proceedings shall invalidate or vitiate such assessment; *provided*, that in no event where work is ordered to be done at the expense of any lot or parcel of land, shall the city be held responsible for or on account thereof, or for any proceedings for the collection of the pay therefor.

SECTION 15. Nothing in this chapter contained shall be construed as preventing the common council from building any sidewalk, gutter, or repairing the same, or grading or improving any street, or doing any of the work provided for in this chapter, in the whole or in part, at the expense of the city, when in their discretion such work is to benefit the general public more than a small number of the inhabitants of said city; or from doing any of said work by contract or otherwise, or under any other plan or method provided by any general law of this state which can be made applicable thereto.

CHAPTER VII.

FINANCES AND TAXATION.

SECTION 1. All funds in the city treasury, except school, state and county funds, shall be under the control of the common council, and shall be drawn out upon the certificate of the mayor, countersigned by the clerk, duly authorized by a vote of the common council, and in no other manner; and all certificates drawn upon the treasurer shall specify the purpose for which they were drawn, and shall be payable generally out of any funds in the treasury belonging to the city.

Funds to be under control of council.

SECTION 2. No debt shall be contracted against the city, or certificates of indebtedness drawn upon the city treasury, unless the same shall be authorized by a majority of all the members of the common council, and the vote authorizing the same shall be entered by ayes and noes upon the journal of the council, and no money shall be appropriated for any purpose whatever, except such as is expressly authorized by this act.

No debt to be contracted except by vote of council.

SECTION 3. All forfeitures and penalties accruing to the city for a violation of this act, or of any of the ordinances, by-laws, rules and regulations of the city, and all moneys received for licenses, shall be paid into the city treasury, and become part of the general fund, except as otherwise provided by this act.

Forfeitures and penalties to become part of general fund.

SECTION 4. All property, real or personal, within the city, except such as may be exempt by the laws of this state, shall be subject to annual taxation for the support of the city government and the payment of its debts and liabilities, and the same shall be assessed in the manner hereinafter provided. The assessor elected under this act shall have and possess the same powers that are or may hereafter be conferred upon township assessors, except so far as they may be altered by this act; *provided, however*, that the common council may prescribe the form of assessment rolls, and more fully define the duties of assessors, and make such rules and regulations in relation to revising, altering, or perfecting such rolls, as they may from time to time deem advisable.

Property subject to taxation.

SECTION 5. The fiscal year of the city of Waupaca shall commence on the first day of September, on which day, or within thirty days thereafter, the common council shall, by resolution, determine what

Levy of taxes.

For general purposes.

For highway purposes.

For payment of city bonds.

Taxes levied to be lien on property.

amount of money, including the estimated resources of the city, not derived from direct taxation, for the year there next ensuing, will be required for general city purposes during the year, and the common council shall thereupon be empowered to levy and shall by resolution levy a tax for general city purposes, not exceeding in amount one per centum of the assessed value of real and personal property of the city for that year. The common council shall also, in the month of September of each and every year, determine and levy the amount of highway tax in said city for the ensuing year, for the purpose of constructing and repairing streets, highways and bridges in said city, which amount shall not exceed five (5) mills on the dollar upon all taxable property of said city, as the same shall appear by the last assessment roll, which shall be collected in the same manner as the general taxes of said city are collected. The city treasurer shall credit each ward in said city with the amount of highway tax collected by him therein, and all the moneys so collected shall be expended on streets and highways in the wards where collected, under the direction of the street commissioner therein, unless the common council shall otherwise order and direct. The bridges shall be built and maintained by the city at large. The common council shall have power to levy a tax upon the assessment roll, equal in amount to the interest for one year, not otherwise provided for, upon all bonds lawfully issued by the city of Waupaca; and no such special tax shall be used or applied for any other purpose whatever. No city order of any kind shall be received in payment of school or school-house tax, but the same shall be paid in money, and shall be paid over by the city treasurer to the treasurer of the school boards entitled thereto, upon the order of the proper officers thereof. All resolutions for the purpose of levying a tax shall require for their passage an affirmative vote of a majority of all the members of the common council.

SECTION 6. All taxes or assessments, general or special, levied under this act, shall be and remain a lien upon the lands and tenements upon which they may be assessed, from the date of the warrant for the collection thereof until such taxes shall be paid, and no sale or transfer of such real property shall affect such lien. Any personal property belonging to the person taxed may be taken and sold for the payment of taxes upon personal property.

SECTION 7. Before the annual meeting of the board of supervisors of the county of Waupaca, and by the time required by the laws of the state for the return of assessments from the several towns, the city clerk shall transmit a copy of the assessment roll to the county clerk of said county, who shall lay the same before said board at their annual meeting.

Assessment roll to be laid before county board.

SECTION 8. The board of supervisors of Waupaca county shall have the right to regard the city of Waupaca as a town, in equalizing the assessment rolls of the several towns in said county as provided by law, but in such equalization shall consider the assessment roll of said city as an entire roll, and shall not change the relative valuation of the different wards.

City to be regarded as town in equalizing assessment roll.

SECTION 9. The board of supervisors may levy a tax or taxes, as now is or may hereafter be provided by law in relation to towns, but shall proceed therein without regard to the division of the city into wards, and shall cause the amount of taxes so levied to be certified to by the city clerk in the manner provided by law in relation to towns or town clerks; and in all transactions with the board of supervisors of said county, said city shall be regarded as a town, except as herein otherwise provided.

Tax may be levied without regard to division of city into wards.

SECTION 10. Upon receiving the statement of the amount of taxes so levied, the city clerk shall make out upon the assessment roll, in a column left for that purpose, or upon a copy thereof, a complete statement of the several amounts of taxes levied for the state, county, city or other purposes, and all special taxes levied by the common council since the making out of the last annual tax list, in such separate columns as may be necessary, with the total footing carried out opposite each tract or lot of land or person named therein, which statement shall be preserved by said clerk as a record in his office, and shall have the same legal force and effect as the records of the common council. The said city clerk may calculate the state, county and city taxes together, and carry the amount thereof into one column, but in such case he shall specify the per centum upon one dollar of valuation of state tax, county tax and city tax separately, in his warrant to the treasurer for the collection of such taxes.

