

[20. A.]

[Published April 26, 1883.]

CHAPTER 5.

AN ACT to incorporate the city of Merrill.

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

Boundaries.

SECTION 1. From and after the third Tuesday in February, A. D. 1883, the following described district of country, to wit: The west one-half ($\frac{1}{2}$) of section seven (7), and the northwest quarter ($\frac{1}{4}$) of section eighteen (18), all in township thirty-one (31) north, of range seven (7) east, and sections ten (10), eleven (11), and twelve (12), and the north one-half ($\frac{1}{2}$) of sections thirteen (13), fourteen (14) and fifteen (15), all in township thirty-one (31) north, of range six (6) east, lying and being in the county of Lincoln, and state of Wisconsin, shall be a city, the name of which shall be Merrill, and the people inhabiting said territory shall be a municipal corporation, to be known and designated as "The City of Merrill." Said corporation shall have all the general powers possessed by municipal corporations at common law and under the general statutes of the state of Wisconsin, and in addition thereto, the powers hereinafter granted, and shall be capable of contracting and being contracting with, of suing and being sued, pleading and being impleaded in all courts, of purchasing, holding and conveying real and personal estate; and shall have a common seal and may alter the same at pleasure.

Ward boundaries.

SECTION 2. Said city shall be divided into six wards, the boundaries of which, until changed as hereinafter provided, shall be as follows, to-wit: All that territory lying in the following boundaries shall be known as the First ward, viz.: Beginning in the center of section eighteen (18), town thirty-one (31) north, of range seven (7) east, and running north to the quarter ($\frac{1}{4}$) post on the north side of section seven (7), town thirty-one (31) north, of range seven (7) east; thence west on the section line to the northwest corner of the N. E. one-fourth ($\frac{1}{4}$) of the N. E. one-fourth ($\frac{1}{4}$) of section twelve (12), town thirty-one (31) north, of range six (6) east thence; due south one-half ($\frac{1}{2}$) mile; thence west along the center of the street to a point where the center of Park street intersects the former street; thence south, following the

center line of said Park street to the south bank of the Wisconsin river; thence westerly along the south bank of said river to the line between sections thirteen (13) and fourteen (14) of town thirty-one (31) north, of range six (6) east; thence south to the quarter ($\frac{1}{4}$) post between said sections thirteen (13) and fourteen (14); thence east to the place of beginning. All that territory lying in the following boundaries shall be known as the Second ward, viz.: Beginning at the northwest corner of the First ward and running west one-half ($\frac{1}{2}$) mile to the north-west corner of the N. E. one-fourth ($\frac{1}{4}$) of the N. W. one-fourth ($\frac{1}{4}$) of section twelve (12), town thirty-one (31) north, of range six (6) east; thence on a line due south to a point where said line intersects the center of Poplar street; thence south twenty (20) degrees east, to the center of Main street; thence south seventy (70) degrees west, to the east line of fractional lot two (2), in the last above named section; thence south to the north bank of the Wisconsin river; thence easterly along the north bank of said river to where the west line of the First ward crosses the same; thence north and west on said ward line to the place of beginning. The street running south twenty (20) degrees east, along the east side of the high school block to Main street is the one referred to as Poplar street. All that territory lying in the following boundaries shall be known as the Third ward, viz.: Beginning at the northwest corner of the Second ward and running west to the Prairie river; thence along the east and north bank of Prairie river to the Wisconsin river; thence north and east along the bank of the Wisconsin river to the west line of the Second ward; thence north and west along said ward line to the place of beginning. All that territory lying in the following boundaries shall be known as the Fourth ward, viz.: Beginning on the north bank of the Wisconsin river, where the west line of section ten (10), town thirty-one (31) north, of range six (6) east, intersects the same, and running thence north to the northwest corner of said section ten (10); thence east to the east bank of the Prairie river; thence south and westerly along said bank of said river to the south line of the N. W. one-fourth ($\frac{1}{4}$) of the S. E. one-fourth ($\frac{1}{4}$) of section eleven (11), town thirty-one (31) north, of range six (6) east; thence west to the center of the

east channel of the Wisconsin river; thence down the center of said channel to a point seventy-five (75) feet south of the south point of the island known as Howe and Chandler's island, thence up the center of the west channel and the main river to a point south of the place of beginning; thence north to the place of beginning. All that territory lying in the following boundaries shall be known as the Fifth ward, viz.: Beginning at the north bank of the Wisconsin river, where the Prairie river intersects the same, and running westerly and north along said bank of said Wisconsin river to the north line of fractional lot three (3), section eleven (11), town thirty-one (31) north, of range six (6) east; thence east to the east bank of the Prairie river; thence down said bank to the place of beginning. All that portion of section ten (10), town thirty (31) north, of range six (6) east, lying south of the Wisconsin river, and all that portion of the north one-half ($\frac{1}{2}$) of sections fourteen (14) and fifteen (15) of the above named town, lying south of the Wisconsin river shall constitute the Sixth ward.

Corporate
authority, in
whom vested.

SECTION 3. The corporate authority of said city shall be vested in one principal officer, styled the mayor; two aldermen from each ward and the ward supervisors, who, with the mayor, shall be denominated the common council; and in such other officers as are hereinafter provided for, or may be created under this act.

ELECTIONS.

Regarding
elections.

SECTION 4. The annual election for city and ward officers shall be held on the first Tuesday in March of each year, at such place in each ward as the council shall designate; not less than five days notice shall be given of the time and places of holding all elections and of the officers to be elected by publication in the official city paper. The aldermen and supervisors of each ward shall be the inspectors of election for their respective wards, and may appoint clerks of election for such wards. All elections under this charter shall be conducted in the same manner as the general elections for state and county officers, and the qualifications of voters shall be the same as at such general election, and that each elector shall reside in the city at least thirty days, and in his ward at least ten days prior to such election.

In case a special election is to be held in the city other than for ward purposes, the council may order a single poll for the entire city, and appoint the place where the election is to be held, and the inspectors of election and clerks therefor. Each ward officer shall be a qualified elector in the ward in which he is elected, and each city officer shall be a qualified elector in the city.

SECTION 5. The officers to be elected by the people shall be a mayor, treasurer, assessor, two justices of the peace and three constables for the city at large, and two aldermen to be elected in each ward, and one supervisor for each ward. All of said elective officers, except justices of the peace and constables, shall be free-holders in said city.

Officers to be elected.

SECTION 6. The town board of the town of Merrill, shall appoint the places for holding the first election in the several wards of said city, and shall appoint inspectors and clerks of such election, and at least five days prior to such election, they shall publish in a newspaper printed in said city, a notice specifying the places in the several wards where such election is to be held. The general laws of this state upon the subject of elections and prescribing punishment for illegal voting, so far as they are consistent with this charter, shall apply to said election and to all elections hereafter held in said city. No spirituous or malt liquors shall be sold within said city, upon the day of any election held therein, and any person offending against this provision of this section, shall be guilty of a misdemeanor and punished by fine of fifty dollars or by imprisonment in the county jail for sixty days, or by both such fine and imprisonment, and the city council shall have power to create and prohibit the same offense by ordinance and to punish it by penalties not exceeding the penalty above prescribed.

Place and notice of election.

SECTION 7. At such first election, the clerks and inspectors in the several wards shall canvass the votes in their respective ward, in the manner provided by the general statutes of this state, and shall forthwith make returns of said votes to the town board of supervisors of the town of Merrill, which board shall, on the day succeeding said election, canvass said returns and declare the result of said election, and give certificates of election to the several persons elected to office. Such re-

Who shall canvass votes.

turns, including the return of said town board, shall be reduced to writing and shall be filed in the office of the city clerk, as soon as said clerk shall qualify and enter upon the duties of his office.

Appointed
officers.

SECTION 8. All necessary officers, not hereinbefore named as elective officers, shall be appointed by the council. All elective officers, except justices of the peace, shall, unless elected to fill a vacancy, hold their respective offices for one year, and until their successors are elected and qualified; provided, however, that the council shall have power, for due cause satisfactory to them, to expel any of their own number, and to remove from office any officer or agent of the city, except justices of the peace, due notice and an opportunity for a hearing having been first given to the officer proposed to be removed. Justices of the peace shall hold their offices for two years and until their successors are elected and qualified. The term of office of every officer elected or appointed under this act, shall commence on the second Tuesday in March of the year for which such officer is elected or appointed, except that of superintendent of schools, which shall commence on the second Tuesday of July, next succeeding his appointment, and the term of office, of all other appointed officers, shall expire on the second Tuesday of March, next succeeding their appointment, unless sooner removed.

Vacancies.

SECTION 9. Whenever a vacancy shall occur in the office of mayor or alderman, the council may order a new election, and shall give five days' notice thereof. Vacancies in other offices shall be filled by the council. The person elected or appointed 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.

Plurality elects.

SECTION 10. In all elections by the people a plurality of votes shall constitute an election. In case 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 it may direct.

Insufficient
qualifications.

SECTION 11. Whenever any officer shall cease to possess the qualifications necessary for his election, his office shall be deemed vacant; and any

officer who shall neglect or refuse to qualify within ten days from the time he shall be notified of his election, shall be deemed to have vacated his office.

SECTION 12. Whenever an election shall be held under this charter, the inspectors of election shall forthwith make their returns, stating the number of votes cast for each person, for each and every office, to the city clerk. Within one week after an election, the council shall meet and canvass said returns, and declare the result as it shall appear from the same. The clerk shall thereupon immediately give notice to the persons elected, of their election.

Returns, to whom made.

SECTION 13. Immediately after the charter election in each year the supervisor and aldermen of each ward shall meet in their respective wards and designate one of such aldermen to attend the meetings of the county board, and act as a member of the county board to represent his ward in case of the inability of the supervisor of the ward from any cause to act.

Member of the county board.

OFFICERS—THEIR POWERS AND DUTIES.

SECTION 14. Every person elected or appointed to any office under the city charter, except justices of the peace, shall, before he enters upon the duties of his office, take and subscribe an oath of office and file the same, duly certified by the officer taking the same, with the clerk of the city, and the clerk, marshal, constable, and such other officers as the council may direct, shall severally, before they enter upon the duties of their respective offices, execute to the city of Merrill, a bond, with at least two sureties, who shall swear that they are each worth the penalty specified in said bond, over and above all debts, exemptions or liabilities, and said bond shall contain such penal sums and such conditions as the council shall deem proper. The treasurer, before entering upon his duties, shall also execute a bond, with at least two, and not more than ten sureties. The penal sum expressed in such bond shall exceed the amount of the last annual tax roll, and each surety shall swear that he is worth a certain amount over and above all debts, liabilities, or exemptions, and the aggregate of such amounts shall, at least, exceed the penal sum specified in

Duties of officers.

the bond. The council may, from time to time, require new or additional bonds, from the treasurer or other officer of the city, and the council may remove from office any officer refusing or neglecting to give the same. Justices of the peace shall qualify in the same manner as in towns, except that their bonds shall be approved by the council.

