

CHAPTER 184.

[Published March 16, 1874.]

AN ACT to revise, consolidate and amend the charter of the city of Milwaukee, approved February 20, 1852, and the several acts amendatory thereof.

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

CHAPTER I.

CITY AND WARD BOUNDARIES.

SECTION 1. All the district of country in the county of Milwaukee contained within the limits and boundaries hereinafter described, shall be a city by the name of Milwaukee; and the people now inhabiting, and those who shall hereafter inhabit, within the district of country so described, shall be a municipal corporation by the name of the "City of Milwaukee," and shall have the general powers possessed by municipal corporations at common law; and, in addition thereto, shall possess the powers hereinafter specifically granted; and the authorities thereof shall have perpetual succession, shall be capable of contracting and being contracted with, of suing and being sued, of pleading and being impleaded, in all courts of law and equity; and shall have a common seal, and may change and alter the same at pleasure.

The city of Milwaukee.

SECTION 2. The territory included within the following boundaries and limits shall constitute the city of Milwaukee, to-wit: beginning on the shore of lake Michigan where it is intersected by the section line between sections ten and fifteen, of township seven north, of range twenty-two east, in said county of Milwaukee; running thence west along said line and the continuation thereof, to the northwest corner of section eighteen, of said township and range; thence south on the range line between ranges twenty-one and twenty-two to its intersection with the extension due west of the center line of Cedar street, in the city of Milwaukee; thence west on the line of such extension to its intersection with the north and south quarter line through section twenty-five, of township seven north, of range twenty-one east, in said county; thence south on said quarter line to the south line of said section twenty-five; thence east on said south line to the range line aforesaid; thence south on said range line

Boundaries of the city of Milwaukee.

to the southwest corner of section six, of township six north, of range twenty-two east, in said county; thence east on the south section line of sections six, five and four, of said last mentioned township and range, and its continuation to the east boundary of said county of Milwaukee, thence north to a point due east of the place or point of beginning; and thence west to said place or point of beginning.

Number of wards.

SECTION 3. The said city shall be divided into thirteen wards, numbered and bounded as follows, to wit:

First ward boundaries.

The First ward shall embrace all that part of said district which lies east of the middle of the Milwaukee river, and north of the middle line of Division street, and its extension to the east boundary of said city.

Second ward boundaries.

The Second ward shall embrace that part of said district which lies west of the middle of the Milwaukee river, and is bounded on the north by the middle of Vliet street, and on the south by the middle of Cedar street, and its extension due west to the west line of the city.

Third ward boundaries.

The Third ward shall embrace all that part of said district which lies within the following boundaries, to wit: Beginning at the point where the middle line of Wisconsin street extended intersects the middle line of the Milwaukee river, running thence down said river along the middle line thereof, and of the straight cut harbor to a point due south of the eastern extremity of the north pier of said harbor: thence east to the eastern boundary of said city; thence north to a point due east of the point of intersection of the middle line of Wisconsin street with the shore of Lake Michigan; thence west to said shore; thence along the middle line of said Wisconsin street to the place or point of beginning.

Fourth ward boundaries.

The Fourth ward shall embrace all that part of said district which lies west of the middle of said river, south of the middle line of Cedar street and its extension due west to the west boundary line of said city, and north of the south boundary line of sections twenty-nine, thirty and twenty-five.

Fifth ward boundaries.

The Fifth ward shall embrace all that part of said district which is bounded on the west by the middle of First avenue, on the east by the east boundary of said city, on the north by the south boundary line of the Fourth and Third wards hereinbefore described, and on the south by the middle line of Railroad street and its continuation east to the east boundary of the city.

Sixth ward boundaries.

The Sixth ward shall embrace all that part of said district which lies west of the middle of said river,

north of the middle line of Vliet street, and east of the middle line of Seventh street and south of the middle line of North street.

The Seventh ward shall embrace all that part of said district which lies east of the middle of said river, and between the First and Third wards.

Seventh ward boundaries.

The Eighth ward shall embrace all that part of said district which lies south of the Fourth ward, west of the middle line of First avenue, and north of the middle line of Railroad street and its continuation to the west boundary of the city.

Eighth ward boundaries.

The Ninth ward shall embrace all that part of said district which lies west of the middle of Seventh street, north of the middle of Vliet street, and south of the middle line of Walnut street and Fond du Lac avenue.

Ninth ward boundaries.

The Tenth ward shall embrace all that part of said district which lies west of the middle line of Seventh street and its continuation north to the north boundary of said city, and north of the middle line of Walnut street and Fond du Lac avenue.

Tenth ward boundaries.

The Eleventh ward shall embrace all that part of said district which lies south of the middle line of Railroad street and its continuation to the west boundary of said city, and west of the middle line of First avenue.

Eleventh ward boundaries.

The Twelfth ward shall embrace that part of the said district which lies east of the middle line of First avenue, and south of the middle line of Railroad street and its continuation east to the east boundary of said city.

Twelfth ward boundaries.

And the Thirteenth ward shall embrace all that part of said district which lies west of the middle of Milwaukee river, north of the middle line of North street, east of the middle line of Seventh street and its continuation north to the north boundary of the city.

Thirteenth ward boundaries.

CHAPTER II.

OFFICERS AND ELECTIONS.

SECTION 1. The officers of said city shall be a mayor, three aldermen from each ward, constituting a common council, a city treasurer, a city comptroller, a city attorney, a city clerk, a board of public works, a city engineer, a school board, a tax commissioner, ward assessors, a board of commissioners of the public debt, a board of health, justices of the peace, a chief of police, one chief engineer of the fire department, one or more harbor masters, three inspectors of election for

City officers.

each ward or election precinct, and as many bridge tenders, firemen, constables, policemen and such other officers and agents as may be provided for by this act, or as the common council may from time to time direct.

Annual municipal election.

SECTION 2. The annual municipal election in said city shall be held on the first Tuesday in April of each year, at such place or places in each election precinct as the common council shall designate, at which time there shall be elected by the qualified voters of said city, in the manner herein provided, all officers required to be elected at a general municipal election. The polls of such election shall be opened and closed at the same hours which are or may be prescribed by law for the opening and closing of the polls at general elections in the state of Wisconsin. Ten days previous public notice of the time and places of such election, and of the officers to be elected, shall be given by the city clerk, by publication in one or more newspapers published in said city.

Elected by the people at large.

SECTION 3. The mayor, treasurer, comptroller, attorney, aldermen, justices of the peace and constables shall be elected by the people. The mayor, treasurer, comptroller and attorney shall be elected on the first Tuesday of April, A. D. 1874, being the first municipal election under this act, and biennially thereafter. The officers so elected shall enter upon the duties of their respective offices on the third Tuesday of April in the year of their election, and shall hold their respective offices for the term of two years, and until their successors shall be elected and qualified. A constable shall be elected annually in each ward for the term of one year.

Ward representation-

SECTION 4. Each of the several wards in said city, created by this act, shall be represented in the common council by three aldermen, who shall be residents of such ward, and who shall, except as herein otherwise provided, hold their offices for three years from and after the third Tuesday in April, in the year of their election. The first common council under this act shall be organized and enter upon its duties on the third Tuesday in April, A. D. 1874, and shall be composed as follows: The councilor from each ward in the present board of councilors, whose term of office will expire the third Tuesday in April, A. D. 1875, shall serve as one of the aldermen from such ward under this act, until the end of his said term. At said first municipal election under this act, the qualified voters in each ward shall elect two aldermen, — one for the

Aldermen, how elected.

term of two years, and one for the term of three years from the third Tuesday of April, A. D. 1874, and thereafter one alderman from each ward shall be annually elected for the term of three years.

SECTION 5. If any alderman shall remove from the ward represented by him, or shall engage or continue in any service, business, or employment, causing a continuous absence from the city for more than four months, his office shall thereby become vacant; and whenever any vacancy shall in any manner occur in the office of any alderman, the common council shall, within ten days after the happening of such vacancy, order a new election: *provided*, that more than six months of the term of the alderman shall then remain unexpired.

Vacancies, how filled, etc.

SECTION 6. A justice of the peace shall be elected biennially in each ward by the qualified electors thereof, for the term of two years. The justices of the peace now in office who were elected for a term expiring in April, 1875, shall continue in office until the expiration of such term, and their successors shall be elected at the municipal election in April, 1875, and biennially thereafter.

Ward justices.

SECTION 7. All other officers necessary for the proper management of the affairs of said city shall be appointed by the common council, or by the mayor, or in such manner as the common council may direct, except when otherwise provided in this act.

Other officers.

SECTION 8. All elections by the people shall be by ballot, and a plurality of votes shall constitute an election. All persons entitled to vote for county and state officers, and who shall have resided, next preceding the election, for ten days in the ward where they offer to vote, shall be entitled to vote for any officer to be elected under this act, and to hold any office hereby created.

Elections and electors.

SECTION 9. The common council may, at their discretion, by ordinance, divide the several wards of the city into election precincts by geographical divisions and boundaries as they may deem proper, so that there shall not be more than three polls in each ward; and each voter shall deposit his vote at the poll in the election precinct within which he shall reside.

Election precincts.

SECTION 10. The aldermen shall be inspectors of election for the precinct in which they may respectively reside. The mayor shall annually appoint two clerks of election, and also additional inspectors of election for each election precinct, if required to make the whole number of inspectors, three in each such precinct, in-

Inspectors and clerks of election.

Vacancies how filled.