Duty of city clerk upon receiving statement of taxes.

SECTION 11. The tax list made out and preserved as aforesaid shall be *prima facie* evidence in every court of record in this state that every act or thing required by law to be done, relating to assessing or

Tax list to be evidence.

levying taxes, from the election of the officers to the completion of the tax list, inclusive, has been done regularly, correctly and as required by law.

Duplicate tax list.

SECTION 12. Immediately after making out the tax list aforesaid, the clerk shall make out a duplicate copy thereof, to which shall be appended a warrant, signed by the mayor and clerk, and sealed with the corporate seal of said city, directed to the treasurer, requiring and commanding him to collect the taxes and assessments specified in said duplicate copy of the tax list, in the manner provided by law; and the said clerk shall, on or before the second Monday of December of the said year, or as soon thereafter as practicable, deliver the same to the city treasurer for collection, and make a record of said delivery on the tax list preserved in his office.

Duty of city treasurer.

SECTION 13. The city treasurer, upon the receipt of such duplicate copy of the tax list, shall proceed to collect the same in like manner, and shall have like powers and be subject to like requirements, liabilities and restrictions as town treasurers, except as otherwise provided in this act. The city treasurer shall receive one per centum fees upon all taxes paid to him before the first day of January, and three per centum fees upon all taxes collected after that time, to be added to the amount of taxes and collected with the same, and two per centum upon all other moneys paid into the treasury, which shall be in full for all services performed by said treasurer under this act or the ordinances of the city.

Return of delinquent taxes.

SECTION 14. On or before the fifteenth day of February in each year, unless the time be extended as provided by law, the city treasurer shall make out and return to the treasurer of Waupaca county, a list of all lands, lots and personal property upon which taxes have not been paid, and shall also settle with and pay over all moneys properly payable to said county treasurer, in like manner as now is or may hereafter be required of town treasurers; and all the provisions of sections eighty-one to eighty-seven, inclusive, of chapter eighteen, of the revised statutes, as modified by acts amendatory thereof, shall extend to and may be enforced to collect any delinquent personal property tax, of whatever year, now due to said city.

Sale of delinquent lands.

SECTION 15. The county treasurer shall sell all delinquent lands and lots returned from the city of

Waupaca at the same time and in the same manner as other delinquent lands are sold in said county.

SECTION 16. All real estate exempt from taxation by the laws of this state shall be subject to all special taxes for the building of sidewalks and improvement of streets in front of the same.

No exemption from special taxes.

SECTION 17. No error or informality in the proceedings of any of the officers in assessing property, levying or collecting taxes, or making return of unpaid taxes, not affecting the substantial justice of the tax itself, shall invalidate or vitiate or otherwise affect the validity of the assessment or tax.

Error not to invalidate assessment.

SECTION 18. The city treasurer shall not receive from the treasurer of the county of Waupaca, tax certificates in payment of any indebtedness which may become due from said county to said city. The city shall contract no debt, and the common council shall make no appropriation during any fiscal year, for city purposes, greater, than the amount determined upon as provided in the foregoing section five of this chapter, for such purposes, together with the amount of money which may at any time be in the city treasury, derived from other sources than taxation.

How indebtedness of county paid.

Limit of indebtedness.

SECTION 19. The common council shall have power, by a majority vote of all members thereof, to levy a tax or taxes to pay any or all judgments against the city.

Payment of judgments against city.

SECTION 20. In case the city treasurer shall at any time refuse or neglect to perform his duties in enforcing the payment of taxes, as provided by this act, and as authorized and required by the laws of this state, the common council shall forthwith remove such treasurer from office, and appoint a suitable person to fill the vacancy.

Treasurer to be removed for neglect.

SECTION 21. All accounts or demands against the city before the same shall be allowed shall be verified by affidavit, except salaries and amounts previously fixed and determined by law; and any person who shall falsely swear to any such account or demand, shall be deemed guilty of perjury.

Accounts to be verified by affidavit.

SECTION 22. No money shall be appropriated or drawn out of the city treasury, except in payment of accounts and demands allowed by the common council, and then only upon the order of the mayor and countersigned by the city clerk; and upon the presentation of such order the city treasurer shall pay the same to the holder thereof. All such orders shall be numbered in regular series commencing with num-

Payment of accounts and demands against city.

ber one, and shall be made payable to the person in whose favor the common council may have lawfully audited any account, and said order shall state the number of the bill in payment of which the same was drawn, for what purpose and from what fund payable, and the city funds shall be paid out of the treasury in no other manner whatsoever, and no interest shall be allowed or paid on any city order or certificate whatever; *provided, however*, that when the city, being duly authorized thereto, shall borrow money, certificates of appropriation therefor may be issued payable at such time or times as the council may determine, and such certificates may be drawn to bear interest at a rate not exceeding ten per centum per annum, and when so drawn and signed by the mayor and clerk, interest shall be paid thereon as therein expressed.

Actions against city.

SECTION 23. No action shall be maintained by any person against the city of Waupaca upon any claim or demand, until such person shall first have presented his claim or demand to the common council for allowance, and allowance thereof has been refused by said council.

Determination of council to be conclusive.

SECTION 24. 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 except that such person may appeal to the circuit court, as provided in section twenty-six (26), of this chapter.

Claims not to be entertained a second time.

SECTION 25. In case any person shall present his claim or demand to the common council, and the said council shall disallow the said claim, in whole or in part, the said council shall not thereafter entertain such claim again, unless such disallowance be first reconsidered at that or the next subsequent meeting of the council, and then only by the affirmative vote of a majority of all the members of the council; and such claimant, if he desires, may prosecute said claim by appeal to the circuit court, and not otherwise.

Appeals to circuit court.