Duties of mayor.

SECTION 15. The mayor shall, when present, preside over the meetings of the common council. He shall take care that the laws of the state, and the ordinances of the city, are duly observed and enforced, and that all other executive officers of the city discharge their respective duties; he shall from time to time, give the council such information, and recommend such measures, as he may deem advantageous to the city. The mayor shall be the chief executive officer and head of the police of the city; and in case of a riot or other disturbance, or apparent necessity, he may appoint as many special or temporary constables as he shall deem necessary. He shall have the authority to remove the marshal for inefficiency or neglect of duty, and to appoint a marshal in place of the one he may remove, but the term of office of a marshal who may be appointed by the mayor, shall not commence until his nomination has been approved by a majority of the council. The mayor shall have a vote in the council only in case of a tie, except when the council shall be engaged in the election of any officer, in which proceeding he shall have a vote the same as an alderman. When presiding over the council his style shall be, " Mr. President."

POWERS OF MAYOR.

Powers of mayor.

Section 16. The mayor shall have power to veto any ordinance, act or resolution passed by the council, or the allowance of any claim by notifying the council of his objections thereto, at any time within seven days after the passage of such ordinance or resolution, or the allowance of such claim. In case of no session of the council, on any day after the passage of the same, and before the expiration of the said seven days, such notification shall be made by filing with the clerk a copy of his objections, and the clerk shall thereupon call a special meeting of the council, by giving notice in the same manner as other special meetings are

called, to consider such veto and objections, and in case the council shall not, within one week, after receipt of such objection or such filing with the clerk, re-enact such ordinance, or pass such resolution by the vote of two-thirds of all the members of the council elect, the same shall be null and void. If the mayor shall not return any ordinance, act, resolution or claim within seven days after the passage or allowance thereof, it shall take effect in the same manner as if he signed it.

SECTION 17. At the first meeting of the council after its election, in each year, it shall proceed to elect, by ballot, one of its number president, and in the absence of the mayor, the said president shall preside over the meetings of the council; and during the absence of the mayor from the city, or his inability for any reason to discharge the duties of his office, the said president shall exercise all the powers and discharge all the duties of mayor. In case both the mayor and president shall be absent at any meeting of the council, it shall proceed to elect a temporary presiding officer, who, for the time being, shall discharge all the duties of mayor. The president, or temporary presiding officer, while presiding over the council or performing the duties of mayor, shall be styled acting mayor, and any acts performed by him shall have the same force and validity as if performed by the mayor.

Election of
president.

DUTIES OF CLERK.

SECTION 18. There shall be a city clerk appointed by the common council who shall keep the corporate seal, and all papers and records of the city, and keep a record of the proceedings of the council, at whose meetings it shall be his duty to attend, and copies of all papers filed in his office, and transcripts from the records of the council, certified by him under the corporate seal, shall be evidence in all courts, in like manner as if the original were produced. He shall draw and countersign all orders on the treasury in pursuance of any order or resolution of the council, and keep a full and accurate account thereof in books provided for that purpose. Whenever the clerk shall be absent from any meeting, the council may appoint a clerk pro tem. The city clerk

Clerk,

shall have power and authority to administer oaths and affirmations. He shall also be the sealer of weights and measures of said city, and be governed by the general laws of the state appertaining to the sealing of weights and measures by town clerks.

DUTIES OF TREASURER.

Treasurer.

SECTION 19. The treasurer shall perform such duties and exercise such powers as may be lawfully required of him by the ordinances of said city or the laws of this state. He shall receive all moneys belonging to the city, and keep an accurate and detailed account thereof, together with an account of all disbursements in such manner as the council shall direct. He shall report to the council as often as is required, and annually, at least, ten days before the annual election, a full and detailed account of all receipts and expenditures since the date of the last annual report; and also of the state of the treasury, which statement shall be filed with the clerk. The city treasurer shall be collector of taxes in said city, and in addition to the powers and duties already specified, shall have the same powers and duties and be subject to the same liabilities as treasurers in towns. No person, having been city treasurer for two years in succession, shall be eligible to a re-election, until one year shall have elapsed, nor shall any person, who has been city treasurer, be appointed deputy treasurer, for the term immediately succeeding his term of office. The salary of the treasurer shall not exceed three hundred dollars (\$300) per annum and shall be payable quarterly.

DUTIES OF MARSHAL.

Marshal.

SECTION 20. The marshal shall possess all the powers of a constable in towns, and be subject to the same liabilities. It shall be his duty to execute and return all writs and processes to him directed or delivered, for that purpose, and when necessary, in criminal cases, or in case of the violation of any ordinance of this city or laws of this state, may pursue and serve the same in any part of the state of Wisconsin. It shall be his duty to suppress all riots, disturbances and breaches of the peace, to apprehend any person in the act of committing any offense against any

ordinance of said city or laws of this state, and forthwith bring such person before competent authority for examination; and for such service he shall receive such fees as are allowed to constables for like service, but he shall receive no fees for services performed in behalf of the city. He shall do and perform all such duties as may lawfully be enjoined on him by the ordinance of said city. He shall have the power to appoint one or more deputies, to be approved by the council, but for whose official acts he shall be responsible, and of whom he may require a bond for the faithful discharge of their duties.

SECTION 21. The council shall have power, from time to time, to require other and further duties to be performed by any officer whose duties are herein prescribed, and to appoint such other officers as may be necessary to carry into effect the provisions of the city charter, and to prescribe their duties, and to fix the compensation of all officers appointed by it, where the compensation is not fixed by statute. The council shall, at least ten days before the annual charter election in each year, fix, by resolution, the salary which shall be paid to the clerk, treasurer, marshal, assessor and school superintendent for the ensuing year, and such salary shall not be increased or diminished during the term of the officer elected, neither shall extra compensation be granted except by unanimous vote of the council, which vote shall be approved by the mayor; provided, that the salaries of the officers elected at the first charter election in said city shall be fixed by the common council at the first meeting, and the salaries of the following named officers shall not exceed the following amounts: City clerk, two hundred dollars (\$200) per year; city assessor, two hundred dollars (\$200) per year; city marshal, four hundred dollars (\$400) per year, and city treasurer three hundred dollars (\$300) per year, and shall be payable quarterly.

Powers of council.

SECTION 22. The council, at the first meeting after its election, or as soon thereafter as practicable, shall designate a newspaper printed in said city, which shall be the official paper of the city, in which shall be published all ordinances and other matters required by the city charter, or the by-laws or ordinances of the city to be published in a newspaper.

Official paper.

Affidavit of publication.

SECTION 23. The city printer or printers, immediately after the publication of any notice, ordinance or resolution which is required to be published, shall file with the clerk of the city, a copy of such publication, with his or their affidavit or the affidavit of his or their foreman, of the length of the time the same has been published, and such affidavit shall be conclusive evidence of the publication of such notice, ordinance or resolution, as stated in such affidavit.

Penalty for refusing to deliver over property.

SECTION 24. If any person, having been an officer in said city, shall not, within ten days after notification and request deliver to his successor in office, all property, books, papers and effects 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 a sum not exceeding one hundred dollars (\$100), besides all damages caused by his neglect or refusal so to deliver; and such successor may recover possession of such books, papers and effects in the manner prescribed by the laws of this state.

No collusion.

SECTION 25. Neither the mayor, nor any member of the common council of said city, shall be a party to, or interested in any job or contract with the city, and any contract in which the mayor or any member of the common council may be interested shall be null and void; and in case any money shall have been paid by, or for, the city on any such contract, the city may sue for and recover the amount so paid.

OFFICERS OF THE PEACE.

Peace officers.

SECTION 26. The mayor, or acting mayor, sheriff of Lincoln county, and each and every member of the common council, justice of the peace, marshal, constable and watchman, shall be officers of the peace, and may command the peace and suppress in a summary manner all rioting and disorderly behavior within the limits of the city, and for such purposes may command the assistance of all bystanders, and if need be, of all citizens; and if any person, bystander, military officer, or private shall refuse to aid in maintaining the peace when so required, every such person shall pay a forfeiture of not more than fifty dollars (\$50); and in cases where the civil power may be required to suppress riotous or disorderly behavior, the superior or senior officer present in the

order above mentioned in this section, shall direct the proceedings.

CITY ENGINEER.

SECTION 27. The council may elect a city engineer, and prescribe his duties and fix the fees and compensation for any service performed by him. All surveys, profiles, plans or estimates made by him for the city, shall be the property of the city, and shall be carefully preserved in the office of the city clerk, and shall be open to the inspection of the public. City engineer.

SECTION 28. All actions to recover any penalty or forfeiture under the city charter, or the ordinances, by-laws, police or health regulations, made in pursuance thereof, shall be brought in the corporate name of the city, and may be heard and determined by, or before any justice of the peace in the city. All forfeitures and penalties collected by any justice in such cases shall be paid over to the city treasurer. Each justice shall report to the council on the second Monday in March, June September and December, in each year, a statement of all such forfeitures and penalties collected by him, and at the same time, pay over the amount thereof to the city treasurer. No person shall be incapacitated or excused from testifying in any such action by reason of being implicated in the offense or act charged; but the testimony of such witness shall, in no case, be used against himself. Actions against city.

RESIGNATIONS.

SECTION 29. Any officer may resign his office by filing his written resignation with the clerk; and such resignation shall take effect, and his office shall be deemed vacant from the time such resignation shall be accepted by the council. Resignations.

SECTION 30. No alderman or other city officer shall be accepted as surety upon any bond, note or obligation made by the city, nor shall any officer, required to give bonds as aforesaid, enter upon the discharge of the duties of his office until such bond shall have been filed and approved as by the city charter provided. Sureties on bonds.

THE COMMON COUNCIL—ITS POWERS AND DUTIES.

SECTION 40. The mayor, supervisors and aldermen shall constitute the common council, and the style of all ordinances shall be: "The mayor and Style of ordinances.

common council of the city of Merrill do 'ordain," etc. The council shall meet at such time and place as it shall fix upon. A majority of the aldermen and supervisors shall constitute a quorum.

Stated meet-
ings.

SECTION 32. The 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 business or abode.

RULES OF COUNCIL.

Rules of coun-
cil.