Candidates shall not be inspectors.

Challenging votes.

Oath of elector.

Penalty for false swearing and fraudulent voting.

cluding such aldermen there resident. Each inspector and clerk of election shall be an elector and resident of such precinct, and shall hold his office for one year from the time of his appointment, and until his successor shall be appointed by the mayor; and the mayor, by appointment, shall fill any vacancy: *provided, however*, that in case of a failure to appoint, or in case of a failure of any such inspector or clerk to appear at the opening of the polls at any election, the electors then present may proceed to fill the vacancy, as provided by the laws of this state regarding elections; but no member of the common council or other person, being a candidate for any office at any election, shall be inspector at such election. Said inspectors and clerks shall, before entering upon their duties, and within ten days after their said appointment, respectively take and file with the city clerk the usual oath of office.

SECTION 11. If either of the inspectors shall suspect that any person offering a vote does not possess the qualifications of an elector, or if any vote be challenged by an elector, the inspectors before receiving the vote of such person shall require him to take the following oath, which either of said inspectors is hereby authorized to administer: "You do solemnly swear (or affirm, as the case may be) that you are twenty-one years of age, that you are a citizen of the United States (or have declared your intentions to become a citizen conformably to the laws of the United States on the subject of naturalization), that you have resided within this ward ten days next preceding this election, that you now reside within this election precinct, and that you have not voted at this election, and that you have made no bet or wager, and have not become directly or indirectly interested in any bet or wager, depending upon the result of this election." And if the person so offering to vote shall take such oath, his vote shall be received. If such person shall take such oath falsely, he shall be deemed guilty of willful and corrupt perjury, and upon conviction thereof, upon indictment or information, shall suffer the punishment provided by law for persons guilty of perjury. If any person who is not a qualified voter shall vote at any election, or if any person qualified shall vote in any other election precinct than the one in which he resides, or shall vote more than once at any one election, he shall be liable to a criminal prosecution by indictment or information; and on conviction thereof, shall forfeit and pay a sum not exceeding one hundred dollars, nor less than twenty-five dollars. It shall be the duty of the in-

spectors to keep a list of the names of all persons whose votes may be challenged as aforesaid, and who shall swear in their votes; and if any inspector shall knowingly and corruptly receive the vote of any person not authorized to vote, or shall make out false returns for an election, or if any clerk shall not write down the name of every voter as he votes, or shall willfully make untrue and incorrect count and tallies of votes, each and every such inspector and clerk shall be liable to be prosecuted therefor by indictment or information, and on conviction thereof, shall forfeit and pay a sum not exceeding five hundred dollars for each offense. All such indictments and informations shall be tried in the county of Milwaukee.

Penalty for knowingly receiving and tallying fraudulent votes.

SECTION 12. When the election shall be closed, and the number of votes for each candidate or person voted for shall be counted and ascertained, the said inspectors shall make returns thereof, stating therein the number of votes cast for each person, for each and every office; and shall deliver or cause to be delivered, such returns to the clerk of the common council, with the ballots cast at such election. Within one week after any election, the common council shall meet and canvass said returns, and declare the result as it appears from the same, and the clerk shall forthwith give notice of his election to each officer elected.

Inspectors shall make returns,

Council shall canvass returns

SECTION 13. In case of a tie vote, or a failure in making an election of any officer, or in case of the dismissal of any officer, or when any officer elected or appointed for the city shall remove his residence without the limits of the city, or when any officer elected or appointed in and for any ward or division of the city, shall remove his residence without the limits of such ward or division, or when any such officer shall refuse or neglect, for ten days after notice of his election or appointment, to qualify and enter upon the discharge of the duties of his office, the office shall be deemed vacant; and whenever a vacancy shall occur in such manner, or in any other manner, in any office to be filled by an election by the people, the common council may order a special election upon a public notice of five days, to be given in like manner as notice is given of the general municipal election, for the election of a person to fill such vacancy. And whenever the vacancy shall occur in any office to be filled by a vote of the common council, the same proceedings shall be had for an election to fill such vacancy as are required for the election of any officer by the common council.

The vote failure to elect, or other cause of vacancy.

Special elections.

How conducted SECTION 14. Special elections by the people to fill vacancies, or for any other purpose, shall be held and conducted by the inspectors and clerks of elections of the several election precincts, in the same manner, and the returns thereof shall be made in the same form and manner as of general annual municipal elections, and within such time as may be prescribed by ordinance.

SECTION 15. Every 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 same liabilities as the person whose office he may be elected or appointed to fill.

SECTION 16. All the elective city and ward officers now in office shall hold their respective offices until the expiration of the terms for which they were respectively elected and until their successors shall be elected and qualified under this act.

Mayor — vacancy how filled.

SECTION 17. When any vacancy shall happen, by death, resignation, removal or otherwise, in the office of mayor, such vacancy shall be filled by a new election, and the common council shall order a new election within ten days after the happening of such vacancy, provided more than six months of the term shall then remain unexpired.

CHAPTER III.

GENERAL POWERS AND DUTIES OF OFFICERS.

Oaths of office. SECTION 1. Every person elected or appointed to any office under this act, shall, before he enters upon the duties of his office, take and subscribe the oath of office prescribed in the constitution of this state, and file the same, duly certified by the officer administering the same, with the clerk of the city; and the treasurer, clerk, constables, and such other officers as the common council may direct, shall each, before entering upon the duties of his office, execute to the city of Milwaukee a

Official bonds. bond, with two or more sureties, the aggregate amount of whose property within this state, over and above all their respective debts, exemptions, and liabilities, as shown by their several and respective affidavits attached to or endorsed on such bond, shall be at least double the sum named as the penalty in such bond; and said bonds shall respectively contain such penal sums and such conditions as the common council may deem proper, and shall be subject to the approval of said council. And the common council may from time to time require new or additional bonds, and remove from office any officer refusing or neglecting to give the

How executed, approved and deposited.

same. All official bonds executed to the city of Milwaukee, except that of the city clerk, shall be filed with and safely preserved by the city clerk in his office, unless the common council shall otherwise direct. The bonds of all officers who may be charged with the collection or safe keeping, or with the disposition or disbursement, of any of the funds of said city, or may have any control over such funds at any time, shall be duly witnessed and acknowledged, and recorded in the office of the register of deeds of the county of Milwaukee. And the city clerk shall, immediately after the filing of any such bond in his office, make and deliver a true copy thereof, duly certified by him under the corporate seal of the city, to the city comptroller, who shall preserve the same in his office. The said certified copy on file with the comptroller, or transcripts from the record of such bonds in the office of the register of deeds duly certified by such register, shall be evidence of the due execution and contents of the bonds so recorded, in case of loss of the originals. The bond of the city clerk shall be filed with the city comptroller.

Certified copies to be delivered to the comptroller.

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

Duties of the Mayor.

SECTION 3. The common council shall, at their first meeting for organization each year after the annual city election, choose by ballot from their number, a President, who shall preside over their meetings for the ensuing year. In case of a vacancy in the office of mayor, or of his being unable to perform the duties of his office by reason of absence or sickness, the president of the common council shall have and exercise all the powers and discharge all the duties of the mayor, until the mayor shall resume his office, or the vacancy shall be filled by a new election.

President of the council.

May discharge duties of Mayor.

SECTION 4. The clerk shall be elected by the common council for the term of two years. He shall keep the corporate seal and all papers and records of the city. It shall be his duty to attend all meetings of the common council, and to keep a full record of their pro-

City clerk.

His term of office, duties etc.

ceedings. He shall draw and sign all orders on the treasury (except as otherwise provided in this act), in pursuance of an order or resolution of the common council, and shall keep a full and correct account thereof, in books provided for that purpose. Copies of any and all books, papers, instruments or documents duly filed and kept in his office, and of the endorsements thereon, and transcripts from the records of the proceedings of the common council, certified by him under the corporate seal of the city, shall be evidence in all courts and places of the contents thereof and of such endorsements, in like manner and with the same force and effect as if the originals were produced. He shall also have power to administer oaths and affirmations, authorized to be taken by and under the laws of this state; and shall perform such other duties as may be required of him by the common council.

City attorney, duties of the office, etc.

SECTION 5. The city attorney shall conduct all the law business of the corporation and of the departments thereof, and all other law business in which the city shall be interested, when so ordered by the common council. He shall, when required, furnish written opinions upon subjects submitted to him by the mayor, or the common council, or any of its committees, or any other department of the municipal government. He shall keep a docket of all the cases to which the city may be a party in any court of record, in which shall be briefly entered all steps taken in each cause, and which shall, at all times, be open to the inspection of the mayor, comptroller, or any committee of the common council. It shall also be the duty of the city attorney to draft all ordinances, bonds, contracts, leases, conveyances, and other such instruments of writing as may be required by the business of the city; to examine and inspect tax and assessment rolls, and all proceedings in reference to the levying and collection of taxes and assessments; and to perform such other duties as may be prescribed by the charter and ordinances of the city. He shall have power to appoint an assistant, who shall be authorized to do all acts required by law of the city attorney: *provided*, that the city attorney shall be responsible to the city for all the acts of such assistant; and that the city shall not be liable for the compensation of such assistant, nor have any power to pay the same.

May appoint an assistant.

City treasurer.