SECTION 26. When any claim of any person against the city shall be disallowed, in whole or in part by the common council, such person may appeal from the decision of the council disallowing such claim, to the circuit court of the county of Waupaca, by causing a written notice of such appeal to be served on the clerk of said city within twenty days after the making of such decision, and executing a bond to the said city with sufficient surety, to be approved by the

said clerk, conditioned for the faithful prosecution of such appeal, and the payment of all costs that shall be adjudged against the appellant by the court. The clerk, in case such appeal is taken, shall make a brief statement of the proceedings had in the case before the council, with its decision thereon, and shall transmit the same, together with the bond and all the papers in the case, to the clerk of the circuit court of Waupaca county, and thereupon such appeal shall be entered, tried, and determined in the same manner as cases originally commenced in the circuit court, and costs shall be awarded thereupon in like manner.

SECTION 27. The clerk, upon such appeal being taken, shall forthwith give notice thereof to the mayor, and shall also report the same to the council at its first sitting thereafter.

CHAPTER VIII.

FIRE DEPARTMENT.

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

Fire limits.

SECTION 2 The common council shall have power to regulate the building, construction and condition of chimneys, fire places, hearths, stoves, stove-pipe, ovens, boilers and apparatus, used in or about any building, and to cause the same to be removed or placed in a safe and secure condition, when considered dangerous; to prevent the deposit of ashes in unsafe places; to require the inhabitants to provide as many fire-buckets, and in such manner and time as they shall prescribe, and to regulate the use of them in time of fire, and to regulate and prevent the carrying on of any manufactories dangerous in causing and promoting fires; to compel the owners and occupants of buildings to have scuttles in the roof, and stairs, and ladders leading to the same; to authorize

Precautions against fires.

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 the bystanders 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.

Power of council to purchase fire apparatus and authorize formation of fire companies.

SECTION 3. The common council shall have power to purchase fire engines and other fire apparatus, and to authorize the formation of fire engine, hook and ladder, and hose companies, and to provide for the due and proper support and regulation of the same, and to order such companies to be disbanded, and 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 fifteen and fifty, and which may elect its own officers, 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 a voluntary enlistment. Every member of each company hereby authorized to be formed shall be exempt from poll-tax, from serving on juries, and from military duty during the continuance of such membership; *provided*, that such exemption shall only apply to those who shall have been active members and regular attendants at the meetings of the fire department, for the period of six months prior to the first day of May of each year, and as such shall have been duly reported to the common council by the chief engineer.

Engineers of fire department

SECTION 4. The fire department shall, on the second Monday of April in each year, at seven o'clock in the afternoon, meet at such place as the common council may appoint, at which time and place they may appoint one chief engineer, and two assistant engineers of the fire department, which appointment shall be confirmed by the common council before the same shall be in force; and if for any reason said appointment shall not be made at the time and in the manner provided in this section, and confirmed by the common council, then the common council may, at such time as they may deem proper, elect one chief engineer and two assistant engineers of the fire department. Said department shall, by its chief officer, make a report, on or before the first Monday in May, in each year, of all those who have been active mem-

bers thereof for six months prior thereto and duly enrolled in the list of members.

SECTION 5. At the same time the members of the fire department shall appoint one fire warden for each ward, who shall perform such duties as the common council shall prescribe, and also elect such other officers as they may deem expedient, but no officer of the fire department shall receive any pay for his services from the city. Fire wardens.

SECTION 6. When any person shall refuse to obey any lawful order of any engineer, fire warden, mayor or aldermen at any fire, it shall be lawful for the officer giving such order to arrest, or direct orally the chief of police, policeman, watchman or any citizen to arrest such person, and to confine him temporarily in any safe place, until such fires shall be extinguished, and in the same manner such officers or any of them may arrest or direct the arrest and confinement of every person at such fire who shall be intoxicated or disorderly; and any person who shall refuse to obey any such lawful order, or who shall refuse to arrest or aid in arresting any person so refusing, shall be liable to such penalty as the common council shall prescribe, not exceeding fifteen dollars. Obedience to orders of officers to be enforced.

SECTION 7. The common council shall have power to organize a sack company, which shall be known as sack company No. 1, to consist of not more than twenty members. Such company shall constitute a part of the fire department, and at fires shall be subject to the control of the chief engineer. The members of said company, either collectively or individually, are hereby authorized and empowered to act as special police in and for the city of Waupaca, at the time of any fire, and are hereby vested with all its power and authority which is now or may be hereafter vested in any police officer in said city, and shall be entitled to all the rights and immunities of members of the fire department. At fires they shall take charge of all property which may be exposed or endangered, and shall, so far as may be in their power, preserve the same from injury or destruction. Said company may from time to time, adopt such by-laws and regulations as they may deem necessary, not inconsistent with this act and the laws of this state, or the ordinances of the common council. The members of said company shall not be entitled to any pay or compensation for services rendered in their official capacity. They shall in case of riot or disturbance of the peace, Formation of sack company. Duty of same at fires.

have free 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. The members of said company shall severally take an oath or affirmation that they will faithfully discharge the duties of their said office; and when any member of said company shall cease to be a member thereof, notice shall be given to the city clerk, who shall preserve a record of all the members of said company.

Cause of fires to be investigated.

SECTION 8. The fire department shall have the right, and it is hereby made their duty, in all cases of suspicious fires, or when the cause thereof is not known, to investigate the same; and for that purpose shall have full power to send for persons and papers, swear, and compel the attendance of witnesses, reduce all testimony to writing, and do such other acts as may be necessary in the premises.

CHAPTER IX.

ACTIONS TO RECOVER PENALTIES, ETC.

Actions to be brought in corporate name of city.

SECTION 1 All actions brought to recover any penalty or forfeiture under this act, or the ordinances, resolutions, 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 regulation under which the penalty or forfeiture is claimed, and to give the special matter in evidence under it.

Prosecutions to be commenced by summons.

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.

Form of summons.

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

County of Waupaca—City of Waupaca, ss.

The State of Wisconsin to the sheriff or any constable of said county, or to the chief of police or any policeman of the city of Waupaca:

You are hereby commanded to summon A. B., if he shall be found within your county, to appear before the undersigned, police justice 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 Waupaca in a plea of debt, to the damage of said city, two hundred dollars or under.