SECTION 33. The council shall determine the rules of its own proceedings; shall be the judge of the election and qualifications of its own members, and a less number than a quorum shall, at any regular or special meeting, have power to adjourn or compel the attendance of absent members.

CONTROL OF FINANCES.

Control of
finances.

SECTION 34. The council shall have the management and control of the finances, and of all of the property of the city; and shall likewise, in addition to the power herein vested in it, have full power and to authority 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, for the prevention of crime, and for the benefit of the trade, commerce and health thereof, as it shall deem expedient; declaring and imposing penalties and to enforce the same against any person or persons who may violate any of the provisions of said ordinances, rules or by-laws, and such ordinances, rules and by-laws are hereby declared to be and have the force of law; provided, that they be not repugnant to the constitution and laws of the United States or of this state; and for these purposes shall have authority, by ordinances, resolutions or by-laws:

LICENSES.

Regarding
licenses.

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, pool tables, bowling saloons, and to provide for the abatement and

removal of all nuisances under the ordinances or at common law, and to grant licenses and regulate groceries, taverns, victualing houses, and all persons vending or dealing in spirituous, vinous or fermented liquors.

2d. To restrain and prohibit all descriptions of gaming and fraudulent devices and practices, and all playing of cards, dice or other games of chance, for the purpose of gaming in said city, and to restrain, any person from vending, giving or dealing in spirituous, fermented or vinous liquors, unless duly licensed by the council.

Gaming, fraudulent devices.

3d. To prevent any riots, noises, 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.

Disorderly houses, etc.

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

Nauseous places.

5th. To direct the location and management of slaughter houses and markets, and regulate the storage, safe-keeping and conveying of gunpowder or other combustible materials.

Slaughter houses.

6th. To prevent the encumbering of the streets, sidewalks, lanes or alleys with carriages, carts, wagons, sleighs, boxes, lumber, fire wood, or any other materials or substance whatever.

Encumbering of streets.

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

Horse racing and bathing.

8th. To restrain the running at large of cattle, swine, sheep, poultry, and geese, and to authorize the distraining, and sale of the same, and to prevent the keeping of swine within any portion of the city where their presence may be offensive to the inhabitants in the vicinity, or may be regarded as nuisances.

Restrain cattle.

9th. To prevent the running at large of dogs and to authorize the destruction of the same in a summary manner when at large, contrary to the ordinance.

Dogs.

10th. To prevent any person from bringing,

- Unwholesome substances.** depositing, or having within said city, any putrid carcass or other unwholesome substance, and to require the removal of the same by the owner thereof, or by the person who shall have upon his premises any such substance, putrid or unsound beef, pork, hides or skins of any kind, and on default to authorize the removal thereof by some competent officer at the expense of such person or persons.
- Hacks, cabs etc.** 11th. To regulate and license hacks, cabs, drays, carts, and the charges of hackmen, cabmen, draymen and cartmen in the city.
- Boards of health.** 12th. To establish and regulate boards of health, provide hospitals and cemetery grounds, regulate the burial of the dead, and the return of bills of mortality, and to exempt burial grounds set apart for public use from taxation.
- Size of bread.** 13th. To regulate the size and weight of bread, and to provide for the seizure and forfeiture of bread baked contrary thereto.
- Driving on sidewalk.** 14th. To prevent all persons from riding or driving any ox, mule, cattle or other animals on the sidewalks in said city, or in any way doing any damage to such sidewalks.
- Fire arms, fire crackers.** 15th. To prevent the shooting of firearms or fire-crackers, and to prevent the exhibition of any fireworks in any situation which may be considered by the council dangerous to the city or any property therein, or annoying to any citizen thereof.
- Drunkards.** 16th. To restrain drunkards, immoderate drinking, vulgarity 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.
- Runners, solicitors, etc.** 17th. To restrain and regulate runners and solicitors for stages, public houses, or other establishments, and to regulate the police of the city.
- Public markets.** 18th. To establish public markets, and to make rules and regulations for the government of the same; to appoint suitable officers for overseeing and regulating such markets and to restrain all persons from intercepting or interfering with the due observance of such rules and regulations.
- Butcher stalls.** 19th. To license and regulate butchers' stalls, shops and stands for the sale of game, poultry, butchers' meat, butter, fish and other provisions.
- Weighing and measuring hay.** 20th. To regulate the place and manner of the measuring, weighing and selling of fuel and hay,

and to appoint suitable persons to superintend and conduct the same.

21st. To compel owners or occupants of buildings or grounds, to remove snow, dirt or rubbish from the sidewalks, street 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 his default to authorize the removal or destruction thereof, by some officer of the city, at the expense of such owner or occupant.

Removal of snow and dirt.

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

Contagious or infectious diseases.

23d. To license auctioneers, peddlers and transient dealers, and to regulate the time, place and manner of holding public auctions or vendues, and to require the payment into the city treasury of a certain percentage of amounts received from sales by auctioneers, peddlers and transient dealers.

Auctioneers.

24th. To appoint watchmen and prescribe their powers and duties; but the powers of watchmen, in making arrests and in taking prisoners before magistrates and committing them to jail shall be the same as those of constables.

Watchmen.

25th. To prohibit and punish by suitable fines, penalties or forfeitures, the use of false weights or measures within said city.

False weights.

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

Trees.

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

Sewers.

28th. To alter or change the name of any street in said city.

Names of streets.

29th. To regulate and license the ringing of bells, and the crying of goods, wares and merchandise, or other commodities in the streets or vacant lots of said city.

Ringling of bells.

30th. To regulate the running of locomotives, engines and cars through the city.

Locomotives.

31st. To regulate and control the erection of awnings and awning posts, and to provide for and control the erection and maintenance of safe and convenient hitching posts and places for fastening teams, at such points as the council may deem necessary.

Awnings, hitching posts.

32d. To establish public markets and make

Public markets

rules and regulations for the government of the same.

Breweries.

33d. To direct the location of and regulate and license breweries, tanneries and packing houses.

Shall be by vote.

SECTION 35. All ordinances shall be passed by an affirmative vote of a majority of the council, and shall be signed by the mayor, and shall be published in the official paper of the city, but no ordinance shall be in effect until ten days after its publication, and within fifteen days after such publication, they shall be recorded by the city clerk in books provided for that purpose; but before any of the said ordinances shall be recorded, the publication thereof respectively, within the time hereinbefore provided, shall be proved by the affidavit of the foreman or publisher of such newspaper, and the said affidavit shall be recorded therewith, and at all times such record, or a duly certified copy thereof, or any printed book containing the same, purporting to have been published under the sanction of the mayor and council, shall be deemed and taken as *prima facie* evidence of the time and manner of such publication and of the passage of such ordinance.

Shall not bar or hinder suits.

SECTION 36. The powers conferred upon the said council, to provide for the abatement or removal of nuisances, shall not bar or hinder suits, prosecutions or proceedings 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, houses or buildings of any kind wherein more than twenty-five pounds of gunpowder are deposited, stored or kept at any one time, are hereby declared and shall be deemed public or common nuisances.

Examine accounts.

SECTION 37. The council shall examine, audit and adjust the accounts of the clerk, treasurer, street commissioner, marshal, and all other officers and agents of the city, at such time as it may deem proper, and also at the end of each year, and before the term for which the officers of said city are elected or appointed shall have expired; and the council shall require each and every such officer and agent to exhibit his books, accounts, moneys and vouchers for such examination and settlement; and if any such officer or agent shall refuse to comply with the orders of the council in the discharge of his said duties, in pursuance of this

section, or shall neglect or refuse to render his account, or present his moneys, books and vouchers, to said council, it shall be the duty of the council to declare the office of such person vacant; and the council shall order suits and proceedings at law against any officer or agent of the 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 adjustments.

STREETS, ALLEYS, ETC.

SECTION 38. The council shall have power to lay out public squares, grounds, streets and alleys, and to enlarge or extend the same, and to use lands in said city for the purpose of constructing and repairing sewers and drains, as follows: Whenever ten or more freeholders residing in any ward, shall, by petition, represent to the council that it is necessary to take certain lands within the ward where such petitioners reside, for public use, for the purpose of laying out public squares, grounds, streets or alleys, or enlarging or widening the same, or to use certain lands within the ward for the purpose of constructing and repairing sewers and drains, giving the courses and distances, metes and bounds of the lands proposed to be taken or used as aforesaid, together with the names and residences of the owners of such premises, if the same shall be known to the petitioners, the council shall, if it deems it necessary to take or use such lands for the purpose specified in such petition, cause notice of such application to be given to the owners or occupants of such land, which notice may be served personally, or by leaving the same at the place of business or at the residence of such owner or owners, occupant or occupants; or if any portion of such lands shall not be in the actual occupation of any person, and such notice has not been served upon the owner, then the council shall cause such notice, describing as near as may be the premises proposed to be taken, to be published in the official paper of the city, for four successive weeks, at least once in each week.

SECTION 39. 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, applica-

Streets, alleys,
etc.

Appointment
of jurors.

tion will be made to the county judge of the county of Lincoln for the appointment of twelve jurors to view said premises, and to determine whether it will be necessary to take or use the same for the purposes specified in said petition. Should any of the lands proposed to be taken or used, belong to the county judge, the application shall be made to the sheriff of the county.

Duties of judge.

SECTION 40. Upon presentation of such application, and upon proof of the publication or service of the notice hereinbefore required, the said judge or sheriff, as the case may be, shall thereupon appoint as jurors, twelve reputable freeholders, residents of the city, but not residents of the ward in which such premises lie, nor interested in the result of such application. The said judge or sheriff shall thereupon issue his precept, directed to said jurors, requiring them, at some time therein specified, within thirty days from the date thereof, to view such premises, to be specified in said precept, and to make return under their hands to the council, whether in their judgment it is necessary to take or use said premises for the purpose specified in said application.

Disqualification of jurors.

SECTION 41. If any juror so appointed, shall be disqualified from acting, or shall refuse to act, at any time before the completion of their final award, the judge or sheriff shall appoint another in his place, and a memorandum of such substitution shall be indorsed on the precept.

How to proceed.

SECTION 42. The said jurors, having first taken the oath hereinafter provided for, 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.

Report of proceedings.

SECTION 43. After viewing the premises and hearing such testimony as may be offered, the jurors shall make a report of their proceedings, which shall be signed by them respectively, and which shall state whether, in their judgment, it is necessary to take or use the premises in question for the public use; which said report, testimony and precept shall be returned to the council within the time limited therein.

In case it is unnecessary to take premises.