SECTION 6. The treasurer shall receive all moneys belonging to the city, and shall keep an accurate account of the same in suitable books to be provided for that purpose. He shall also, on the first Monday of

each month, make a report to the common council, embracing a statement of the receipts and disbursement in his office since the last preceding monthly report, on account of the general fund and of each fund which he is required to keep distinct and separate from other funds in the city treasury; and also the total receipts and disbursements during the same time; and the condition of each of such funds at the date of the report. Such reports when made shall be published with the proceedings of the common council when the common council shall so direct.

Shall report receipts, disbursements, etc.

SECTION 7. On the first Monday in April in each year, the treasurer shall file in the office of the city comptroller a statement showing the monthly receipts and disbursements of the preceding year, on account of the general city and ward funds; such statement to embrace the gross amounts of receipts and disbursements set forth in the monthly reports provided for in the next preceding section.

Annual statement.

SECTION 8. The common council shall have power from time to time to require other and further duties to be performed by any officer whose duties are herein prescribed; and to appoint such other officers as in their judgment may be necessary to carry into effect the provisions of this act, and to prescribe their duties; and to fix the compensation of all officers elected or appointed, when the same shall not be fixed by law; such compensation shall be fixed by resolution or ordinance at the time the office is created, or as soon as practicable after the commencement of the municipal year, and shall not be increased or diminished during the term such officer shall remain in office. The common council shall also have power to dismiss any officer appointed by said council under the provisions of this section, at any time when in the judgment of the common council the services of such officer are no longer needed.

Other official duties, compensation, etc.

Dismissal.

SECTION 9. The common council at their first meeting in each year, or as soon thereafter as may be, shall designate not more than two daily newspapers printed in said city, one in English and one in German, in which shall be published all ordinances, notices and other proceedings and matters, required by this act, or by resolution or ordinance of the common council, to be published in a public newspaper.

Official papers.

SECTION 10. The city printer or printers, immediately after the publication of any notice, ordinance or resolution, which by this act is required to be pub-

Proof of official publication.

lished, shall file with the clerk of the city a copy of such publication, with his or their affidavit, or the affidavit of his or their foreman, of the length of time the same has been published; and such affidavit shall be conclusive evidence of the publication of such notice, ordinance or resolution.

Delivering property to successor in office.

SECTION 11. 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 one hundred dollars, besides all damages caused by his neglect or refusal so to deliver; and such successor may recover the possession of such books, papers and effects in the manner prescribed by the laws of this state.

CITY COMPTROLLER.

Comptroller shall make annual report.

SECTION 12. The city comptroller shall report annually on or about the first day of April, to the common council, a statement in detail of the expenses of the city and of the several wards during the preceding year, and likewise a detailed estimate of the revenue necessary to be raised for the ensuing year; and the fiscal year of the city shall commence on the first day of April.

Shall examine and countersign contracts.

SECTION 13. He shall examine all estimates of work to be done by the board of public works of the city, and countersign all contracts entered into by said board of public works, and all certificates of work given by them; and also all contracts made in behalf the city, and certificates of work by any city officer; and no contract entered into, or certificate issued against property, shall be of any validity unless countersigned by the comptroller, except as otherwise expressly provided in this act.

Shall keep a list of certificates issued against property.

SECTION 14. He shall keep a list of all certificates issued against property in each ward, and, before the levy by the common council of the annual tax, shall report to the council a schedule of all the lots or parcels of land within the several wards, which, under this act, may be subject to any special tax or assessment, and also the amount of such special tax or assessment which it may be necessary to levy on each such lot or parcel of land, with a full statement of the several acts done and performed in reference to such special taxes, or assessments—which said schedule shall be verified by the affidavit of the comptroller, and shall be *prima*

facie evidence of the facts therein stated in all cases wherein the validity of such special tax or assessment shall come in question. The common council shall, if from such report they shall deem such special tax legal and just, cause the same to be levied in pursuance of the provisions of this act.

SECTION 15. He shall report monthly to the common council the amount of work done, or for which contracts have been entered into, chargeable to the several wards, and to the general city fund and to any other fund, and set forth what proportion the same will bear to the annual estimate made by him for the work to be performed and revenue to be raised.

Monthly report to council.

SECTION 16. He shall examine the reports, books, papers, vouchers and accounts of the treasurer, and shall perform such other duties as are prescribed in this act, and as the common council may from time to time direct.

Shall examine treasurers accounts.

SECTION 17. All claims and demands against the city, before they are allowed by the common council, shall be audited and adjusted by the comptroller, and immediately after the allowance by the common council of any claim or account, it shall be the duty of the clerk to furnish to the comptroller a complete list of the same, and, before any warrant shall be issued therefor, it shall be the duty of the comptroller to countersign the same.

Shall audit and adjust all claims against the city.

SECTION 18. The comptroller shall be authorized to administer oaths and affirmations in all matters arising under the laws and ordinances of the city; and he may require all parties having claims or accounts against the city or either of the wards, to verify the same by affidavit. In all cases of doubt arising under any claim or contract against or with the city or either of the wards, he shall inquire into the same; and for this purpose he may examine parties and others under oath; and if any person shall swear or affirm falsely, touching the expenditure of any of the money of the city or either of the wards, or in support of any claim against the said city or either of the said wards, such person shall be subject to indictment or information, and on conviction thereof, shall be punished as for willful and corrupt perjury.

May administer oaths.

SECTION 19. The comptroller shall keep a record of all his acts and doings, which record shall be open to the inspection of all parties interested. He shall not be directly or indirectly interested in any contract or job to which the city or either of the wards is a party.

His record open to inspection.

SECTION 20. The comptroller, clerk and treasurer

Comptroller's,

clerk's and
treasurer's
deputies.

may, each, appoint a deputy, for whose acts they shall respectively be responsible. Such deputies, after taking the oath of office required to be taken by their principals, may, in case of the sickness or absence of their principals, respectively perform all the duties imposed by law or the ordinances of the city, on said principals respectively; and shall likewise be subject to the same liabilities and penalties.

CHAPTER IV.

THE COMMON COUNCIL—ITS GENERAL POWERS.

SECTION 1. The municipal government of the city shall be vested in the mayor and common council; and the style of all ordinances shall be "the mayor and common council do ordain," etc.

Stated meet-
ings.

SECTION 2. The common council shall hold stated meetings at such times and places as they shall appoint; and the mayor or the president of the board of aldermen may call special meetings thereof by notice of at least twenty-four hours, to each of the members, to be served personally, or left at his usual place of abode.

Rules of gov-
ernment.

The common council shall determine the rules for their own government and proceedings provided such rules are consistent with the provisions of this act. Three-

Quorums.

fifths of the members elected shall be required to constitute a quorum for the transaction of business, but a smaller number may adjourn; their session shall be open and public; their proceedings shall be recorded; and all their papers and records, and all election returns shall be deposited with the clerk of the common council, and the same may be examined at any time in the presence of the clerk; and each member of the common council shall have one vote, and no more on any one question.

Ayes and noes.

The ayes and noes may be required by any member; and on all questions, ordinances or resolutions for assessing and levying taxes, or for the appropriation or disbursement of money, or creating any liability or charge against said city or any fund thereof, the vote shall be taken by ayes and noes; and every vote by ayes and noes shall be entered at length upon the journal. The common council shall be the judge

Compulsory at-
tendance, fines,
etc.

of the election and qualifications of its own members, and may punish its members or other persons present, by fine, for disorderly behavior; may compel the attendance of its members upon its sessions, and employ the police of said city for that purpose; and may fine or expel any member for neglecting his duty as such member, or for unnecessary absence from the sessions of the board. At all elections or confirmations by the

common council, the vote shall be given viva voce, and shall be duly recorded by the clerk in the journal; and the concurrence of a majority of all the members elect shall be necessary to an election or confirmation. Elections and confirmations.

SECTION 3. The common council shall have the management and control of the finances, and of all the property of the city, except as in this act otherwise provided, and shall likewise, in addition to all other powers herein vested in them, have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify, amend and repeal all such ordinances, rules, by-laws and regulations for the government and good order of the city—for the benefit of the trade, commerce and health thereof—for the suppression of vice—for the prevention of crime—and for carrying into effect the powers vested in said common council, as they shall deem expedient; and to declare and impose penalties, and to enforce the same against any person or persons who may violate any of the provisions of such ordinances, rules, by-laws and regulations. And such ordinances, rules, by-laws and regulations are hereby declared to be, and have the force of law: *provided*, that they be not repugnant to the constitution of the United States or of this state. And for these purposes the common council shall have authority—anything in any general law of this state to the contrary notwithstanding—by ordinances, resolutions, by-laws, rules or regulations: Finances.
Ordinances.
Penalties.
Council may regulate.

1. To regulate groceries, taverns, victualling-houses, saloons, gardens, and all other places within said city, where wines and other liquors are sold to be drank on the premises; and to license, regulate and restrain tavern keepers, grocers, keepers of ordinaries, saloons, victualing-houses, or other houses or places for the selling or giving away spirituous, vinous, or fermented liquors; and to classify, grade and regulate the amount to be paid for licenses for dealing in or vending spirituous, vinous or fermented liquors, in proportion to the amount dealt in or vended; and to prescribe the time for which such licenses shall be granted; and to restrain any person from vending, giving or dealing in spirituous, vinous or fermented liquors unless duly licensed by authority of the common council: *provided*, that the amount charged for such licenses shall in no case be less than thirty, nor more than two hundred dollars per annum, nor shall any license be granted for a less term than six months. Groceries saloons taverns, etc.

2. To license, tax, regulate, suppress or prohibit bil- Billiard tables.

liard tables, nine or ten pin alleys, bowling saloons and ball alleys.