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

C. D., Police Justice.

SECTION 4. Such summons shall be returnable and be served in the same manner as is now, or hereafter may be prescribed by the laws of the state for the commencement of actions before justices of the peace by summons; and 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.

How summons made returnable and served.

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

Form of complaint.

The City of Waupaca against A. B.

In Police Court, before C. D., Police 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 Waupaca, 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.

SECTION 6. In all cases where oath is made for a warrant, the complaint 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:

Form of complaint on oath.

The city of Waupaca against A. B.

In Police Court, before C. D., Police Justice.

County of Waupaca, ss:

—, being duly sworn, complains on oath to C. D., police justice in and for the city of Waupaca, 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 said A. B.

may be arrested and held to answer to said city of Waupaca therefor.

Sworn to before me this — day of —, 18—.

Sufficient to give number, chapter, etc.

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 police justice, he shall issue a warrant substantially in the following terms:

Form of warrant.

County of Waupaca—City of Waupaca, ss.

The State of Wisconsin to the sheriff or any constable of said county, and to the chief of police or any policeman of the city of Waupaca, greeting:

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 Waupaca, on the complaint aforesaid.

C. D., Police Justice.

Defendant to give security for appearance.

Upon the 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, 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 common jail of Waupaca 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.

Copy of ordinance, etc. to be 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 a pamphlet or book form, purporting to be published by authority of the common council, shall be *prima facie* evidence of its due passage and publication, and shall be received in evidence on trial of all cases cognizable before any court of this state.

SECTION 8. Witnesses and jurors shall attend before the police justice in all civil and criminal suits, whether the city is a party as provided in this chapter without the payment of fees in advance or a tender thereof, upon process duly served, and, in default thereof, their attendance may be compelled by attachment.

Witnesses and jurors to attend without pre-payment of fees.

SECTION 9. In prosecutions under this chapter, when the city is a party, no jury shall be allowed either party, and 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 presented 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 police 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 in no case shall exceed six months, and also insert such time in the execution or commitment. Such execution shall be in the following form:

Jury not to be allowed in city prosecutions.

When defendant to be committed.

County of Waupaca, City of Waupaca, ss.

Form of execution.

The State of Wisconsin to the sheriff or any constable of said county, or to the chief of police or any policeman of the said city, and to the keeper of the common jail of said county, greeting:

Whereas, the said city of Waupaca, on the — day of —, 18—, recovered a judgment before the undersigned police justice in and for said city, against —, for the sum of — dollars, together with — dollars and — cents costs 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, therefore, hereby commanded to levy distress of the goods and chattels of said —, excepting such as the law exempts, and make sale thereof according to law to the amount of said sums, 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 the said — and him convey and deliver to

the keeper of the common jail in Waupaca county; and said keeper is hereby commanded to receive and keep in custody in said jail, the said ——— for the term of ———, unless the said judgment, together with all the costs and fees, including the jailor's fees, are sooner paid, or he be discharged by due course of law.

Given under my hand this ——— day of ———, 18—
C. D., Police Justice.

Form of commitment.

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 writ.

Right of appeal

SECTION 10. In any case where the judgment or fine imposed, exclusive of costs, is over five dollars, the defendant may appeal from such judgment to the circuit court of the county of Waupaca; *provided*, such defendant, within twenty-four hours, enter into recognizance, with one or more sufficient sureties, to be approved by such justice, conditioned to appear before said 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 the said court; and the city may appeal from any such judgment, as in other cases before justices of the peace.

Duty of justice in case of appeal.

No notice of trial required in case of appeal.

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.

In case judgment of justice is affirmed.

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, or by imprisonment in county jail, as in this chapter provided.

Residence not to disqualify.

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.

SECTION 14. All ordinances and regulations now in force in the city of Waupaca, or which were in force in the village of Waupaca, at time of incorporation of the city of Waupaca, and not inconsistent with this act, and not therefore modified or repealed, shall remain in force until altered, modified or repealed by the common council, after this act shall take effect.

Village ordinances, etc. to remain in force.

SECTION 15. When any suit or action shall be commenced against said city, the service thereof may be made by leaving a copy of the process or summons 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 demand or proceeding as by ordinance or resolution of said council may be in such cases provided.

Actions against city.

SECTION 16. All penalties and forfeitures recovered and collected under and by virtue of this chapter shall be paid into the city treasury for the use and benefit of said city.

Penalties, etc. to be paid to city.

SECTION 17. 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-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.

Fire apparatus exempt from execution.

SECTION 18. No real or personal property of any inhabitant of said city, or of any individual or corporation therein, shall be levied on or sold by virtue of any attachment or execution issued to collect or satisfy any contract, debt or obligation of said city, or any judgment against said city.

Private property exempt from execution against city.

SECTION 20 [19]. In all cases where a defendant shall be convicted of any violation of any chapter or section of this act, or ordinance, by-law or regulation of said city, the court before whom the same is tried, shall have power to sentence the defendant to a term of imprisonment in the common jail of Waupaca county, for any period not exceeding six months; *provided*, the mode or manner of punishment, whether by fine or imprisonment, or both, shall not exceed or be otherwise than provided in this act, or the ordinance, by-law or regulation under which such person may be convicted.

Power of court to sentence to imprisonment.

CHAPTER X.

PUBLIC SCHOOLS.

Boundaries of
Waupaca
Union School
District.

SECTION 1. All the following described territory, to-wit: All of section sixteen (16), south half of sections seventeen (17) and eighteen (18), all of sections nineteen (19), twenty (20), twenty-one (21), twenty-eight (28), twenty-nine (29), thirty (30), and thirty-one (31), and west half of section thirty-two (32), and which is embraced in part within the boundaries of the city of Waupaca as described in this act, and the town of Waupaca, shall be a body corporate under the corporate name of "Waupaca Union School District," and shall sue and be sued by its corporate name; and the legal voters thereof shall have power at any annual meeting or special meeting called for that purpose to raise by tax upon all the taxable property of said district, such sum as they may deem necessary, not exceeding the limits fixed by constitutional law, for the purchase of sites and for the erection of suitable buildings for school purposes in said district. They shall also have power to raise by tax annually upon all the taxable property of said district, a sum not exceeding five thousand dollars, to alter, enlarge or repair school buildings, out-houses and fences; to purchase apparatus and furniture for the schools of the district; to pay the wages of teachers; to purchase fuel and defray all the incidental and contingent expenses of said schools, including the necessary expenses of the board of education, and the salary of the superintendent of schools for said district.