SECTION 44. Should the jurors report that it is necessary to take or use such premises, the coun-

cil shall, if it approves such report, enter an order among its proceedings confirming said report, and directing the same jurors to again view said premises at a specified time, 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 premises will be benefited by such taking, and to assess and return within the time limited such damages and benefits to the council; provided, however, that in case of sewers and drains the said jurors need not view the premises to be benefited or assess the benefits thereon.

SECTION 45. If there should be any buildings standing, in whole or in part, upon the lands to be taken or used, the jurors, before proceeding to make their appraisements, shall first estimate and determine the whole value of the land, and secondly, the value of such buildings to remove, except in cases of sewers and drains. Estimate cost of buildings.

SECTION 46. 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 of the city, three successive weeks; such notice shall specify the building and the award of jurors. It shall also require the parties interested to appear on a day to be therein named, and give notice of their election to the council, either to accept the award of the jurors and allow such building to be taken, with the land appropriated, or of their intention to remove such building, at the value set thereon by the jurors to remove. If the owner shall agree to remove such building, he shall have such time for that purpose as the council may allow. Notice to be given.

SECTION 47. If the owner refuses to take the building at the value to remove, or fails to give notice of his election as aforesaid within the time prescribed, the 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 city treasurer, for the use of the owner, and shall thereafter be paid over to the owner on his application therefor, provided it shall be necessary to remove such buildings for the proper use of the lands so taken or used. In case owner refuses to take building.

Jurors to examine premises.

SECTION 48. The said jurors, within the time limited, shall view and examine the premises proposed to be taken or used, and all such other premises as will in their judgment be benefited thereby; provided, however, that in case of sewers or drains the said jurors need not examine the lands benefited. After hearing such testimony as may be offered, 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 or used, and the injury arising to them respectively in consequence of the taking or using thereof, which shall be awarded to such 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 lands, the jurors shall include the value of the building or buildings, if the property of the owners of such lands, as estimated by them as aforesaid, less the proceeds of the sale thereof; or if taken by the owner at the value to remove, in such case they shall only include the difference between such value and the whole estimated value of such building or buildings.

In case damages are greater than benefits.

SECTION 49. If the damages to any person be greater than the benefits received, or if the benefits be greater than the damages, in either case the jurors shall strike a balance and carry the differences 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, in any case be collected of them or payable to them.

If they belong to different persons.

SECTION 50. If the lands or buildings belong to different persons, or be subject to lease, judgment, mortgage or other incumbrance, if there be any estate in it less than an estate in fee to such person or interest respectively, the injury done shall be awarded to the person entitled thereto by the jurors, less the benefits resulting to such interests respectively from the proposed improvement.

Shall apportion and assess.

SECTION 51. Having ascertained the damages and expenses of the proposed improvements 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 re-

sulting thereto from the proposed improvement as nearly as can be, and shall describe the real estate upon which their assessment may be made, and state the amount assessed upon each separate tract; provided, however, that when the lands are used only for the purpose of a sewer or a drain, the damages shall not be assessed upon the lands benefited, but shall be paid by the city as provided by law. The award of said jurors shall be signed by them and returned, together with the testimony taken, to the council within the time limited, in their order of appointment, and shall be final, unless appealed from in the manner hereinafter provided.

SECTION 52. The land required to be taken or used for the purposes mentioned in this act, shall not be appropriated until the damages awarded therefor to the parties interested shall be paid or tendered to them or their agents, or, in case said parties or agents cannot be found or are unknown, deposited to their credit in some safe place of deposit to be determined by the council; and then, and not before, such lands may be taken or used and appropriated for the purposes required, and the lands shall thereafter be subject to all the laws and ordinances of the city, in the same manner as streets, alleys and public grounds heretofore opened or laid out, except in cases where the lands are only used for the purpose of sewers and drains, and then, in that case, the said city shall have power to go upon said premises at any and all times for the purpose of examining and repairing said sewers and drains.

Damages awarded to be first paid.

SECTION 53. When the whole of any lot or tract of land or other premises under lease or other contract, or incumbrance, shall be taken or used by virtue of the city charter, all the covenants, contracts or liabilities relating to the same, or any part thereof shall, after the expiration of the time for appeal, as herein provided, respectively cease and be absolutely discharged.

Covenants ceased.

SECTION 54. When only part of the lot or tract of land or other premises so under lease, or other contract or incumbrance, shall be taken or used for the purpose aforesaid, such covenants, contracts or incumbrances shall be absolutely discharged as to the part thereof so taken or used, but shall remain valid as to the residue thereof;

Covenants released.

and the rents, liens and payments due from, or on account of the same, shall be so appropriated that the part thereof justly and equitably payable for such residue, and no more, shall be paid or recoverable for, or in respect of the same.

Tender of damages.

SECTION 55. The damages assessed on each separate lot or tract shall be paid, or tendered, or deposited, as herein required, within one year from the confirmation of such assessment and report, and if not so paid, tendered or deposited, all the proceedings in any such case, as to any lot or tract on which they are so unpaid, shall be void. The benefits so assessed, from the expiration of the time for appeal, shall become a lien upon the premises upon which they are assessed, and shall be collected therefrom as a special assessment in the same manner as other special assessments for city improvements are collected. The amount so collected shall be held by the city as a special fund for the payment of the damages aforesaid, and shall be paid out for that purpose and no other.

In case of infant.

SECTION 56. When any known owner of lands or tenements affected by any proceedings herein provided for, shall be an infant or labor under disability, the judge of the circuit court of Lincoln county, or the county judge may, upon the application of the council, or such party by his next friend, appoint a guardian for such party, and all notices required by the city charter shall be served upon such guardian in the same manner as if he were the party interested.

Jurors shall take an oath.

SECTION 57. The jurors herein provided for, shall, before entering on the discharge of their duties, 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 or used, and that they will faithfully and impartially discharge the trust reposed in them. If any juror shall neglect or refuse to serve after the return of the precept above mentioned, the county judge shall have power to appoint new jurors in place of those who shall so neglect or refuse to serve.

Council may take an appeal.

SECTION 58. The council, or any party interested may, within twenty days from the return of the jurors to the council of the benefits and damages so assessed, appeal to the circuit court of Lincoln county from the decision of said jurors, so far as it affects the interests of said appellants. Notice

of such appeal shall be filed by the appellant with the clerk of said court within twenty days above mentioned, and the issue on such appeal shall be made up and tried in said court in such manner as said court shall direct.

SECTION 59. In case the total amount of damages and costs awarded by the jurors, and which formed the basis of their assessment, shall be increased by any proceedings subsequent to the return of said assessment to the council, and founded thereon, such additional sum shall, as soon as such proceedings are finally determined, be assessed by the city clerk, under the direction of the mayor and council, upon the land upon which the first assessment was made, in the same proportion as such first assessment, and shall be collected in the same manner. And in case such damages are not so increased, the costs of such appeal shall be taxed against the appellant and deducted from the damages recovered on such appeal.

In case damages are increased.

SECTION 60. Whenever any streets, alleys or public grounds shall be laid out or extended, or sewers or drains constructed, under the provisions above, the council shall cause an accurate survey and profile thereof to be made and filed in the office of the city clerk.

Extension of grounds.

SECTION 61. No street or alley, or part thereof, shall be vacated except upon the petition of the owners of three-fourths of the front upon such street or alley in the block in or along which such street or alley runs; but the boundaries of streets may be changed upon petition to the council by parties interested.

Vacation of streets.

SECTION 62. The council shall have power to change the name of any street and to vacate any plat or portion thereof that may be petitioned for by the proprietors of such plat, or any person interested therein; but no petition for such vacation shall be acted upon, unless notice of such application to the council shall have first been published in the official city paper, for at least two weeks prior to the meeting of the council.

Changing names of streets.

SECTION 63. All the directions given in the foregoing sections from 37 to 62 inclusive, shall be deemed only directory, and no error, irregularity or informality of any of the proceedings thereunder, not affecting substantial justice, shall in any way affect the validity of the proceedings.

Only directory.

CITY IMPROVEMENTS.

Improvements. SECTION 64. The council shall have power to order and contract for the making, grading, paving, macadamizing, repairing and cleaning of streets, alleys, public grounds, reservoirs, gutters, sewers, drains and sidewalks in the manner hereinafter mentioned, and direct and control the persons employed therein.

Surveying streets. SECTION 65. The cost and expense of surveying streets, alleys, sidewalks, drains and sewers, and of estimating work thereon in the execution of any public improvement and of repairing streets, shall be charged to and payable by the city. The cost and expense of opening, grading and paving or macadamizing streets and alleys, and constructing or repairing sidewalks, shall be chargeable to, and payable by, the lots fronting on such street or alley, so that each lot or parcel of land shall pay for the work done between the front of such lot or tract of land and the center of such street or alley. Sewers and drains may be ordered by the council, and all costs and expenses, as well as the damages which shall be sustained by the owners of lands through which the same shall pass, shall be charged to and payable by the city.

Time to be fixed for making improvements. SECTION 66. Whenever the council shall determine to make any public improvement, as authorized by the two preceding sections, it shall fix the time within which such work shall be done, and shall give notice by advertisement to be published once a week for three successive weeks in the official paper of the city, to the owners or occupants of the lots or parcels of land fronting on any street, alley or sidewalk ordered to be improved, requiring them to do the work mentioned in such notice within the time fixed by the council for the doing of the same, to be therein specified. If said work shall not be done within said time, the street commissioner shall immediately proceed to advertise and contract for doing the same at the expense of the lots upon which such work is chargeable. Proposals shall state a gross amount for doing the work in front of any lot, and the contract shall be awarded to the lowest responsible bidder. The council may direct the letting of such work, in whole or in part; all bids for doing the same to be approved by the mayor, who 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 he shall direct; such contract shall 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 bids under this section shall be published for ten days in the official paper of the city.

SECTION 67. Whenever the council shall require any street to be paved or macadamized, or any gutter to be constructed, it shall determine the manner in which the work shall be done, and of what material, and the street commissioner or such other person, or officer as the council may designate to have charge of the work, shall let a contract for doing the whole of such work. Public notice of the letting of such contract shall be given by advertisement in the official paper of the city, for at least twenty days, and the contract shall be awarded to some responsible bidder whose bid it shall deem most reasonable and proper. The cost of such paving or macadamizing, or of constructing such gutter, shall be chargeable to the lots fronting on the street, so that each lot or parcel of land shall bear its proportionate amount of the expense of such paving or macadamizing, or of constructing such gutter, according to its frontage on the street, but the expense of all engineering and grading necessary to be done to prepare a street for paving or macadamizing or the constructing of a gutter, shall be payable by the city.