Shows and exhibitions.

3. To license, tax, regulate, suppress or prohibit all exhibitions of common showmen, shows of any and every kind, concerts or other musical entertainments by itinerant persons or companies; exhibitions of natural or artificial curiosities, caravans, circuses, theatrical performances, and all other exhibitions and amusements.

Gaming.

4. To restrain or prohibit all descriptions of gaming and fraudulent devices and practices, and all playing of cards, dice and other games of chance, for the purpose of gaming in said city.

Riots or disturbances.

5. To prevent any riot, noise, disturbance or disorderly assemblages; to suppress and restrain disorderly houses and groceries, and houses of ill-fame; and to authorize the destruction of all instruments and devices used for the purpose of gaming.

Unwholesome nuisances.

6. To compel the owner or occupant of any grocery, cellar, tallow chandler's shop, soap factory, tannery, stable, barn, privy, sewer or other unwholesome 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.

Breweries, tanneries, distilleries, slaughter houses, etc.

7. To direct the location and management of, and regulate breweries, tanneries and packing houses; and to direct the location, management and construction of, and regulate, license, restrain, abate or prohibit, within the city and the distance of four miles therefrom, distilleries, slaughtering establishments, establishments for steaming or rendering lard, tallow, offal, and such other substances as can or may be rendered, and all establishments or places where any nauseous, offensive or unwholesome business may be carried on; *provided*, that for the purpose of this section, the Milwaukee, Menomonee and Kinnickinnick rivers, with their branches, to the outer limits of the county of Milwaukee, and all canals connected with said rivers, together with the land adjacent to said rivers and canals, or within one hundred rods thereof, shall be deemed to be within the jurisdiction of the city.

Public markets

8. To establish and regulate public markets, determine their location, and 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 interrupting or interfering with the due observance of such rules and regulations.

9. To regulate butchers, and to regulate and restrain the sale of game, poultry, fresh meat, vegetables, fish, butter, fruit, eggs, and other provisions in the city; to restrain and punish the forestalling of poultry, fruit and eggs; and to cause the seizure and destruction, or other disposition, of tainted or unwholesome meat, butter, vegetables, fruit or provisions. **Butchers, game meat, vegetables, etc.**
10. To direct or prohibit the location and management of houses for the storing of gunpowder or other combustible and dangerous materials within the city. **Gunpowder.**
11. To regulate and restrain the keeping and conveying of gunpowder and other combustible and dangerous materials; and the use of candles and lights in barns, stables and outhouses.
12. To prevent the shooting of firearms and crackers, and to prevent the exhibition or use of any fireworks, at any time or in any situation which may be considered by the council dangerous to the city, or to any property therein, or annoying to any citizen thereof. **Firearms and fireworks.**
13. To prevent the encumbering of the streets, sidewalks, lanes, alleys, public grounds, wharves and docks with carriages, carts, wagons, sleighs, sleds, wheelbarrows, boxes, lumber, firewood, timber, posts, signs, awnings, or any substance or material, or in any manner whatsoever. **Encumbering streets.**
14. To prevent horse-racing and immoderate riding or driving in the streets, and to authorize any person to stop persons immoderately riding or driving as aforesaid; to prohibit and punish the abuse of animals; and to compel persons to fasten their horses, oxen, or other animals, attached to vehicles or otherwise, while standing or remaining in any street, alley or public ground. **Horse racing, fast riding or driving.**
15. To regulate and determine the times and places of bathing and swimming in the canals, rivers, harbors, or other waters, in and adjoining said city, and to prevent any obscene or indecent exhibition, exposure or conduct. **Bathing or swimming.**
16. To restrain and punish vagrants, mendicants, street beggars and prostitutes; and to restrain drunkards, immoderate drinking, or obscenity, in the streets or public places, and to provide for arresting, removing and punishing any person or persons who may be guilty of the same. **Vagrants and beggars.**
17. To restrain and regulate, or prohibit, the running at large of cattle, horses, mules, swine, sheep, goats, poultry and geese, and to authorize the distraining, impounding and sale of the same, for the penalty **Impounding cattle, horses, and other animals.**

incurred and the cost of the proceedings; and also to impose penalties on the owners of any such animals, for a violation of any ordinances in relation thereto.

Dogs.

18. To prevent the running at large of dogs in the said city, and to authorize the destruction of the same in a summary manner, when at large contrary to the ordinances.

19. To provide for licensing the keeping of dogs in the said city, at a sum or rate of not less than one dollar nor more than ten dollars a year for each dog; and to provide for a badge or token to be carried by each licensed dog; and for the secure muzzling of licensed dogs; and for the killing and destruction in a summary [manner] of all dogs not licensed wherever the same may be found within the said city, and of licensed dogs running at large in the streets, alleys, or public grounds, in the said city; and to punish persons keeping unlicensed dogs.

Hackmen draymen, etc.

20. To license, regulate and suppress hackmen, draymen, cartmen, porters, omnibus drivers, cabmen, carmen, and all others, whether in the permanent employment of any corporation or otherwise, who may pursue like occupations, with or without vehicles, and to prescribe their compensations.

Hoop, balls, kites, etc.

21. To prevent and regulate the rolling of hoops, flying of kites, playing of ball, or other amusements or practices having a tendency to annoy persons passing in the streets or on the sidewalks, or to frighten teams and horses.

Contagious or infectious diseases.

22. To regulate, control and prevent the landing of persons from boats or vessels wherein are contagious or infectious diseases or disorders, and to make such disposition of such persons as to preserve the health of said city; and also to make regulations to prevent the introduction of contagious diseases into the city, or their spread therein; and to make quarantine laws or regulations, and enforce the same within the city and not to exceed five miles beyond the city bounds.

Abating nuisances.

23. To abate all nuisances which are or may be injurious to the public health, in any manner they may deem expedient; and to do all acts and make all regulations which may be necessary or expedient for the preservation of health and the suppression of disease.

Mortuary.

24. To regulate the burial of the dead and registration of births and deaths; to provide hospital and cemetery grounds; to direct the returning and keeping of bills of mortality; and to impose penalties on physicians, sextons and others, for any default in the premises.

25. To abate and remove all nuisances under the ordinances or at common law, and punish the authors thereof by penalties, fine and imprisonment; and to define and declare what shall be deemed nuisances, and authorize and direct the summary abatement thereof; but nothing in this act shall be so construed as to oust any court of its jurisdiction to abate and remove nuisances in the streets, or any other parts of said city, or within its jurisdiction, by indictment or otherwise.

Common law nuisances.

26. To prevent any person from bringing, depositing or having within the limits of said city, any putrid carcass or other unwholesome substance; and to require the removal or destruction of the same by any person who shall have upon or near his premises any such substances, or any putrid or unsound beef, pork, fish, hides or skin of any kind; and, on his default, to authorize the removal or destruction thereof by some officer or officers of the city, at the expense of such person or persons.

Putrid carcasses.

27. To erect or establish one or more pest houses, hospitals and dispensaries, and control and regulate the same.

28. To prevent the ringing of bells, blowing of horns and bugles, crying of goods, and all other noises, performances and devices tending to the collection of persons on the streets or sidewalks, by auctioneers or others, for the purpose of business, amusement, or otherwise.

Auctioneers bells, etc.

29. To control, regulate, or prohibit the use of steam whistles within the limits of the city.

Steam whistles.

30. To control and regulate the streets, alleys and public grounds in said city, and provide for sprinkling the same at the cost of the lots or parts of lots fronting thereon; and to remove and abate any obstructions and encroachments therein.

Street sprinkling.

31. To compel the owners or occupants of buildings or grounds to remove and keep snow, ice, dirt, or rubbish, from the sidewalk, street, or alley opposite thereto; and to compel such owner or occupants to remove from the lots, owned or occupied by them, all such substances as the board of health shall direct; and, on their default, to authorize the removal or destruction thereof by some officer of the city, at the expense of such owners or occupants.

Removing snow from street and sidewalks.

32. To control, regulate, repair, amend and clear the streets and alleys, bridges and side and cross walks, and open, widen, straighten and vacate streets and alleys, and establish and alter the grade thereof; and prevent

Control of streets and bridges.

the encumbering of the streets and alleys in any manner and protect the same from any encroachment, or injury; and to regulate the manner of using the streets and pavements in said city, and protect the same from injury by vehicles used thereon.

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

Pounds, pumps
wells and cis-
terns.

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

Street lights-

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

Bread.

36. To regulate the sale of bread within said city, and prescribe the assize and weight of bread in the loaf, and the quality of the same; and to provide for the seizure and forfeiture of bread baked contrary to such regulations and prescriptions.

Weights and
measures.

37. To require every merchant, retailer, trader and dealer in merchandise or property of any description which is sold by measure or weight, to cause his weights and measures to be sealed by the city sealer, and to be subject to his inspection, and to provide for the punishment of persons using false weights and measures. The standards of such weights and measures shall be conformable to those established by law in this state.

Hay, wood and
ice.

38. To regulate the weighing and sale of hay, and the places and manner thereof; to regulate the cutting and sale of ice, and to restrain the sale of such ice as is impure; also to regulate the measuring and sale of wood, and the weighing and selling of coal and lime, and the places and manner thereof; and to appoint suitable persons to superintend and conduct the same, and define their duties.

Auctioneers,
pawn brokers,
and others.

39. To regulate the times, places and manner of holding public auctions or vendues.

Licenses.