Power to levy
tax for school
purposes.

Board of edu-
cation.

SECTION 2. The legal voters of said district shall have power, and it shall be their duty to choose by ballot six commissioners of schools for said district, who shall be residents thereof, and who shall constitute and be denominated the "Board of Education of Waupaca Union School;" and who shall, within ten days after their election, take and file with the clerk of said district their oath of office.

Terms of com-
missioners.

SECTION 3. Said commissioners shall be divided into three classes, to be denominated "first," "second" and "third" classes. The term of office of the first class shall expire at the end of one year from the time of their election; the second class at the end of two years, and the third class at the end of three years

thereafter, so that two shall come into the board each year, and two go out.

SECTION 4. At each and every annual meeting hereafter of said district, there shall be elected two commissioners of schools for said district to supply the places of those whose terms of office is about to expire. They shall hold their offices for three years, and until their successors shall have been elected and duly qualified.

Election of commissioners.

SECTION 5. The said "Board of Education" shall have and exercise all the powers and privileges which are by law conferred upon the boards of common school districts in addition to the powers and privileges conferred by this act, and not inconsistent therewith. They shall also be liable to all the restrictions, penalties, forfeitures and fines imposed by law upon school district boards for neglect of duty or for illegal action. A majority of the board shall at all times constitute a quorum for the transaction of business.

Powers of board of education.

SECTION 6. At the first meeting of such board after their election and qualification each year, they shall choose one of their number president, and whenever he shall be absent, a president pro tem may be appointed. They shall also have power, and it shall be their duty, to elect a superintendent of schools for such district, who shall be a resident thereof, and who shall before entering upon the duties of his office, take and subscribe the same oath of office as the members of said board are required to do, and file the same in the same place. The said superintendent shall hold his office during the pleasure of such board of education, and until his successor shall have been chosen and qualified. He shall receive such compensation for the time actually and necessarily spent in the discharge of the duties of his office as may be determined by the vote of the electors at any annual meeting of such district. The said commissioners shall receive no compensation for their services.

President of board.

City superintendent.

SECTION 7. The superintendent shall be ex-officio a member of said board of education, and clerk thereof. He shall keep a record of their proceedings which shall be at all times open for the inspection of the citizens of said district. A transcript of said record, certified by the president and clerk of said board, shall be received in all courts and places as *prima facie* evidence of the facts therein set forth. Said superintendent shall, by and with the advice and co-operation of said board, or of a committee thereof, have the gen-

Duties of superintendent.

eral supervision and management of all the schools of said district organized by said board. He shall also, with the advice and co-operation of said board, or of a committee thereof, prescribe, alter or modify all rules and regulations for the organization, government and instruction of the schools, for the reception of pupils into the different departments thereof, and for the transfer of pupils from one school to another, and generally for their good order, prosperity and public utility. He shall also perform all the duties in respect to said schools that are required to be performed by the clerks of the school district boards of this state, not inconsistent with this act, and be liable to all the penalties imposed by law upon said clerks for any neglect of duty. He shall also perform such other duties as may be imposed upon him from time to time by the said board with respect to such schools. He shall be required by said board, to examine and license all teachers employed in said school, and all certificates granted by him shall have the same force and effect in regard to the schools of said district as certificates issued by county superintendents of schools to the other schools of the county. But in case the said board shall not require the said superintendent to examine and license teachers, the same shall be done by the county superintendent of schools.

District treasurer.

SECTION 8. The said board shall elect one of their number treasurer of said district who shall, before he enters upon the duties of his office, take and file his oath of office with the clerk of said district, and shall execute a bond to such district in the penal sum of not less than twice the amount of moneys to come into his hands, with two or more sureties, to be approved by the board, conditioned for the faithful performance of the duties of his office and for the faithful accounting of all moneys belonging to such district that may come into his hands as such treasurer. He shall hold his office for one year and until his successor shall have been appointed and qualified. The taxes voted under the provisions of this act shall be levied, collected and paid over in the manner provided by law for the assessment and collection of school-district taxes. The treasurer of such district shall receive such compensation for his official services as the board may allow.

Vacancies and removals.

SECTION 9. The said board of education shall have power to fill all vacancies in said board arising from death, removal or other cause. The said board shall

also have power to remove the superintendent or treasurer for cause at any time they shall deem necessary or proper.

SECTION 10. The said board shall have the power, with the money raised by the district for that purpose, to organize and establish a high school, and to organize and establish as many primary and intermediate schools in such districts as they shall deem necessary, including those already organized and established. The said board shall also have power, and it shall be their duty, out of the moneys furnished by said district for that purpose, to locate and purchase sites for all the schools of said district; to erect suitable buildings thereon; to alter, repair, enlarge or otherwise improve any of said buildings; to fence and otherwise improve the school grounds; to sell and transfer any such sites, either those now owned by such district, or which may hereafter be purchased, together with the buildings and improvements thereon, and to re-invest the proceeds thereof in more commodious and suitable sites, buildings, and improvements, for the benefit of said district, as the said board shall deem proper.

Power of board to establish schools and erect buildings

SECTION 11. If the said board shall at any time deem it more advantageous, or shall deem it necessary or proper to abandon the high school of their district, and think it best not to continue the same longer, the said board shall have power to so determine; and they shall also have the power in such case, in their discretion, to sell or lease the high-school building or buildings to such person or persons, and for such time, and upon such terms and conditions as they may think proper, to be used for an academy, or some other institution of letters, science or learning; *provided*, there shall first be had an affirmative vote of said district at an annual or some special meeting called for that purpose, authorizing said board so to act or do.