Paving streets,
how done.

SECTION 68. In case no bids shall be received for the performance of any work required to be done by order of the council, it may cause such work to be done under the supervision of the street commissioner, or a committee of the council, and the expense for doing the same shall be apportioned and assessed to each lot, according to its frontage on the street, and the amount shall be collected in the manner provided for the collection of other special taxes.

In case no
bids are
received.

SECTION 69. Whenever the general interest of the city requires deep cutting or extraordinary filling in any street, or the building of sidewalks or grading or otherwise improving a street in front of any property, to an amount which may be excessively burdensome upon such property,

Deep cuttings.

any person deeming himself aggrieved thereby may represent to the council in writing, within twenty days after the passage of the ordinance requiring the work to be done, that the expense of such improvement will exceed the proportion that should be justly and equitably charged upon the property assessed therefor; thereupon the council shall require the marshal to summon five freeholders, not residents of the ward, nor owners of, 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, and if, in their opinion, the costs 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 to make a report thereof as soon as practicable, in writing, to the council; and such proportion as shall be reported as 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 paid by the city; provided, that should said jury find that said petitioners were not entitled to any division of the expense as 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 council may require a bond for the payment of the same on the filing of the petition; provided, also that the petition of no owner, feeling himself aggrieved, shall be received unless the same shall be presented within twenty days after the publication of the notice requiring the work to be done; and provided further, that when it shall appear to the council that any such lands belong to non-residents, infants or persons under legal disability, who shall not be represented by any agent or guardian, or not be 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 said council to cause to be summoned a jury as herein provided.

Stagnant
waters.

SECTION 70. The council shall give written notice to all owners or occupants of lots upon which stagnant waters may be, which may be deemed injurious to health by reason thereof, to abate such

nuisance by draining or filling such lot within a reasonable time, to be specified in such notice, and if such nuisance shall not be abated or removed within the time so specified, the council shall cause the same to be abated and removed at the expense of the property upon which the same may exist.

SECTION 71. After the completion and performance of any contract entered into by the street commissioner for work, chargeable to lots or lands by virtue of this charter, he shall give the contractor or contractors a certificate under his hand, stating therein the amount such contractor is entitled to, and the description of the lot or parcel of land upon which the same is chargeable; which said certificate may be transferred by indorsement thereon; and if the amount thereof shall not be paid before the time of making out the annual assessment roll, the same may be filed with the city clerk, and shall be assessed upon the said lots or parcels of land respectively, and collected therefrom for the use and benefit of the holder of such 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 provided, no informality or error in the proceedings shall vitiate such assessment. When the tax shall have been paid to the city treasurer, he shall pay over the amount, on order of the council to the persons entitled to receive it. But if the tax on such lot shall not be paid while the roll is in the hands of the city treasurer, it shall be returned to the county treasurer as delinquent, and be received by such treasurer and collected as other delinquent taxes are received and collected. Then the city shall issue a city order to the amount assessed against the lot in favor of the contractor, upon his application to the council so to do. But in no event where work is ordered to be done at the expense of any lot or parcel of land, shall either the city or county be held responsible for, or on account thereof, or of any proceeding for the collection of the pay therefor, except as hereinbefore provided.

Contractors shall receive a certificate on completion of work.

SECTION 72. The council shall appoint a street commissioner for the city, or may, by resolution, require that the city marshal shall be such street

Street commissioner.

commissioner, who shall have all the powers and perform all the duties required of the street commissioner. The general powers and duties of the street commissioner shall be the same as those of overseers of highways in towns, except as otherwise herein provided. It shall be the duty of the street commissioner to see that all ordinances of the city relating to the streets, alleys, public grounds, reservoirs, gutters, sewers and water courses within the city, are duly observed and kept, and direct and control the persons employed thereon; and he shall have a general supervision over all work let by contract for the improvement of the streets or sidewalks, unless the council shall otherwise provide. Such street commissioner shall be under the direction and control of the council, and he shall make no orders or give any directions for the improvements of streets, unless such improvements have previously been authorized by the council, or a committee of the council acting under authority. Whenever any place shall occur in any street whereby the life or property of persons using the street becomes endangered, the street commissioner shall proceed at once to repair such street to a safe and passable condition.

Duties of street commissioner.

SECTION 73. It shall also be the duty of the street commissioner, whenever, in his opinion, any portion of a sidewalk shall be out of repair or in a dangerous condition, to serve a written notice upon the owner or occupant of the lot adjacent to which such defective sidewalk shall be, if a resident of said city, to immediately repair the same; and if said owner or occupant fail to repair the same forthwith, then, and in that case, the same may be repaired by the street commissioner, at the expense of the lot adjoining said defective sidewalk; provided, however, that the expense to be charged to any lot for any such repairs shall, in no case, exceed the sum of five dollars (§5), unless such repairs shall be made according to the provisions of the city charter; service of such written notice at the residence of the owner or occupant of such lot, upon a member of his family of suitable age and discretion, or with the agent of the owner, shall be deemed service upon such owner or occupant; and in case the owner of such lot is not a resident of said city or his residence is unknown, and such owner has no agent in said city, known to the street commissioner,

then, and in that case, it shall be the duty of the street commissioner to forthwith repair the same without notice to the owner of the adjoining lot, at the expense of such lot, as hereinbefore provided. The street commissioner shall also have the same powers and duties in relation to removing obstructions from any of the streets in said city, as town boards of supervisors have in removing obstructions from highways.

SECTION 74. Any owner of a lot may remove the earth, gravel or material of any kind from the street adjacent to his lot, prior to the grading of the same, at his pleasure, but in doing so, he shall not impair the usefulness of the street. The street commissioner, however, may take material from any point in the street to make ordinary and necessary repairs elsewhere upon such street. When any street shall have been ordered graded and the time for doing such work shall have expired without its having been performed, the city may take such material from the street in front of, or adjacent to, any lot as is not necessary for the purpose of bringing such street along such lot to the established grade, or may authorize any person to take it and use it upon any street of the city.

Removal of earth, etc., from street.

SECTION 75. The street commissioner shall hold his office for the term of one year, from the second Tuesday in March, of the year in which he is appointed, unless removed by the council, and shall, before entering on the duties of his office, give a bond to the city of Merrill, with one or more sufficient sureties, to be approved by the council, in the penal sum of not less than five hundred dollars (\$500), conditioned to render an account to the council whenever required by law or the ordinances of said city, or by a vote of said council, to safely keep and account for, and deliver over, when lawfully required, all property of said city that may come into his hands; to use, disburse and pay over as required by law or the ordinances of said city, all moneys that may come into his possession as such officer, and to faithfully discharge the duties of said office.

Term of office of street commissioner.

SECTION 76. The council may, with the consent of the sheriff or of the board of supervisors of Lincoln county, use such labor of prisoners under sentence in jail, as the sheriff will furnish, in doing any public work in any part of the city.

Labor of prisoners.

Ornamental
trees, how to be
planted.

SECTION 77. The council shall have power to require the owner of any lot or grounds in said city, to set out ornamental or shade trees, in the street in front of the same, and to protect and preserve them, 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 of the same. It shall also have the power to determine the lines on which the trees shall be set, the places where they shall be set, the kind and size of the trees to be set, and the manner of protecting them, and for replanting them, when they have died or been so injured as to fail to answer the purpose for which they were set out, and to prohibit the setting out of any trees that may be regarded as nuisances, and to order their removal where they have hitherto been set out. It shall also have power to provide for and direct the trimming of shade trees to proper proportions, and to do all other needful acts as to them may seem just and proper, to give this section proper effect.

Control of
funds.

SECTION 78. All funds in the city treasury, except school, state and county funds, shall be under the control of the council, and shall be drawn out upon the order of the mayor, countersigned by the clerk, duly authorized by a vote of the common council, and in no other manner; and all orders drawn upon the treasurer shall specify the purpose for which they are drawn. All orders shall be payable to the person in whose favor they may be drawn, or to the bearer thereof.

Contraction of
debts against
city.

SECTION 79. No debt shall be contracted against the city, or order be drawn on the city treasury, unless the same shall be authorized by a majority of the common council, and the vote authorizing the same, in case it exceeds fifty dollars (\$50), shall be entered by ayes and nays upon the journal of the council, and no money shall be appropriated for any purpose whatever, except such as is expressly authorized by the city charter.

Penalties
accruing.

SECTION 80. All forfeitures and penalties accruing to the city for a violation of the city charter, 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 the city charter. No pen-

alty or judgment recovered in favor of the city shall be remitted or discharged, except by a vote of three-fourths of all the members of the common council.

SECTION 81. 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 assessors elected under the city charter shall have and possess the same powers, and perform the same duties, as are, or may hereafter be, conferred upon and required of assessors of towns; provided, however, that the council may prescribe the form of assessment roll, and more fully define the duties of assessors.

Taxation of property.

SECTION 82. The county board of supervisors shall have the right to regard the city of Merrill as a town in equalizing the assessment roll of the several towns in Lincoln 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 regarded as a town for equalization purposes.

SECTION 83. The said board of supervisors may levy a tax or taxes, as now is, or may hereafter be authorized by law, in relation to towns, but shall proceed therein without regard to the division of the city into wards, and shall cause the amount of taxes so levied to be certified to the city clerk, in the manner provided by law, in relation to town clerks; and in all transactions of the board of supervisors of said county, said city shall be regarded as a town, except as herein otherwise provided.

Taxes may be levied.

SECTION 84. Upon receiving the statement of the amount of taxes so levied, the city clerk shall, upon a uniform percentage, compute and carry out upon said assessment roll, or a copy thereof, in one item opposite to each valuation in said assessment roll, the amount required to be raised upon such valuation to make the whole amount of taxes so certified, together with such city and other local taxes as are to be levied uniformly upon all the taxable property in the city; and all other taxes, if any, shall be entered in separate columns, opposite the valuation of the property, to be charged in a separate column.

Taxes, how computed.

under the head of "taxes unpaid for previous year." The city clerk shall enter opposite each tract of land so returned to him by the county clerk, the year for which such tax remains unpaid. The city clerk shall enter upon said roll a general statement showing the several amounts of taxes levied on the city or any part thereof, and for what purpose. Said roll, when so completed, shall be the tax roll of the city of Merrill, and shall be preserved by said clerk as a record in his office.

Tax roll to be preserved.

SECTION 85. The tax roll 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 levying of taxes, from the election of the officers to the completion of the tax roll inclusive, has been done regularly, correctly and as required by law.

Duplicate copies.