40. To tax, license and regulate auctioneers, distillers, brewers and pawnbrokers, and all keepers or proprietors of junk shops and places for the sale and purchase of second-hand goods, wares and merchandise; and to tax, license, regulate and restrain hawkers and peddlers, and runners or solicitors for steamboats, vessels, cars, railroads, stages, public houses and other establishments; and other runners, including runners

or solicitors for mercantile houses from other cities and towns, for the sale of goods, wares and merchandise by sample, order or otherwise; and keepers or proprietors of gift book stores, gift concerts and other gift enterprises; and to fix and regulate the amount for licenses under this subdivision, and to prescribe the time for which such licenses shall be granted, and to provide and enforce penalties for carrying on either of said trades, kinds of business or employments, without license; and to regulate the manner in which they shall be carried on: *provided*, that no such license shall be granted for a less term than three months, nor for a longer term than one year, and that the amount to the rate for any such license shall not be less than at be paid of twenty dollars per year, nor greater than at the rate of two hundred and fifty dollars per year, for the carrying on of either of said trades, kinds of business or employments.

Term of license

41. To regulate or prohibit the keeping of any lumber yard, and the placing, piling, or selling of lumber, timber, wood, or other combustible material, within the fire limits of said city. **Lumber.**

42. To regulate the measuring and inspecting of lumber, shingles, timber posts, staves and headings, and all building materials; and to appoint one or more inspectors.

43. To regulate the places and manner of selling pickled and other fish. **Fish.**

44. To regulate the inspection of whisky and other liquors, to be sold in barrels, hogsheads and other vessels. **Whisky.**

45. To provide for the inspection and regulation of stationary steam engines and boilers.

46. To appoint inspectors, weighers and gaugers, and regulate their duties and prescribe their fees.

47. To establish and regulate public pounds.

48. To regulate and prohibit the use of locomotive engines within the city, and to require railroad cars to be propelled by other power than that of steam; to direct and control the location of railroad tracks; and to require railroad companies to construct and maintain at their own expense, such bridges, viaducts, tunnels, or other conveniences, at public railroad crossings, as the common council may deem necessary; also, to regulate the running of horse railway cars, the laying down of tracks for the same, the transportation of passengers thereon, and the kind of rail to be used. **Locomotive engines, railroad cars, etc.**

49. To appoint watchmen and policemen, and regulate the police, and prescribe their duties. **Policemen.**

**Numbering
houses.**

50. To compel the owners and occupants of all houses, stores and other buildings within the city of Milwaukee, to number the same in such manner as the common council may from time to time prescribe.

Noxious plants

51. To declare the weed, commonly called the Canada thistle, and other noxious plants and weeds on lots, parts of lots and lands in the said city, a public nuisance, and to proceed to abate the same, as the said city is authorized by law to abate other nuisances.

Fines.

52. To impose fines for all violations, within the limits of the said city, of the general laws of the state, when, in their judgment, it is necessary for the peace and good order, or for the health of the said city-

53. To direct and regulate the planting and preserving of ornamental trees in the streets and public grounds.

Bridges.

54. Exclusively to erect and construct, or to permit or cause or procure to be erected and constructed, float, pivot or drawbridges, over the navigable waters within the jurisdiction of said city, and keep the same in repair; said bridges to have draws of suitable width.

**Harbor and
river.**

55. To preserve the harbor; to prevent any use of the same, or any act in relation thereto, inconsistent with or detrimental to the public health, or calculated to render the waters of the same, or any part thereof, impure or offensive, or tending in any degree to fill up or obstruct the same; to prevent and punish the casting or depositing therein of any earth, dead animals, ashes, or other substance or filth, logs or floating matter; to prevent and remove all obstructions therein, and punish the authors thereof; to regulate and prescribe the mode and speed of entering and leaving the harbor, of passing the bridges, and of coming to and departing from the wharves and streets of the city, by steamboats, canal boats and other crafts and vessels, and the disposition of the sails, yards, anchors and appurtenances thereof, while entering, leaving or abiding in the harbor; and to regulate and prescribe by such ordinances, or through their harbor master or other authorized officer, such location of every canal boat, steamboat, or other craft or vessel afloat, and such changes of station in, and use of, the harbor, as may be necessary to promote order therein, and the safety and equal convenience as near as may be, of all such boats, vessels, crafts and floats; and to impose penalties, not exceeding one hundred dollars, for any offense against any such ordinance; and by such ordinance to change such penalties, together with such expenses as may be

**Speed of ves-
sels.****Penalties and
expenses.**

incurred by the city in enforcing this section, upon the steamboat, canal boat, or other vessel, craft or float.

56. To prescribe, regulate and control the time or times, manner and speed of all boats, crafts and vessels passing the bridges over the Milwaukee, Menomonee and Kinnickinnick rivers, and the canals in said city.

57. To regulate the construction of piers and wharves extending into lake Michigan within the limits of said city; and to prescribe and control the prices to be charged for pierage or wharfage thereon; and to regulate, prescribe and control the prices to be charged for dockage and storage within the city. Lake piers and wharves.

58. To lease the wharfing privileges of the rivers at the ends of streets, upon such terms and conditions as may be reserved in the leasing of other real estate, reserving such rents as may be agreed upon, and employing such remedies in case of non-performance of any covenants in such case as are given by law in other cases; but no buildings shall be erected thereon, nor shall a lease for a longer period than ten days at any one time be executed; and the owner or owners of the adjoining lot or lots, shall, in all cases, have the preference in leasing such property, and a free passage over the same for all persons with their baggage shall be reserved in such lease: *provided*, nothing in this section shall be so construed as to impair or prejudice any rights which any person may have acquired by the acceptance of any proposition heretofore made by said city respecting such wharfing privileges. River piers and wharves.

59. To authorize the taking up, and to provide for the safe keeping and education, for such periods of time as may be deemed expedient, of all children who are destitute of proper parental care and growing up in mendicancy, ignorance, idleness and vice. Indigent and destitute children.

60. To authorize the arrest, fine and imprisonment, as vagrants, of all persons, who, not having visible means to maintain themselves, are without employment, idly loitering or rambling about, or staying in groceries, drinking saloons, houses of ill-fame or houses of bad repute, gambling houses, railroad depots or fire engine houses; or who shall be found trespassing in the night time upon the private premises of others; or begging, or placing themselves in the streets or other thoroughfares or public places to beg or receive alms; also keepers, exhibitors, or visitors at any gaming table, gambling house, house of fortune telling, place for cock fighting, or other place of device; and all persons who go about for the purpose of gaming or watch stuffing, Vagrants.
Swindlers.

or who shall have in their possession any article or thing used for obtaining money under false pretenses, or who shall disturb any place where public or private schools are held; either on week day or Sabbath, or places where religious worship is held.

**Concealed arms
weapons.**

61. To regulate or prohibit the carrying or wearing by any person under his clothes, or concealed about his person, of any pistol or colt, or slung shot, or cross knuckles, or knuckles of lead, brass or other metal, or bowie knife, dirk knife, or dirk or dagger, or any other dangerous or deadly weapon, and to provide for the confiscation or sale of such weapons.

**Chimneys and
smoke stacks.**

62. To control and regulate the construction of buildings, chimneys and stacks; and to prevent and prohibit the erection or maintenance of any insecure or unsafe buildings, stack, wall or chimney, in said city, and to declare them to be nuisances, and to provide for their summary abatement.

63. To declare that it shall be unlawful for any hall, theater, opera house, church, school house or building of any kind whatsoever, to be used for the assemblage of people, unless the same is provided with ample means for the safe and speedy egress of the persons therein assembled, in case of alarm.

**Public grounds
and pounds.**

64. To require the mayor and chief of police to detail a sufficient number of men from the police force of the city to take charge of the public grounds of said city, and to properly enforce the pound ordinances thereof, and to provide for the election of one or more pound keepers, and for the payment of such pound keepers, either by salary or fees, or partly by both; and to make all necessary rules and regulations for the enforcement of any pound ordinance of said city.

**Vote necessary
to pass an
ordinance.**

SECTION 4. All laws, ordinances, rules, regulations and by-laws shall be passed by an affirmative vote of a majority of the aldermen elect, and shall be signed by the mayor, and by the presiding officer of the council, and shall be published in the official papers of said city before the same shall be in force, and within fifteen days after such publication, they shall be recorded by the city clerk, in books to be provided for that purpose; but, before any of the said laws, ordinances, rules, regulations, or by-laws shall be so recorded, the publication thereof respectively, within the said time, shall be proved by the affidavit of the foreman or publisher of each of such newspapers, and said affidavits shall be recorded therewith, and at all times and in all courts and places, shall be deemed and taken as sufficient evidence of the time and manner of such publi-

ation. No ordinance shall be passed, no appropriation shall be made, and no act, regulation, resolution or order which may create a debt or liability against said city, or a charge upon any fund thereof shall be adopted without a vote in its favor of a majority of all the aldermen entitled to seats in the common council, which vote shall be taken by the ayes and noes, and entered among the proceedings of the council; and when the grade of any street shall have been established by ordinance, and such street shall have been actually made to conform to such established grade, under the direction of the proper authorities of said city, such grade shall not thereafter be changed without a vote of two-thirds of all the members elect of the common council, including the votes of all the members elect representing the ward or wards in which the change is proposed to be made, in favor thereof; the vote in every such case shall be taken by ayes and noes, and shall be entered upon the journal of the common council.

Ayes and noes on ordinances and appropriations.