Power of board to abandon high school and dispose of building.

SECTION 12. The said board shall have the custody, control, and safe-keeping of the school-buildings, out houses, books, furniture, apparatus, and appendages of all the schools of said district, and the title thereof shall be in the school district. They shall pay the wages of all teachers employed therein out of the school moneys, which shall be provided either by tax or by appropriation of public moneys for that purpose, and out of the moneys raised by tax they shall defray all the necessary contingent expenses of said

Custody of school property, and payment of teachers.

schools, for the purchase of libraries and apparatus, the salary of the superintendent, and the incidental expenses of said board.

Attendance of non-resident pupils.

SECTION 13. The said board shall have power to allow the children of persons not resident within said district to attend any of the schools thereof upon such terms as said board shall from time to time prescribe, fixing a tuition that shall be paid therefor; but all of said schools shall be absolutely free at all times to all children of suitable age resident within said district, and tuition in the high school shall be free to all of any age who reside within the district and whose attainments entitle them to admission by the rules of the board, or of the superintendent.

Duty of board to make annual report.

SECTION 14. It shall be the duty of the said board to prepare in detail and report at each and every annual meeting of said district, a statement of all moneys by them received and expended for the support of the schools, the erection of school houses, and for any purpose whatever connected therewith during the preceding year. Such report shall distinctly state the amount received by tax on said district, the moneys received from the town, city and county treasurer, or from any other source for school purposes. It shall also state the precise manner in which such moneys shall have been expended. They shall also report at such meeting the amount of money necessary, in their judgment, for the support of schools during the ensuing year. The last fiscal year shall close with the day of the last annual meeting.

Annual meeting.

SECTION 15. The annual meeting of said school district shall be held on the second Monday of July in each year, at such time and place, within said district, as may be specified in the notice of election.

Notice of annual meeting to be given.

SECTION 16. It shall be the duty of the superintendent of said school district to give not less than ten days' notice of the time and place of holding such annual meeting, which notice shall be given by publishing the same in some newspaper published in said district, or, if there be no newspaper published in the district, then by posting up notices in four conspicuous places in said district ten days before the meeting.

Meeting not invalidated by want of notice.

SECTION 17. No annual meeting, however, shall be deemed illegal for want of due notice, unless it shall clearly appear that the omission to give the proper notice was willful and fraudulent.

Election of officers.

SECTION 18. The officers elected at the annual meeting shall be chosen by ballot, and the election shall

be conducted and the votes canvassed according to such rules and by-laws as may be prescribed by the board of education. At all elections the said board of education shall preside and be the judges thereof; special meetings of said district may be called at any time by order of the board of education, by giving six days' notice of the time, place and object of said meeting either by posting notices thereof in three or more public places in said district, or by causing a notice thereof to be published in some newspaper in said district for one week next preceding the time of holding said meeting.

SECTION 19. The annual meeting of the board of education shall be held on the third Monday of July of each year. Quarterly meetings thereof shall be held on the first Monday of October, first Monday of January, and first Monday of April, of each year. Special meeting thereof may be called by the superintendent or clerk of said board at any time, at the request of any two members.

Meetings of board.

SECTION 20. All moneys that shall come into the hands of the district treasurer shall be paid out by him for school purposes, on the order of the board of education, signed by the president and countersigned by the clerk of said board. All contracts with the district or with the board, shall be signed by the president and countersigned by the clerk.

How money to be paid out.

SECTION 21. The common council of the city of Waupaca, and the board of supervisors of the town of Waupaca, or Lind, or Farmington, as the case may be by the territory to be affected, shall have the right to change or alter the boundaries of said district, by first obtaining the written consent to such change or alteration of a majority of all the members of said board of education of [said] district and filing the same in the office of the city clerk of the city of Waupaca, and the town clerk of the town of Waupaca, or Lind, or Farmington, as the case may be; but in no other way shall such change or alteration be made.

Change of boundaries.

SECTION 22. The laws of this state, relating to district schools, shall apply to and govern the said school district, so far as the same are not inconsistent with the provisions hereof and are applicable thereto.

School laws of the state to apply to district.

CHAPTER XI.

MISCELLANEOUS PROVISIONS.

City of Waupaca invested with property of village of Waupaca.

SECTION 1. The city of Waupaca shall be, and is hereby invested as the lawful owner and successor of all the real and personal property, and all the rights and privileges belonging to the corporation of the village of Waupaca, and such part of all real and personal property, rights and privileges belonging to the town of Waupaca, and included in said city limits, together with all the funds, revenues, debts and demands due and owing to the said village of Waupaca, and that part of said town of Waupaca, not heretofore included in said village, but now by this act included in said city limits which, by or under former acts, ordinances, grants, donations, gifts, construction or purchases, have been acquired, vested or in any manner belongs to said village and such portion of said town or either of them.

Settlement between town and city of Waupaca.

SECTION 2. It is hereby made the duty of the common council of said city and the board of supervisors of said town of Waupaca, to meet together at some convenient place, on or before the first Monday of May, 1876, upon notice given by either body, and, if possible, agree, so far as the same has not already been done, upon some just, fair and equitable settlement or adjustment and division of the property, moneys, credits, duties, liabilities, obligations and every other matter or thing made necessary by the organization of said city out of the territorial limits of the village and town of Waupaca; and, among other things, make a fair and just proportion of the bonded indebtedness of said town, between the town and said city, fixing forever the amount of said indebtedness to be paid by said city, and the amount by said town as it shall at that time exist.

In case town and city fail to agree, circuit judge to appoint commissioners to make settlement.