SECTION 86. Immediately after making out the tax roll 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 a 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 roll, in the manner provided by law; and the said clerk shall, on or before the first day of December, of the same year, or as soon thereafter as practicable, deliver the same to the city treasurer for collection, and make a record of such delivery on the tax roll preserved in his office.

Treasurer shall collect taxes.

SECTION 87. The city treasurer, upon the receipt of such duplicate tax roll, shall proceed to collect the same in like manner, and shall have like power, and be subject to like requirements, liabilities and restrictions as town treasurers, except as otherwise herein provided. All taxes may be paid to the treasurer before the tenth day of January, in each year, without any addition thereto for treasurer's fees. To the taxes paid after the tenth day of January, three per cent. treasurer's fees shall be added, which fees, when collected shall be paid into the treasury of the city, for the benefit of the general fund.

Delinquent tax list.

SECTION 88. The said treasurer shall make out and return to the treasurer of Lincoln county, at the time required by law, in the case of towns, a list of all lands and lots upon which the taxes

have not been paid, and shall also settle with, and pay over all moneys properly payable to said county treasurer, in like manner as now is, or may hereafter be, required of town treasurers. The said treasurer shall also, by the same time, make out and deliver to the city clerk, a list of all delinquent personal property taxes for the same year. The county treasurer shall add the same interest, penalties or fees to such delinquent returns as are allowed, or required by law upon delinquent returns from the several towns.

SECTION 89. The county treasurer shall sell all delinquent lands and lots returned from the city of Merrill, at the same time and in the same manner, as other delinquent lands are sold in the county.

Sale of delinquent lands.

SECTION 90. 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 improvements in streets in front of the same.

Special taxes on exempt property.

SECTION 91. All the directions hereby given for the assessing of lands and the levying, collection and return of taxes and assessments, and the sale thereof, shall be deemed only directory, and no error or informality in the proceedings of any of the officers entrusted with the same, not affecting the substantial justice of the tax itself, shall vitiate or in any wise affect the validity of the tax or assessment.

Directions only directory.

SECTION 92. In addition to the amount herein limited for taxes for general city purposes, special taxes may be levied for the purchase of fire engines, cemetery grounds, public squares, gas purposes and other objects of public utility; but no such tax shall be levied unless the same shall first be recommended by the council, and afterwards submitted to a vote of the people and approved by them. Whenever the council shall recommend such a tax, they shall specify the amount to be raised, and the object thereof, and cause notice thereof, and of the time and place of voting thereon, to be published in the same manner as in case of the annual city election.

Purchase of fire engines.

SECTION 93. The city treasurer shall receive nothing but coin, or coin certificates, treasury notes, or national currency, for taxes, licenses or other dues of the city, and is prohibited from receiving county, city, school or other orders in payment of city dues.

Current money.

Payment of orders.

SECTION 94. It shall be the duty of the council to always provide for the prompt payment of all orders drawn on the city treasury, and it shall have power to negotiate temporary loans, at the legal rate of interest, for the supplying of all funds to meet any deficiency in the treasury.

Lack of funds.

SECTION 95. When the treasurer shall be unable to pay any order drawn on the treasury, it shall be his duty to report the fact to the first regular meeting of the council.

Meeting of council.

SECTION 96. The council shall meet on Monday evening two weeks previous to the holding of the charter election, for the purpose of disposing of its unfinished business, and shall not thereafter, prior to the second Tuesday of March following, allow any bills against the city, but may anticipate and provide for the payment of salaries of officers for the balance of their term.

Surplus money

SECTION 97. All surplus moneys in the city treasury not belonging to the school fund may, by direction of the council, be temporarily used for the purpose of paying orders drawn on any other funds, but all funds so used shall be replaced.

Repair of bridges.

SECTION 98. A special tax not exceeding three thousand dollars (\$3,000) in any one year, may be levied by the council whenever it shall appear necessary, for the building or repairing of bridges, or for any other necessary purpose, which taxes shall be collected as other taxes. Whenever the council shall recommend the issue of bonds for any lawful purpose and the people shall vote to issue such bonds, the same may be issued; provided such bonds shall not draw a greater rate of interest than seven (7) per cent., and shall not be negotiated for less than their face value.

Fire limits.

SECTION 99. The council, for the purpose of guarding against the calamities of fire, shall have power to prescribe the limits within which wooden buildings, or buildings of other materials that shall not be considered fire-proof, shall be erected, repaired or moved, 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 removal of buildings into such fire limits, or the removal of any building or buildings situated or located within said fire limits, to, or on, any other lot or lots within such fire limits, and to prohibit the repairing of wooden buildings within the fire limits, when the same shall have

been damaged to the extent of fifty per cent. of the value thereof, and to prescribe the manner of ascertaining such damages. The council shall have no power to authorize wooden buildings to be moved into the fire limits, or from one point within the fire limits to another point within the fire limits.

SECTION 100. The council shall have power to regulate the building, construction and condition of chimneys, fire-places, hearths, stoves, stove pipes, 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 it shall prescribe, and to regulate the use of them in time of fire; 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 roofs and stairs or ladders leading to the same; to authorize the mayor, aldermen, supervisors, fire-wardens and other officers of the city, to keep away from the vicinity of a fire, all idle and suspected persons; to compel bystanders to aid in the extinguishment of fire, and in the preservation of property exposed to danger thereat, and generally to establish such regulations for the prevention and extinguishment of fires, and the protection of property at fires, as it may deem expedient, and enforce the foregoing provisions and the ordinances by suitable penalties.

Construction of chimneys, etc.

SECTION 101. The council shall have power to authorize the formation of fire engine, hook and ladder and hose companies, provide for the due and proper regulations of the same, and to disband any such companies at any time, and prohibit their meetings as such, when disbanded; which companies shall be officered and governed by their own by-laws; provided such by-laws be not inconsistent with the laws of this state or with the ordinances and regulations of the city, and shall be formed only by voluntary enlistment. Every member in good standing of any such company shall be exempt from serving on juries and from poll tax, and from military duty, except in case of war, invasion or insurrection; and when-

Fire engine, hook and ladder companies.

ever a member of a fire, hook and ladder, or bucket and hose company, shall have served therein for ten years, he shall be entitled to a discharge signed by the mayor, and shall thereafter be exempt as aforesaid.

Tax for fire purposes.

SECTION 102. The council shall have power to raise a tax each year, not exceeding five (5) mills on the dollar of the taxable property within said city, for fire purposes, the same to be assessed and collected in the same manner as the general tax of said city; and the moneys arising therefrom shall be expended under the direction of the council for fire purposes.

Reservoirs.

SECTION 103. The council is hereby authorized and empowered to construct reservoirs throughout the city, and provide means for filling the same.

SCHOOLS.

Schools.

SECTION 104. All the district of county within the corporate limits of the city of Merrill shall be known and designated as school district number one (1), of the city of Merrill, for all purposes.

Commissioner of schools.

SECTION 105. The common council shall, at its first meeting, elect one commissioner of schools for each ward, three of whom, to be designated by the council, shall hold their offices for one year, and the remaining three shall hold for two years. Thereafter the council shall annually, at its first meeting after the charter election, elect from each ward, where the term of office of a school commissioner expires, a school commissioner for a term of two years; and the council may make appointments of school commissioners to fill vacancies which may occur from any cause.

Women eligible.

SECTION 106. Every woman, of the age of twenty-one (21) years and upwards, residing in the city shall be eligible to the office of superintendent of schools and to the board of education.

Board of education.

SECTION 107. The said school commissioners so appointed in conjunction with the superintendent of schools of said city of Merrill, shall constitute a board to be styled, "The board of education of the city of Merrill." Said board shall appoint and hold stated meetings, and a majority thereof shall constitute a quorum for the transaction of business. At the first meeting of said board in each

year, the members thereof, shall elect one of their number president, and whenever he shall be absent, a president pro tem may be appointed. The superintendent of schools shall be clerk of said board, whose compensation shall be fixed by the council. The said commissioners shall not receive any compensation for their services.

SECTION 108. The clerk of said board shall ^{Duties of clerk.} keep a record of the proceedings thereof, and perform such other duties as the board may prescribe, which record, or a transcript thereof, certified by the president and clerk, shall be received in all courts and places as *prima facie* evidence of the facts therein set forth, and such records and all books and accounts of said board, shall, at all times, be subject to the inspection of the council, and of any committee thereof. The clerk of said board shall visit all schools in said city, at least once in each month, and report their condition to the board of education, with such suggestions for their improvement as he may deem proper. He may also make such suggestions to said board as he may deem necessary for improving and repairing school houses, grounds, fences and appurtenances thereunto belonging. When any repairs shall be ordered the board may employ some suitable person to superintend the making of such repairs, and such compensation may be paid for such services, as the board may deem just and reasonable.

SECTION 109. The clerk of said board shall in ^{Further duties of clerk.} each year, and at the time and in the manner, now and hereafter to be required of town clerks, make and transmit to the state superintendent, a report in writing, which report shall be such as is now, or may hereafter be, required by law to be made annually by town clerks and transmitted to county superintendents. He shall also make and submit to the council, at least ten days before the annual election in each year, a report, showing the receipts and expenditures by the board, since the report made to the council, at its first meeting in July. Such account need only show the gross amount of receipts from each of the various sources, and gross amount of expenditures for each of the various purposes required to be reported. Such report shall include salaries of teachers, and all other expenses up to the second

Tuesday in March following, and all salaries or bills that will be due at that time, may be paid before making the report. The report shall also show the gross amount of receipts and expenditures since the preceding annual report. If the receipts or expenditures since the July report are more or less than estimated in the July and October reports, the report shall state the amount, more or less, and the report shall also state whether, and if any, how much more or less than estimated in July and October, will be needed for the entire school year, ending in June.

Control of
board of
education.

SECTION 110. The council of said city shall have power to pass such ordinances and regulations, as the board of education may report as necessary and proper for the protection and safe keeping, care and preservation of school houses in said city, and lots and appurtenances to the schools, and also to impose penalties for the violation thereof. All such penalties shall be collected in the same way that other penalties authorized to be imposed by said council, under the city charter, are collected.

In whom title
rests.

SECTION 111. The title of the school houses, sites, furniture, apparatus and appurtenances, and all other property herein mentioned, shall be vested in the city of Merrill, and the same, while used or appropriated for school purposes, shall not be levied upon or sold by virtue of any warrant or execution, nor be subject to taxation for any purpose whatever; and the said city shall be able to take, hold and dispose of any real or personal estate, transferred to it by gift, grant, bequest, or devise, for the use of the schools of said city, whether the same shall be transferred in terms to said city by its proper style, or by any other designation, or to any person or persons, or body, for the use of said schools.