Vote necessary to change grade of street.

SECTION 5. All ordinances, petitions and communications to the common council, and all accounts and resolutions appropriating money or creating any charge against any of the funds of said city, shall be referred to appropriate committees, and shall only be acted on by the common council at a subsequent meeting,—not held on the same day,—on the report of the committee to which the same were referred. Action upon any report of a committee made to the council shall be deferred to the next regular meeting of the same by request of one-fifth of the aldermen present.

Appropriations shall be referred to committees.

SECTION 6. No vote of the common council shall be reconsidered or rescinded at a special meeting, unless at such special meeting there be present as large a number of aldermen as were present when such vote was taken.

Reconsiderations.

SECTION 7. Every act, ordinance, by-law, regulation, resolution, or appropriation, which shall have been duly passed by the common council, before it shall take effect, and within five days after its passage, shall be duly certified by the city clerk, and presented to the mayor for his approbation. If he approve, he shall sign it; if not, he shall return it, within five days, with his objections stated in writing, to the city clerk; and the clerk shall submit said objections to the common council at their next regular meeting thereafter, who shall enter said objections upon the record of their proceedings, and shall proceed to reconsider the matter; and if, after such reconsideration, two-thirds of all

Mayor shall approve ordinances in writing.

Time in which to return them with objections.

**Vote necessary
override veto.** the members elected should vote to pass such act, ordinance, by-law, regulation, resolution, or appropriation, it shall take effect and be in force as an act or law of the corporation; otherwise it shall be null and void. All such votes after receiving the objections of the mayor, shall be taken by yeas and nays, and entered upon the journal of proceedings of the common council. If the mayor shall not return any act, ordinance, by-law, regulation, resolution, or appropriation, so presented to him, within five days after such presentation thereof, it shall take effect in the same manner as if he had signed it.

**May become law
without mayors
signature.**

**Suits may be
brought to a-
bate nuisances.**

SECTION 8. The powers conferred upon the said common council to provide for the abatement or removal of nuisances, shall not bar or hinder suits, prosecutions or proceedings in the courts, according to law. Depots, houses, or buildings of any kind, wherein more than ten pounds of gunpowder are deposited, stored or kept at one time, gambling houses, houses of ill-fame, disorderly taverns, and houses or places where spirituous, vinous or fermented liquors are sold without license, within the limits of said city, are hereby declared and shall be deemed public or common nuisances.

**Accounts of
treasurer, board
of public works
and others
shall be annual-
ly examined.**

SECTION 9. The common council shall examine, audit and adjust the accounts of the clerk, treasurer, board of public works, and all other officers or agents of the city, at such times as they may deem proper, and also at the end of each year, and before the term for which the officers of said city are elected or appointed shall have expired. And the common council shall require each and every such officer and agent to exhibit his books, accounts and vouchers, for such examination and settlement, and if any such officer or agent shall refuse to comply with the orders of said council in the discharge of their duties in pursuance of this section, or shall neglect or refuse to render his accounts or present his books and vouchers to said council, or any authorized committee thereof, it shall be the duty of the common council to declare the office of such person vacant. The common council shall order suits and proceedings at law against any officer and agent of said city, who may be found delinquent or defaulting in his accounts, or in the discharge of his official duties. And they shall make a full record of all such settlements and adjustments.

**Council may or-
der suits.**

CHAPTER V.

BOARD OF PUBLIC WORKS.

SECTION 1. There shall be in the city of Milwaukee, an executive, department, to be known as the board of public works, to consist of three members, who shall be styled commissioners of public works. They shall elect annually from their own number a president and a clerk, who are severally thereby authorized to administer all oaths required by this act. The members of said board shall be appointed by the mayor of said city, with the approval of a majority of the members elect of the common council. Their term of office shall be three years, and shall commence on the third Tuesday of April. Each of the present members of said board shall hold his office (unless sooner removed is provided by law) until the expiration of the term for which he was appointed, and annually hereafter a person shall be appointed for three years, as above provided, to succeed the member whose term of office shall then expire, and as often as vacancy shall occur in said board, whether by death, resignation, or otherwise, a person shall be appointed in the manner above provided, to succeed the person whose office shall so become vacant, for the remainder of his term. The members of said board, at the time of their appointment, shall respectively reside—one in that part of said city which lies east of the Milwaukee river, one in that part of said city which lies west of the Milwaukee and north of the Menomonee river, and one in that part of said city which lies south of the Menomonee and west of the Milwaukee rivers.

Board of public works how created and organized.

Term of office.

Their residence prescribed.

SECTION 2. The said board shall appoint, subject to the approval of the common council, some competent person as city engineer, whose term of office shall continue for one year and until his successor is appointed, unless he shall be sooner removed by the board of public works for cause. Said engineer shall keep his office in some convenient place to be designated by the council, and it shall be his duty to execute all the civil engineering required by said board, and do such other things as may be required by said board or the common council. Said engineer shall possess the same powers in making surveys and plats within said city that are given by law to county surveyors, and the like validity and effect shall be given to his acts, and to all plats and surveys made by him, as are or may be given to the acts, plats, and surveys of

City engineer how appointed and removed.

His powers and duties.

county surveyors. He shall keep a record of all his official acts and doings, shall keep on file a copy of all plats of lots, and blocks, and sewers embraced in the city limits—of profiles of streets, alleys and sewers, and of the grade thereof—and of all drafts and plans relating to bridges and harbors, and to any public buildings belonging to the city of Milwaukee; and shall keep a record of the location of bench marks and permanent corner stakes from which subsequent surveys shall be started, all of which such records and documents shall be the property of the city, open to the inspection of parties interested, and shall be delivered over by said engineer at the expiration of his term of service to his successor in office, or to the board of public works. He shall make an annual report of all the acts and doings of the engineer's department to the board of public works on or before the first day of February in each year. The salaries of said engineer and his assistants shall be fixed by the common council, and shall be paid out of the general city fund.

Additional employes and workmen.

SECTION 3. The said board of public works are authorized to employ, from time to time, such superintendents, surveyors, clerks, agents, assistants and workmen as they may deem necessary in the discharge of their duties; and may adopt by-laws for the regulation and conduct of all persons in their employ or under their supervision; subject, however, to such regulations respecting the number of persons regularly or permanently employed and their compensation and duties, as the common council may prescribe by ordinance. From and after the third Tuesday in April, 1874, the commissioners of public works now in office shall receive an annual salary of \$2,250. The commissioners who may be hereafter appointed shall receive such a salary as may be fixed by the common council, not exceeding three thousand dollars per annum, but the amount of such salary for each commissioner shall not be fixed until after his appointment shall have been confirmed by the common council.

Salary of board of public work.

Official oath and bond.

SECTION 4. Each of the members of the board of public works shall, on entering upon the duties of his office, take and subscribe an oath of office to support the constitution and laws of the state of Wisconsin, and faithfully to perform the duties of his office, and shall give a bond to the said city, with sufficient sureties to be approved by the common council, in such penal sum not less than five thousand dollars, as the common council shall prescribe, for the faithful performance of his duties. Said board shall keep their office at some

place to be designated by the common council, and shall fix certain days and hours when they, or a majority of them, will be in attendance to hear complaints and transact business. No estimate, contract or other official paper shall be signed or executed by said board except at the office so designated by the common council. Each of the commissioners of the said board shall be required to provide, at his own expense, a horse and vehicle for use in the discharge of his duties as such commissioner.

Office and office hours.

Shall own horse and buggy.

SECTION 5. A majority of said board shall be a quorum to do business. They shall keep a record of all their acts and doings, and keep and preserve all contracts, plans, estimates and profiles, which at all times shall be open to the inspection of the common council or any member thereof, or of any committee appointed by said council. They shall report their acts and doings in detail to the common council on or before the 1st day of March in each year, and oftener if required by the common council.

Quorum for business.

Annual reports.

SECTION 6. It shall be the duty of said board to take special charge and superintendence, subject to such ordinances as may be lawfully passed by the common council, of all streets, alleys, highways, sidewalks, crosswalks, bridges, docks, wharves, public grounds, engine houses, school houses, and all other public buildings and grounds belonging to the city or to either of the wards, except as otherwise specially provided in this act; also of all works for the deepening widening or dredging of the rivers of said city; of all sewers and the work pertaining thereto; and of all public works commenced or undertaken by the city or either of the wards, except as otherwise provided in this act. They shall have power to make contracts in the name and behalf of the city for the purposes, in the manner and under the limitations prescribed by this act. They shall perform all the duties prescribed by this act and such other duties as the common council may from time to time require.

What the board shall have special charge of

May make contracts.

SECTION 7. All repairs and alterations in the school buildings of said city, and in the premises attached thereto, shall be made by the board of public works in the same manner as the said board is authorized to do other similar work. And whenever any such repairs or alterations are deemed necessary by the school board, it shall be their duty to report the same to the common council of the said city for their order and direction in the premises.

Repair of school buildings.

SECTION 8. The said board of public works shall

Moving of houses.

have exclusive power to grant permits—subject to such regulations and restrictions as may be prescribed by the ordinances of the city—for the moving of houses along or across streets, alleys or walks, and to regulate the building of vaults under streets, alleys or sidewalks. No building material or other obstruction of any kind shall be placed on the streets, walks, or other public grounds of the city, without the written permit of said board. They shall have power to regulate and control the manner of using streets, alleys or walks for laying down gas or water pipes and sewers, and to determine the location and depth thereof, and to cause the prompt repair in such time and manner as they shall direct, of streets, alleys and walks, whenever such pipes or sewers may be taken up or altered. And in case any corporation or individual shall neglect to repair or restore to its former condition, any street, alley or sidewalk so excavated, taken up or altered, within the time and in the manner directed by said board, the said board shall cause the same to be done at the expense of such corporation or individual.