SECTION 3. If the common council of said city and board of supervisors of said town shall be unable to agree upon an honorable, just and fair settlement or adjustment and division, as provided in the preceding section, then it is hereby made the duty of the circuit judge of the circuit court in and for the county of Waupaca, upon application made to him by either of said bodies, five days' notice having been previously given to the other body, to appoint three commissioners, one to be a resident of said city, one of said

town, and one to reside outside of both city and town, who shall have power, and it is made their duty, as soon as may be, after their appointment and filing with the clerk of the circuit court in and for said county, of their oaths to faithfully and fairly to adjust and settle all matters of dispute between said city and town, as hereinbefore mentioned, to examine into and fairly, equitably and justly make a division of all property, moneys, credits, and property owned by said city or any part thereof in common with said town; make a full and complete settlement or adjustment of all matters between said city and town, arising or growing out of the formation of said city, out of the territorial limits of said town; and especially of the indebtedness of said town, any portion of which said city ought to pay. And in order to make such a settlement, adjustment and division as herein contemplated, the said commissioners shall make an assessment, at a fair cash valuation, of all the property of said city and town liable to taxation at the time of such assessment. The said commissioners shall, as soon as possible, make their award in writing, and file the same in the clerk of the court's office of said county, which shall be final and conclusive between the parties.

SECTION 4. Any and all amounts found as aforesaid to be owing by said city to any portion of the territory outside of the city, which comprises a part of the town of Waupaca, from which said city was formed, shall be paid by said city to the proper officers authorized to receive and receipt for the same. But if it shall be found upon such settlement, that there is any amount due any portion of said city from any portion of territory outside of said city limits, which was an organization from which said city was formed, that portion of said territory so owing said part of said city, shall pay the amount thereof to the city treasurer. And in case any portion of territory so indebted shall fail, neglect or refuse to pay the amount thereof so found to be due, the city treasurer of said city shall proceed to collect the same in the manner as is now provided by the laws of this state for the collection of debts against towns, cities and villages.

How settlement shall be made.

SECTION 5. The common council of the city of Waupaca, shall have the same powers in relation to all school districts, situated in whole or in part within said city limits, except as otherwise provided in

Powers of council over school districts

chapter ten of this act, as are now conferred upon town boards of supervisors by the laws of this state, and shall perform all duties relative thereto in the same manner as town boards of supervisors are authorized to do.

Work to be let by contract to the lowest bidder.

SECTION 6. All work for the city, or either ward thereof, shall be let by contract to the lowest, reasonable, responsible bidder, and due notice shall be given of the time and place of letting such contract; *provided*, that the council by the affirmative vote of a majority of all the members thereof, may otherwise provide for such work.

Actions to be brought in name of city—how proceeded with.

SECTION 7. In all cases where an action might be brought by the city of Waupaca 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 before any person other than the proper officers of said city shall prosecute any such action, the person or persons so commencing shall enter into bonds with sufficient surety to the opposite party, to be approved by the judge or justice before whom such action shall be brought, conditioned that he or they will pay all costs that might be recovered against the city in such action. After the filing of the bond, with the papers in the case, such action shall not be discontinued or defeated by the city, nor shall the city be liable for any costs on account of any such action, but such costs, where the action shall fail, may be recovered against the party commencing the same, upon the bond filed as aforesaid; *provided*, that nothing herein contained shall be so construed as to prevent any peace officer from arresting, without process, any person in a state of intoxication, or guilty of immoderate drinking, improper reveling, obscenity or noisy, boisterous or disorderly conduct in the streets or public places, and taking such person or persons forthwith before the police justice, or keeping them in confinement until such time as said justice can reasonably hear and dispose of such offenders.

When election not held at prescribed time.

SECTION 8. If any election by the people or common council, shall not, from any cause, be held at the time, or in the manner herein prescribed, it shall not be considered reason for arresting, suspending or abolishing said corporation, but such election may be held on any subsequent day by order of the mayor; and if any of the duties enjoined by this act, or the ordinances or by-laws of the city to be done by any

officer, at any time specified, and the same are not done and performed, the common council may appoint another time at which said acts may be done or performed.

SECTION 9. Said city may lease, purchase or hold real or personal property sufficient for the convenience of the inhabitants thereof, and may sell and convey the same, and the same shall be free from taxation, while owned or held by said city.

City may acquire and hold property.

SECTION 10. No general law contravening the provisions of this act, shall be considered as repealing, amending or modifying the same, unless such purpose is expressly set forth in such law.

Act not to be repealed by general laws.

SECTION 11. The connection between the town of Waupaca and that part of said town included within the city limits, for all town purposes, is dissolved. The duties now and hereafter imposed upon supervisors and other town officers, so far as they relate to the city of Waupaca, shall be performed by the aldermen of the wards and the other officers of said city, except as herein otherwise provided.

Connection between town and city dissolved.

SECTION 12. Every member of the common council of the city of Waupaca who shall, directly or indirectly, vote to himself, or knowingly to any other person, any sum of money for any purpose whatever, in violation of the city charter or any amendment thereof, or shall ask or receive any compensation for doing any official act, except as an inspector of elections, member of the board of registry, and as a member of the board of equalization; any member of the common council or other city officer, who shall be, directly or indirectly, interested in any contract made with or in behalf of the city, and any member of said council or other city officer who shall, directly or indirectly, purchase or be interested in the purchase of any city order of city indebtedness for less than the full amount thereof, shall be deemed guilty of a misdemeanor in office, and may be prosecuted either by indictment or complaint, before the the police justice or any justice of the peace having jurisdiction, and upon conviction thereof shall be punished by fine not exceeding one hundred dollars nor less than twenty dollars, or by imprisonment in the county jail not more than than thirty days nor less than ten days, or both, at the discretion of the court, and any contract made in violation of the provisions of this section shall be void.

Penalty for voting money in violation of charter, receiving compensation for official acts, or being interested in contracts.

Care of paupers.

SECTION 13. The paupers of said city shall be cared for in such manner as shall be provided by the laws of this state relating to the care of paupers.

Licenses—how issued.