Treasurer to
demand money
from county,
due city.

SECTION 112. The treasurer of said city is hereby authorized, empowered and directed to apply for, demand and receive from the county treasurer of Lincoln county, all moneys appropriated for the use of schools in said city, and all other moneys in possession of said county treasurer, at any time raised, appropriated or intended for the use and benefit of schools in said city, and the said county treasurer is hereby directed and required, on demand of the said city treasurer, to pay over to him the said moneys without delay or set-off, taking his receipts as such city treasurer therefor, and all

such moneys shall be placed to the credit of the school fund of said city. A statement of all school moneys so received shall forthwith be reported to the city superintendent of schools, by said treasurer.

SECTION 113. The said board of education shall have power and it shall be its duty:

1st. To establish and organize such, and so many schools in said city, or the several wards thereof, as they shall deem necessary and expedient, and to alter and discontinue the same. Schools.

2d. To have the custody and safe keeping of the school houses, out-houses, books, furniture and appendages, and to see that the ordinances and regulations of the council in relation thereto are observed. Care of school house.

3d. To contract with and employ in behalf of the city, all teachers in such public schools of the city, who may be duly licensed to teach. Contract with teachers.

4th. To have in all respects the superintendence, supervision and management of all the public schools in said city, and from time to time adopt, alter, modify and repeal, as they may deem expedient, rules and regulations for their organization, government and instruction, for the reception of pupils and their transfer from one school to another, and generally for the promotion of their good order, prosperity and utility. Superintendence of schools.

5th. Whenever, in the opinion of said board, it may be advisable to sell any of the school houses, lots or sites, or any of such school property belonging to the city, to report the same to the council. Sale of school houses.

6th. To prepare and report to the council such ordinances and regulations as may be necessary or proper for the protection, safe keeping, care and preservation of school houses, lots, sites and appurtenances, and all the property belonging to the city, connected with or appertaining to the schools, and suggest proper penalties for the violation of such ordinances and regulations, and annually to determine and certify to the council, at its first meeting in October of each year, the amount of money, in their opinion, necessary or proper to be raised for school purposes, specifying the sum required for each of the purposes therein mentioned, and the reason therefor. Prepare and report ordinances.

7th. In the name of the city of Merrill, to contract for the repair of school houses and their ap- Repair of school houses.

purtenances, and for all things necessary or proper for the support and maintenance of schools in said city, and generally to have the entire and exclusive supervision and control of all property belonging to said city, used for said purposes. The board of education shall have the power, by and with the consent of the council of said city, to erect, construct, hire and purchase buildings suitable for school houses, buy and lease sites for school houses with the necessary grounds, and to furnish the school houses in said city with the necessary fixtures, furniture and apparatus. No greater amount shall be expended by the board of education in any year, under the provisions of this section, than shall be appropriated by the council for school purposes during such year.

Levy and collect school tax.

SECTION 114. The council of said city of Merrill shall have power to annually levy and collect a school tax, not exceeding one per cent., on all real and personal property of said city, to meet the expenses of erecting and repairing school houses, purchasing or hiring sites for school houses, and supporting and maintaining schools.

Audit of indebtedness.

SECTION 115. It shall be the duty of the board of education to audit each and every indebtedness of said city for school purposes, and to issue orders therefor, signed by the president and clerk of the board of education; and all moneys received by, or raised in the city of Merrill, for school purposes, shall be disbursed by the treasurer of said city upon the said orders of the president and clerk of the board of education, and in no other manner.

Non-residents may attend school.

SECTION 116. The said board of education shall have power to permit the children of persons, not residents of said city, to attend in either of the schools therein, under the care and control of said board, upon such terms as said board shall by resolution prescribe, fixing the tuition which shall be paid therefor. Permits to so enter the schools shall be issued by the city superintendent, but no such permit shall be issued which will interfere with the proper instruction of resident pupils. He shall report his action under this section to the board of education, as often as may be required, and he shall not issue any greater number of permits than may be authorized or sanctioned by the board of education. All permits shall specify the amount to be paid by such non-resi-

dent pupil, and no such pupil shall be admitted to any school of the city until he has exhibited the receipt of the city treasurer, that the amount specified in such permit has been paid to him. At the end of each term and at such other times as may be required by the board, every teacher who has admitted to the school under his charge any non-resident pupil under the city superintendent's permit, shall return to the board of education the permit, under which the pupil was admitted. All moneys so received for tuition shall become a part of the school fund of said city. It shall be the duty of the board of education to report to the council at its first meeting in the month of July of each year, the condition of the several schools of said city, and the average number of pupils in attendance, the names and rate of compensation of the several teachers, the cost of supporting each and all of said schools since the previous report, and the estimated cost thereof to the time of their next succeeding report, as in this section required, specifying the items thereof under their appropriate heads, together with such other matters as the may deem proper, or the council may require; provided that nothing in this act contained shall be deemed to authorize said board of education or the council, or both, to appropriate, contract or expend for school purposes in any one year, any greater sum than is provided for in this charter in addition to the school moneys derived by said city from the state and county school funds, and such fines, forfeitures, penalties and tuition moneys as may properly belong to the city school fund, unless first authorized thereto by a vote of two-thirds of the legal voters of said city.

SECTION 117. The council of the city of Merrill, May borrow money. on the application of the board of education, may borrow money for the erection and completion of school houses in said city, not exceeding in amount the sum of five thousand dollars (\$5,000), and may issue the bonds of said city for the payment of the same, bearing an interest not exceeding seven (7) per cent. per annum, payable annually or semi-annually, and becoming due within ten years or less, as the council may by ordinance prescribe. In case said bonds are issued, the council of said city shall annually levy and collect a tax on the taxable property of said city, as other taxes

are levied and collected, sufficient to pay the interest and principal of said bonds as the same may become due; and the money thus raised shall be applied to the purpose for which it was raised and no other; provided, however, that no bonds issued in pursuance to this section shall be sold for less than their par value.

MISCELLANEOUS PROVISIONS.

SECTION 118. The credit of the city shall never be given or loaned in aid of any individual, association or corporation, except as provided by the general laws of this state.

Credit of city cannot be loaned.

Tax not to exceed one per cent.

SECTION 119. No tax for general city purposes shall be levied in any year exceeding one (1) per cent. of the assessed valuation of property in the city in that year.

Cannot borrow money to exceed the revenue.

SECTION 120. The city shall have no power to borrow money or contract any debt which cannot be paid out of the revenue of the fiscal year, which shall commence on the first day of December of of each year, except as otherwise herein provided.

Work exceeding one hundred dollars to be let by contract.

SECTION 121. All work for the city which shall be estimated by the council, or the proper officer of the city, to exceed one hundred dollars (\$100) in amount shall be let by contract to the lowest responsible bidder, and due notice shall be given of the time and place of letting such contract. And the city printing shall be let by the year to the lowest responsible bidder; provided that said city shall never pay for publishing proceedings of the common council.

Extra compensation not allowed.

SECTION 122. No extra compensation shall be allowed to any officer, agent, servant or contractor after the service shall have been rendered, or the contract entered into, nor shall any compensation be paid to the mayor or any member of the common council for their services.

Shall settle annually.

SECTION 123. The council shall settle all just claims and demands against the city, and settle with the treasurer annually, and publish accounts of the receipts and expenditures of the city, for the information of the citizens, at least three days before the charter election in each year.

Violations of ordinances, how to proceed against.

SECTION 124. In all prosecutions for any violation of any of the provisions of the city charter, or any by-law or ordinance, the first process shall

be by a summons, unless oath be made for a warrant, as in other cases.

SECTION 125. Execution shall issue forthwith on the rendition of the judgment, unless the same be stayed or appealed according to the laws of this state. The execution shall require the defendant in any such action, in case no goods or chattels, lands or tenements whereof the judgment can be collected, be found, to be imprisoned in the county jail of Lincoln county for a term not exceeding three months, in the discretion of the justice or judge rendering judgment, unless the same be sooner paid or the defendant be discharged by order of the council.

Execution to be issued.

SECTION 126. No person shall be an incompetent judge, justice, witness or juror by reason of his being an inhabitant of said city, in any proceeding or action in which the city shall be a party in interest.

Shall not be incompetent.

SECTION 127. If any election by the people or council shall, for any cause, not be held at the time or in the manner herein prescribed, or if the council shall fail to organize or to perform any other act, as herein provided, it shall not be considered reason for arresting, suspending or absolving said corporation; but such election or organization may be had on any subsequent day, by order of the council; and if any of the duties enjoined by this act, or the ordinances or by-laws of the city to be done by any officer, at a specified time, be not then done or performed, the council may appoint another time at which said acts may be done or performed.

Election shall not be invalidated.

SECTION 128. When any suit or action shall be commenced against said city, the service of summons or process therein may be made by leaving a copy thereof with the mayor, or in the absence of the mayor from the city, or in case he cannot be found, by leaving such copy with the president of the council, or acting mayor, or city clerk, whose duty it shall be, forthwith, to inform the council thereof, or take such other proceedings as by the ordinances or resolutions of said council may be in such case provided.

Service of summons.

SECTION 129. When a judgment shall be recovered against the city of Merrill, or against any city or ward officer in an action prosecuted by, or against such officer in his name of office, where the same should be paid by the city, no execution

No execution shall be awarded.

shall be awarded or issued upon such judgment, except as hereinafter provided. The person recovering such judgment may file a certified copy or transcript thereof with the city clerk, who shall lay the same before the council at its next regular meeting, and unless the council shall determine to appeal from such judgment, it may provide for the payment of the same out of the general fund. Unless so paid the amount of such judgment shall be added to, and included with other city taxes, by the clerk in making the next annual tax roll, and shall be collected as other city taxes, 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 taxes next after the rendition of such judgment, execution may be issued thereon upon the order of the court authorized to issue such execution, on special application therefor. No real or personal property of any inhabitant of said city, or of any individual or private corporation, shall be levied upon or sold by virtue of any execution issued to satisfy or collect any debt, obligation or contract of said city.

May lease, purchase or hold real estate.

SECTION 130. The said city may lease, purchase and hold real or personal estate sufficient for municipal purposes, and may sell and convey the same, and the same shall be free from taxation while owned by the city; provided, that no debt shall be incurred in any such purchase which cannot be paid out of the revenue of the fiscal year.

Does not repeal.

SECTION 131. No general law of this state, contravening the provisions of the city charter, shall be considered as repealing, amending, or modifying the same, unless such purpose be expressly set forth in such law.

LICENSE — BY WHOM SIGNED.