Laying gas and water pipes.

Shall advertise for proposals for doing work.

Time advertised.

Proposals, how made and secured.

SECTION 9. Whenever any public work or improvement shall be ordered by the common council, the said board shall advertise for proposals for doing the same—a plan or profile of the work to be done, accompanied with specifications for doing the same, or other appropriate and sufficient description of the work required to be done, and of the kinds and quality of materials to be furnished, being first placed on file in the office of said board for the information of bidders and others. Such advertisement shall be published for at least six days in the official city papers, and shall state the work to be done, and the time for doing the same, which shall in all cases be such reasonable time as may be necessary to enable a contractor with proper diligence to perform and complete such work. All proposals shall be sealed and directed to said board, and shall be accompanied with a bond to the city of Milwaukee in such penal sum—not less than thirty per cent. of the amount of the engineer's estimate of the cost of such work—as the board in such advertisement may direct; which bond shall be signed by the bidder, and by two or more responsible sureties, who shall each make affidavit that he is worth the penal sum of such bond over and above all his debts and liabilities, in property in said city, subject to execution—such bond and sureties to be approved by the board previous to the opening of the accompanying bids or proposals—and shall be conditioned that such bidder will execute and perform

the work for the price mentioned in his proposal, and according to the plans and specifications on file, in case the contract shall be awarded to him; and in case of default on his part to execute a contract with satisfactory sureties, and to perform the work specified, said bond may be prosecuted in the name of said city, and judgment recovered thereon for the full amount of the penalty thereof, as liquidated damages, in any court having jurisdiction of the action. Penalty.

SECTION 10. All contracts shall be awarded to the lowest bidder who shall have complied with the foregoing requisitions: *provided*, that no contract shall be entered into by the board of public works, unless the same shall be executed by two or more sureties for the contractor, guaranteeing to the satisfaction of said board the performance of such contract by the contractor, under the superintendence and to the satisfaction of said board, each of which sureties shall make an affidavit, indorsed on or attached to such contract, that he is worth the estimated amount of money to be paid on such contract, over and above all his debts and liabilities, in property in said city subject to execution; *and provided, further*, that whenever the lowest bid for any work to be let by said board shall appear to the said board to be unreasonably high, the said board is authorized to reject all bids therefor, and to relet the work anew; and whenever any bidder shall be, in the judgment of said board, incompetent or otherwise unreliable for the performance of the work for which he bids, the said board shall report to the common council of the said city a schedule of all the bids for such work with a recommendation to accept the bid of the lowest competent and reliable bidder for such work, with their reasons for such recommendation, and thereupon it shall be lawful for the said common council to direct the said board either to let the work to such lowest competent and reliable bidder or to relet the same anew; and the failure to let such contract to the lowest bidder, in compliance with this provision, shall not invalidate such contract, or any special assessment thereunder or for the work done in virtue thereof. Awarding contracts.

SECTION 11. Whenever any board or officer of the city shall let any work or improvement which shall require the digging up, use or occupancy of any street, alley, highway, or public grounds of said city, there shall be inserted in the contract therefor substantial covenants, requiring such contractor, during the night time, to put up and maintain such barriers and lights Sureties to qualify.

Incompetent bidders.

Street contractors to put up suitable barriers and lights.

as will effectually prevent the happening of any accident in consequence of such digging up, use or occupancy of said street, alley, highway or other public grounds, for which the city might be liable; and also such other covenants and conditions as experience has proved or may prove necessary to save the city harmless from damages. And it shall also be provided in such contracts, that the party contracting with the city shall be liable for all damages occasioned by the digging up, use or occupancy of the street, alley, highway, or public grounds, or which may result therefrom, or which may result from the carelessness of such contractor, his agents, employes or workmen.

Shall be liable for damages.

Contractors to indemnify city.

SECTION 12. Whenever any work or improvement shall be let by contract to any person or persons, firm or corporation, covenants shall be inserted in such contract, binding such person or persons, firm or corporation, and the sureties, to save, and indemnify, and keep harmless, the said city against all liabilities, judgments, costs and expenses which may in anywise come against said city in consequence of the granting of such contract, or which may in anywise result from the carelessness or neglect of such person or persons, firm or corporation, or his or its agents, employes or workmen, in any respect whatever; and in every such case where judgment is recovered against the city by reason of the carelessness or negligence of such person, persons, firm or corporation so contracting, or his, their or its agents, employes or workmen, and when due notice has been given of the pendency of such suit, such judgment shall be conclusive against such person, persons, firm or corporation, and his or their or its sureties on such bond, not only as to the amount of damages, but as to their liability to said city.

City may recover from them all costs and damages.

Contracts and public notices must be countersigned by the comptroller.

SECTION 13. All contracts entered into, and all public notices required by law to be given by the board of public works of the city of Milwaukee, shall be countersigned by the comptroller of the said city, and shall have no force unless so countersigned. All contracts entered into by the said board, and all bonds taken by them, shall be entered into in the name of, and shall be executed to the city of Milwaukee; and all such bonds or contracts, when executed, shall be examined and approved as to form and execution, by the city attorney.

Contracts shall not exceed appropriations.

SECTION 14. The said board of public works shall have no power, by contract or otherwise, to exceed in the doing of any work, in any one year, the sum ap-

propriated for such work by the said common council, or by law, for such year.

SECTION 15. It shall be the duty of the said board of public works to deliver to the comptroller of said city, with each contract to be countersigned by him, as accurate an estimate as can be made of the aggregate contract price of the work, to be let by such contract; and it shall be the duty of the comptroller to keep a record of such estimates applicable to each fund, and to refuse to countersign any contract the amount of which shall exceed the balance of the fund to which such contract may be chargeable.

Estimates to accompany contracts.

SECTION 16. All work, except as otherwise provided in this act, chargeable to the several ward funds or to the city funds, including incidental printing, shall be let by contract to the lowest bidder, in the manner provided by sections ten, eleven and thirteen of this chapter; and all supplies of materials, exceeding in amount one hundred dollars, shall, when practicable, be purchased by said board by contract, which shall be let after due notice inviting proposals, in the manner provided for the letting of contracts for the doing of public work, all accounts for such work, or for the furnishing of such materials, shall, before being allowed by the common council, be audited by the comptroller, and all such accounts for work done or materials furnished under the supervision of the board of public works shall be certified by them before being audited.

Contracts to be let to lowest bidder.

Accounts for materials to be audited by comptroller.

SECTION 17. Whenever the lowest bidder for incidental city printing for the said city shall appear to the comptroller of the said city and the committee of the common council on printing, to be incompetent or otherwise unreliable for doing the same, the said comptroller and committee shall report to the common council of said city a schedule of all the bids for such printing, together with their objections to accepting the bid of the lowest bidder therefor, and thereupon the common council shall have power either to order such printing to be let to the next lowest bidder who shall appear to be competent and reliable, or to order such printing to be re-let.

When lowest bidder incompetent, etc.

SECTION 18. Whenever the board of public works shall deem it for the interest of the city, or whenever, in the prosecution of any public work, said board shall be of the opinion that the proposed work can be better and more cheaply done without the intervention of a formal contract, they shall report the same to the common council with their reasons therefor, and the com-

When formal contract may be dispensed with.

Two-thirds vote necessary thereto.

mon council may by resolution authorize the said board to procure the necessary materials therefor, and to employ workmen to do such work; *provided*, that such authority shall not be given, unless approved by the votes of at least two-thirds of all the members elect of the common council; and, in case of ward work, of two aldermen of the ward: *and further provided*, that such authority shall not be exercised unless the comptroller shall, as provided in section nineteen of this chapter, advise the board that there are sufficient funds available for the proposed work.

Statement of work, and fund chargeable, to be furnished comptroller.

SECTION 19. It shall be the duty of the said board of public works, before causing such work to be done, to deliver to the comptroller a statement in writing of the work authorized and proposed to be done as provided in the next preceding section, showing the nature and estimated cost thereof, and the fund to which the same is chargeable; and it shall be the duty of the comptroller to enter such statement in the record mentioned in section fifteen of this chapter; and in case the comptroller shall be satisfied that the cost of such proposed work will exceed the amount available for the purpose, of the fund out of which the same is to be paid, it shall be his duty to so advise the board of public works, and the resolution of the common council passed as in the last preceding section shall be inoperative.

Board to decide finally all questions as to performance and fulfilment of contracts.

SECTION 20. The said board shall reserve in every contract the right to determine, finally, all performance of such contract, or doing of the work specified therein; and the right, in case of the improper or imperfect performance thereof, to suspend such work at any time, or to order the entire reconstruction of the same if improperly done, or to relet the same to some other competent party; and also the right, in case such work shall not be prosecuted with such diligence and with such number of men as to ensure its completion within the time limited by the contract, to suspend such work and relet the same to some other competent party, or employ men and secure material for the completion of same, and charge the cost thereof to the contractor.

Board to adjust amount earned by contractors.