SECTION 14. Every license issued by the authority of this act, or the ordinances of the city, shall be signed by the mayor and city clerk, and sealed with the corporate seal, but no such license shall be issued by said mayor and clerk until the person applying for the same shall have deposited with the said clerk the receipt of the city treasurer for the amount required to be paid therefor, nor shall any license be issued for dealing in, selling or vending spirituous, vinous or malt liquors, until the applicant shall have filed his receipt as aforesaid together with a bond, as required by the laws of this state which bond shall be approved by the mayor, and a sum not less than the minimum sum nor greater than the maximum sum fixed by the laws of this state to be paid for such license, shall be paid to the city treasurer in money. It shall be the duty of the mayor and city clerk to report to the council, at each regular meeting thereof, the licenses theretofore issued by them and not before reported, and the council shall, by vote, approve or disapprove of the same. If the council disapprove thereof, it shall be the duty of the city clerk forthwith to notify the person holding such license that the same has been revoked by action of the common council, and such license shall therefore be void, and the council shall refund the license money paid therefor, except a fair proportion thereof for the time such license was in force.

County jail to be used by city

SECTION 15. The use of the jail of Waupaca county, until otherwise provided, shall be granted to said city for the confinement of offenders, and every such offender shall be delivered to the sheriff of said county, for whose custody, safe keeping and delivery the said sheriff shall be responsible as in other cases, but said county shall not incur or pay any liability or expense on account of any person committed to said jail for a violation of any ordinance, by-law, rule, or regulation of said city, but such expenses shall be paid by the city.

Judgments against city.

SECTION 16. When a judgment shall be recovered against any officer of said city, in any action prosecuted by or against him, in his name of office, where the same should be paid by the city, no execution shall be issued or awarded upon such judgment, except as hereafter provided; but the same, unless re-

versed, shall be levied and collected as other city charges, and when so collected shall be paid by the city treasurer to the person to whom the same shall be adjudged, upon the delivery of a proper voucher therefor; but if payment thereof be not made within sixty days after the city treasurer is required to make his return of city taxes, next after the rendition of such judgement, execution may be issued thereon, upon the order of the court authorized to issue such execution, on special application therefor.

SECTION 17. No member of the common council shall be elected or appointed to any office, agency, or place of public trust or profit, by the council, except as provided by this act; neither shall the common council sell, or authorize the sale of, any city order or certificate of indebtedness, for the purpose of raising money for the payment of any debt, for less than the amount expressed upon the face thereof.

Members of council ineligible to other offices.

SECTION 18. The mayor shall have power to grant pardons or commutations, after conviction, 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 his reason therefor. All fines imposed by the police court in the city of Waupaca, for violation of this act, or ordinances, by-laws or regulations made in pursuance thereof, shall be paid by the officer collecting the same into the city treasury, and a separate account made thereof; and in the months of March and September in each year, the city treasurer shall report to the council the amount so received during the preceding six months, and also the expenses attending such prosecutions in the city during the same year.

Power of mayor to grant pardons.

Fines to be paid into city treasury.

SECTION 19. The mayor shall have power, and it shall be his duty, to remove from office any policeman for incompetency, misconduct, or neglect in the discharge of his official duties, or for refusing or neglecting to perform such acts as are required of him by law.

Removals from office.

SECTION 20. Any person who shall be guilty of drunkenness or immoderate drinking, improper reveling, obscenity or noisy, boisterous and disorderly conduct in the streets or public places of the city of Waupaca, shall be deemed guilty of a misdemeanor, and on conviction thereof before the police justice of said city, shall be punished by a fine of not less than one dollar nor more than one hundred dollars, or by

Penalty for various offences.

imprisonment in the county jail of Waupaca county for a term of not less than two days nor more than six months.

Complaints—
how to be
made.

SECTION 21. Whenever any complaint is made to the police justice of said city by any police officer, sheriff, policeman, or other person, that any offense has been committed within the said city against the provisions of the charter of said city, or of the by-laws or ordinances passed in pursuance thereof, whether such offense is made punishable under such charter or ordinances by fine, penalty, or imprisonment, the said justice shall examine the complainant on oath, and reduce the complaint to writing, and cause the same to be subscribed by the complainant; and if it shall appear that any such offense has been committed, the said police justice shall issue his warrant, reciting the substance of the complaint, requiring the officer forthwith to arrest the accused and bring him before such police justice, to be dealt with according to law. All the laws of this state relating to the manner of conducting criminal actions before justices' courts, shall be applicable to all trials before the police justice, under this act, so far as the same do not conflict with the provisions of this act; *provided*, when the complaint is made by any person other than a police officer of said city, or sheriff of Waupaca county, the said justice, before issuing his warrant shall require security, as provided in section seven (7), of this chapter; *and provided, further*, that nothing in this section contained shall prevent the commencement of action by summons for such penalty, fine or forfeiture, as provided in chapter nine (9), of this act.

Compensation
of city officers.

SECTION 22. No compensation or salary shall be paid the mayor or any alderman of said city, except as provided in section twelve (12), of this chapter.

Assignment of
licenses.

SECTION 23. No assignee of any license shall be permitted to pursue the occupation or business licensed, except by a vote of a majority of all the members of the common council.

Construction
of act.

SECTION 24. This act is hereby declared to be a public act, and shall be liberally construed in all courts of this state.

Repeal of con-
flicting acts.

SECTION 25. All acts and parts of acts inconsistent and conflicting with the provisions of this act are hereby repealed; but this repeal of said acts or parts of acts shall not in any manner affect, injure or invalidate any contracts, 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 acts incorporating the city of Waupaca, 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.

SECTION 26. This act shall take effect and be in force from and after its passage and publication.

Approved March 10, 1876.

CHAPTER 239.

[Published March 18, 1876.]

AN ACT to authorize the State Board of Charities and Reform to transfer insane persons in certain cases.

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

SECTION 1. Whenever it shall be brought to the notice of the State Board of Charities and Reform, that an insane inmate of either of the Wisconsin hospitals for the insane are legally entitled to receive such care and support in the National Hospital for Insane Soldiers, they shall take such measures as may be necessary to establish the fact of such claim, and when so established they shall transfer or cause to be transferred such insane person to the said hospital for insane soldiers.

Transfer of insane persons from insane hospitals of the state to national hospital.

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

Approved March 10, 1876.