Licenses, by whom signed.

SECTION 132. Every license issued under the charter, or the ordinances of the city, shall be signed by the city clerk and sealed with the corporate seal, but no such license shall be issued by said clerk, until the person applying for the same, shall have deposited with the clerk the receipt of the city treasurer for the amount required to be paid therefor, nor shall any license be issued for

dealing in, selling or vending spirituous, vinous or malt liquors, unless the same shall have been authorized by the council, and the applicant shall have filed his receipt as aforesaid, together with a bond, as required by the laws of this state, which shall be approved by the council; provided, that the sum to be paid for any such license, shall not be less than the amount fixed by the laws of this state, and that all licenses shall be granted to expire on the first day of April next following in each year.

USE OF COUNTY JAIL.

SECTION 133. The use of the jail of Lincoln 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 such county, for whose custody, safe keeping and delivery, the said sheriff shall be responsible, as in other cases. Use of jail.

SECTION 134. The council of said city is hereby authorized and empowered to cause to be made, by some competent person, a plat of all pieces or parcels of land within said city, which are not embraced and described in any of the recorded plats of land in said city, which plats shall plainly define the boundary of each tract or lot of land designated thereon, and each tract or lot of land embraced in said plat shall be designated by a number placed thereon. The said plat, when completed, shall be certified to by the person making the same, and shall be acknowledged before some officer authorized to take the acknowledgment of deeds, by the mayor and clerk of said city, and when so certified and acknowledged shall be recorded in the office of the register of deeds of Lincoln county. Plat of land to be made.

SECTION 135. The said plat shall be called and known as "Assessor's subdivision of lands in the city of Merrill," and for the purpose of assessment and taxation, it shall be deemed a sufficient description of any piece of land described and designated in said plat, to designate the same by its number as it appears on said plat, and any deed of any such tract or piece of land which may be executed pursuant to the laws of this state, by reason of the non-payment of any tax hereafter assessed, shall be as valid and effectual to pass the title to the lands therein described, as it would be Name of plat.

if said premises had been described by metes and bounds, and the said plat, or the record thereof, shall be received in evidence in all courts and places as correctly describing the several pieces or parcels of land therein designated and numbered.

Right of action. SECTION 136. The city shall have a right of action against any of its officers, agents or employes, and against any person or corporation, to recover all damages which it has been compelled to pay on account of the act, default, tort or neglect of such officer, agent, employe, person or corporation.

Annual town meeting, where held. SECTION 137. The next annual town meeting of the town of Merrill shall be held at such place as the town board of supervisors of said town shall designate, and the said town meeting, and all town meetings of said town, may be held in said city, and the town officers of said town may hold their respective offices in said city, unless otherwise directed by the proper town authorities.

Numbering of streets. SECTION 138. The common council shall, as soon as possible, name or number all the streets within the city not already named or numbered, upon duly recorded plats, and such names or numbers shall in all courts and places, be a sufficient designation or description of such streets, and they shall cause to be made and filed in the office of the city clerk, a plat of the city, which plat shall contain the names and numbers of all streets in the city.

Joint meeting to divide indebtedness. SECTION 139. As soon as possible after the next annual town meeting of the town of Merrill, there shall be a joint meeting of the town board of supervisors of the town of Merrill, and the common council of said city, at the council rooms in said city, at which meeting they shall ascertain the amount of the indebtedness of the town of Merrill, justly and legally chargeable to said town, and the amount of all judgments against said town, and shall divide and assume the same respectively, in such proportions as the aggregate amount of the last assessment roll of said town, shall bear to the aggregate amounts of the assessment of the property within the city limits, and within the town outside of the city limits, as shown by said assessment roll.

Adjustment of indebtedness. SECTION 140. All the outstanding indebtedness of the town of Merrill, justly and legally chargeable

ble against said town, and all judgments against said town shall be borne and paid by said city and town respectively, in the aforesaid proportions; and all moneys and property belonging to the town of Merrill shall be divided between the town and city in the same proportion.

SECTION 141. The common council of the city of Merrill shall have power to direct the issue of bonds of the city, not exceeding the amount limited by the constitution of this state, drawing not more than seven (7) per cent. interest, and payable at such times as they may deem proper, to be used in raising money to pay the city's just proportion of the indebtedness of the town of Merrill, and of the judgments against said town, and to provide for the necessary expenditures of the city government for one year; provided, that said bonds shall not be negotiated, or sold, or exchanged for such indebtedness at less than their face value.

Issue of bonds.

SECTION 142. The laws of this state for the relief and support of the poor in towns, shall apply to said city, and the council may make such rules and regulations, ordinances and provisions relative to the same as it shall deem proper, and may adopt the county system, in accordance with any resolution of the county board.

Poor laws of state shall apply to city.

SECTION 143. No action upon any claim or cause of action, for which a money judgment only is demandable, except upon city orders, bonds and coupons, shall be maintained against the city of Merrill, except as hereinafter provided.

No action shall be maintained.

SECTION 144. A statement or bill of such claim shall first be made, sworn to and filed with the city clerk as provided in the next section.

Statement to be made.

SECTION 145. Such statement or bill shall distinctly specify each item, its nature, date and amount; or if the claim be incapable of being itemized, such statement shall plainly set forth the facts constituting the claim and the amount claimed. Such statement shall be verified by the affidavit of the claimant, his agent or attorney, and such affidavit shall state whether or not any part of such claim has heretofore been paid or presented to the common council for allowance.

What it shall specify.

SECTION 146. The city clerk shall lay such claim before the common council at the next regular meeting thereafter, and the common council shall examine and audit every claim presented in the manner above required, at least, as soon as the

Claim to be laid before council.

second regular meeting after the meeting at which such statement was first presented to it, and the city clerk shall make and annex to such statement a copy of all the items disallowed therein, or if disallowed in full, a statement of that fact. But no such claim or demand shall be received or filed by the city clerk, nor acted upon or considered by the common council, unless the statement or bill thereof shall have been made out, verified and filed in the manner above required.

Provided statement is not made out.

SECTION 147. If such statement or bill shall not be made out, verified and filed as above required, and the council shall for that reason refuse to consider the same, the city clerk shall write upon the back of such statement the words, "statement insufficient," and shall sign such indorsement, and at any time within sixty days after such refusal, the claimant may file a new statement, which shall be made out and verified as above required.

When claim shall be disallowed.

SECTION 148. When the claim of any person against the city shall be disallowed, in whole or in part by the council, such person may appeal to the circuit court of the county of Lincoln within ninety days after such disallowance, by serving a notice of such appeal upon the mayor or city clerk, and executing and filing with the city clerk a bond to the city, with sufficient sureties, to be approved by the city clerk, county judge of Lincoln county, or a court commissioner of said court, conditioned for the diligent prosecution of said appeal, and the payment of all costs and damages which may be adjudged against the appellant upon such appeal. The city clerk shall thereupon file with the clerk of the circuit court a duly certified copy of such claim, and of the record of its disallowance, and within twenty days after the filing of the appeal bond and the service of the notice of appeal, the city shall file with the clerk of the circuit court, its answer or demurrer to the claim, or its objection, thereto.

Appeal, where tried.

SECTION 149. The appeal shall be brought to trial and tried in the circuit court, as cases originally brought in said court.

If recovery shall not exceed amount allowed.

SECTION 150. If the recovery upon such appeal shall not exceed the amount allowed by the city council, exclusive of interest upon such allowance, the appellant shall pay the costs of such appeal, which costs shall be taxed before the entry of

judgment, and deducted from the amount recovered, and judgment shall be entered for the balance. And when the amount of costs exceeds the sum recovered, judgment shall be entered against the appellant and his sureties for such excess.

SECTION 151. The determination of the council disallowing in whole or in part, any claim, shall be final, unless appealed from; provided, that if the council shall refuse or neglect to act upon a claim duly made and presented, an action may be brought for the recovery of the same. Determination to be final.

SECTION 152. All easements and lands outside of the corporate limits of the city of Merrill, now held and owned by the town of Merrill, by dedication or otherwise, shall be and remain the property of said town, and all such easements and lands, now held and owned by said town, and situated within the corporate limits of the city of Merrill, as described in this charter shall be and are hereby vested in said city. Easements, in whom vested.

SECTION 153. School district number one of the city of Merrill, shall have the free use of all school houses, sites and appurtenances within the limits of said school district, and the old school district, as it shall be constituted after this act takes effect, shall have the free use of all school houses, sites, and appurtenances without the city limits until such time as a settlement can be made and a division of the property and indebtedness, under the statutes in such cases made and provided. Use of school.

SECTION 154. The school district officers of school district number one of the town of Merrill, shall continue and remain in office and act as the school board of said school district, and perform all the duties thereof, and may hold their offices and their school board meetings, in the city of Merrill, until the annual school meeting in the year 1883. It shall be their duty acting as such school board, to designate a proper and suitable place for holding the annual school meeting in such school district for the year 1883, and to give proper and suitable notices thereof. At the annual school meeting of said school district number one of the town of Merrill, in the year 1883, there shall be a full complement of school officers elected for said school district. School officers.

SECTION 155. The city of Merrill shall, from and after the third Tuesday in February, A. D. 1883,

be the owner in severalty of such proportion of the entire amount of the property, claims and demands then belonging to the town of Merrill, as is provided in and by section 140 of this act, except, when special provision as to such ownership is made by this act. And the said city of Merrill may, as soon as organized, or at any time thereafter, present a claim in the usual form, verified by its mayor or clerk, to the county board of supervisors of Lincoln county, for its proportion of any indebtedness that may upon any account be due, or claimed as due, from said county to the town of Merrill, and such claim shall be audited by said board of county supervisors as other claims, and shall be subject to appeal as other claims presented against counties.

SECTION 156. This act shall be considered a public act, and shall be construed favorably in all courts and places.

SECTION 157. This act shall take effect and be in force from and after its passage and publication.
Approved February 21, 1883.

[No. 59, S.]

[Published February 26, 1883.]

CHAPTER 7.

AN ACT changing the time of holding charter elections in the city of Grand Rapids.

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

Amendment.

SECTION 1. The city of Grand Rapids shall hereafter hold its charter elections annually, on the day fixed by law for holding town meetings. So much of section 2, of chapter 111, of the laws of Wisconsin for the year 1876, entitled, "An act to amend chapter 247, of private and local laws of 1869, entitled 'An act to incorporate the city of Grand Rapids,'" as is inconsistent with the provisions of this act, is hereby repealed.

SECTION 2. All acts and parts of acts contravening the provisions of this act, are hereby repealed.

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

Approved February 21, 1883.