And power is hereby given to the said board to adjust and determine all questions as to the amount earned under any contract, by the contractor or contractors, according to the true intent and meaning of the contract; and such adjustment and determination by said board shall be final between the parties and binding upon them. If the amount of damages to be paid to the city shall exceed the amount due from the city

In case of damages.

to such contractor or contractors, according to such determination and adjustment, then the difference or balance in favor of the city, according to such determination and adjustment, shall be recoverable at law in an action in the name of the city against such contractor or contractors and their sureties, in any court having jurisdiction. Every contract with the city shall be made expressly subject to the powers given to said board by this section; and shall also contain a covenant or agreement on the part of the contractor and his sureties, that in case such contractor shall fail to fully and completely perform his contract within the time therein limited for the performance thereof, such contractor shall pay to the city of Milwaukee as liquidated damages for such default, a certain fixed sum to be named in the contract, which shall not in any case be less than ten per cent. nor more than twenty-five per cent. of the aggregate cost of the work embraced in such contract.

Contract to recognize foregoing rights of board, and covenant payment of liquidated damages.

SECTION 21. In all cases wherein the contractor or contractors shall proceed properly and with diligence to perform and complete his or their contract, the said board may, in their discretion, from time to time as the work progresses, grant to him or them an estimate of the amount already earned—reserving fifteen per cent. thereon—which shall entitle the holder to the amount due thereon when the amount applicable to the payment of such work shall have been collected, and the condition, if any, annexed to such estimate shall have been complied with: *provided*, that the said board shall have no authority to extend or enlarge the time limited by the terms of the contract for the performance thereof, or to grant any such estimate to any contractor when in default; and that no estimate shall be granted by the said board to any contractor for any material which has not actually been put in the work embraced in his contract. Any person entering into any contract with the city, and who agrees to be paid from special assessments, shall have no claim upon the city in any event, except from the collection of the special assessments made for the work contracted for; and no work proper to be paid for by special assessments shall be let, except to a contractor who shall so agree.

Board may pay on estimates.

Board shall have no power to extend time limited in contract for doing work.

Special assessment.

SECTION 22. In case the prosecution of any public work shall be suspended by, or in consequence of, the default of any contractor, it shall be the duty of the board of public works to report the fact immediately to the common council, with a statement of the condition of the work and an estimate of the probable cost

Defaulting contractors.

of completing the same in the manner required by the contract.

May contract for use of patented articles.

SECTION 23. The said board shall have power, under the authority of the common council, to make a contract or contracts with the patentee or his licensees or assigns to use any patent or patented article, process, combination or work, for the said city, at a stipulated sum or royalty for the use thereof. And thereupon the said board shall have power to order any work, whether chargeable to the said city or to lots, parts of lots or parcels of land therein, to be done with the use of such patent or patented article, process, combination or work; and whenever the owner or agent of any lot, part of lot or parcel of land in said city, or other person authorized by law to do such work, shall do the same and use any such patent or patented article, process, combination or work in doing the same, he shall pay to the said city the sum or royalty chargeable therefor by such patentee, his licensees or assigns to the city under such contract, and shall be liable to suit by the said city therefor; or the amount of such sum or royalty may be charged as a special assessment upon the respective lots, parts of lots, and parcels of land in front of which such patent was so used, and collected for the use of said city as other special taxes are collected: and whenever any work, chargeable by special assessment to any lots, parts of lots, or parcels of land, shall be done with the use of such patent or patented article, process, combination or work, the sum or royalty chargeable therefor by such patentee, his licensees, or assigns, under such contract, shall be charged against such lots, parts of lots or parcels of land, for the use of said city, in such special assessment, in addition to the other cost of doing the work, and shall be included in a separate certificate of such special assessment.

Users of patented articles to pay city therefor.

Amount may be charged as special assessment against lots and lands.

Separate certificate for patented articles, or royalty when made, and effect thereof.

SECTION 24. Whenever the said board of public works shall have let, or shall hereafter let any contract or any work chargeable to lots or land in the said city, to be done with the use of any patent or patented article, in pursuance of the preceding section, and have omitted or shall omit at the time of making the assessment for such work against property chargeable therewith, to make any assessment or issue a "separate certificate" against such property for the sum or royalty chargeable for the use of such patent or patented article, in pursuance of the provisions of the section last mentioned, the said board of public works shall have power, and it shall be their duty to make such assess-

ment for the sum or royalty chargeable for the use of such patent or patented article, as soon as may be thereafter, and to include the same in a separate certificate for such special assessment for the use of the said city; and such assessment and certificate shall be as binding, and have the same effect when so subsequently made, as if the same had been made at the same time as the assessment for the contract price of doing such work.

CHAPTER VI.

TAKING PROPERTY FOR STREETS AND OTHER PUBLIC PURPOSES.

SECTION 1. The common council shall have the right to lay out public squares, grounds, streets and alleys, and to widen the same as follows: Any ten or more freeholders residing in any ward may by petition, represent to the common 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, setting forth in such petition the courses and distances, and metes and bounds of the lands proposed to be taken, together with the names and residences of the owners of such premises, if the same shall be known to the petitioners; and praying that such lands may be taken for such purposes as authorized by law. Every person signing such petition shall write after his signature thereto a brief description of his real estate which makes him such freeholder, or of some part thereof, and of the place of his residence in the city; and shall make and annex to such petition his affidavit that he is a resident and freeholder in the said ward; and such signer, making such affidavit, shall thereupon be taken to be such resident and freeholder; and such petition shall be as valid and have the same effect, as if such signer were such resident and freeholder although it should afterward appear that in fact he was not such resident or freeholder. Persons in actual possession of real estate under a valid contract for its purchase from the owner thereof, shall be deemed to be freeholders within the meaning and for the purposes of this section. Before such petition shall be acted upon by the common council, the petitioners shall cause to be executed and delivered to the treasurer of the city of Milwaukee, for the use of said city, a bond in the penal sum of one thousand dollars, with sureties to be approved by the comptroller, conditioned that they will prosecute their application to

Petition for taking land for public use.

Petitioners shall make affidavit of being resident freeholders.

Possession under valid contract to constitute freeholding.

Bonds to accompany petition.

effect, and pay all costs and charges which the city, or any ward thereof, may sustain in consequence of such application.

Notice to be published in official papers, of application for jury to view premises.

SECTION 2. Such bond to the treasurer having been executed and delivered, the common council shall thereupon cause notice of such application to be given to the occupant or occupants of such lands if any there be, by publishing a notice thereof in the official papers for four weeks, at least once in each week, which notice shall state that on a certain day therein named—not less than four weeks after the first publication thereof—application will be made to the judge of the circuit or county court of the county of Milwaukee for the appointment of twelve jurors to view said premises, and to determine whether it will be necessary to take the same for the purpose specified in said petition, at which time and place any person interested in the land proposed to be taken, may appear before said judge and make objection to the appointment of any juror proposed to be appointed by said judge, stating the ground of such objection. Upon the presentation of such application, and upon proof of the publication or service of the notice hereinbefore required, the said judge shall appoint twelve reputable freeholders, residents of the city, but not residents of the ward in which the premises may be situated, and not interested in the result of such application: *provided, however,* that no person shall be appointed a juror in more than one such case in the same year. The said judge shall thereupon issue his precept directed to said jurors, requiring them within thirty days to view said premises to be specified in such precept, and to make return under their hands to the common council, whether, in their judgment, it is necessary to take said premises for the purpose specified in such application. If any of the jurors so appointed shall be disqualified from acting, or shall refuse to act, the judge shall appoint others in their places, and a memorandum of such substitution shall be endorsed by him on the precept.

Jury to be respectable freeholders of city, but not of the ward in which premises are situated.

Jurors to view premises within thirty days.

Jurors to act under oath.

SECTION 3. The jurors so appointed shall, before they proceed to view the premises in question, severally take and subscribe an oath or affirmation which shall be filed with the city clerk, that they will faithfully and honestly discharge the duty imposed upon them, and determine whether it is necessary to take the premises in question for the public use; and it shall be the duty of every person appointed as such juror to act, unless excused for reasonable cause by the judge

appointing him; and every person so appointed and duly summoned or notified to act as required by law, who shall, without being so excused, neglect or refuse to perform his duty as such juror, shall be liable to a penalty of fifty dollars to be recovered in an action brought in the name and behalf of the city of Milwaukee, before the municipal court of Milwaukee county, and it shall be the duty of the officers summoning such jurors, to notify the city attorney of any violation of this section; and it shall be the duty of the city attorney to prosecute any person so offending.

Penalty for refusing or neglecting such jury duty.

Who shall prosecute.

SECTION 4. The said jurors, when so appointed and sworn, shall immediately proceed in a body to view the premises proposed to be taken, and, for their own information as to the value of such premises, or the necessity of taking the same, said jury or any one of their number, may apply to the judge appointing said jury to summon such witnesses as they or he may desire to appear before said jury and testify as to the facts in the case; and said jury shall also hear such testimony as may be offered by any party interested, and either of the jurors shall be authorized to administer the necessary oaths to witnesses; but it shall not be necessary for such jury to reduce the testimony taken before them to writing, or to report the same; and it shall not be necessary for such jury to give any notice of their meeting, and they may adjourn from day to day, when necessary or convenient. Said jury shall make a report of their proceedings to the common council within the time limited in the precept, which report shall be signed by them respectively, and shall state whether, in their judgment, it is necessary to take the premises in question for the public use as proposed in the said petition.

Jury to determine necessity for taking premises, and value thereof.

Jury to report in writing.

SECTION 5. Should the jury report that it is necessary to take such premises, the common council shall enter an order among their proceedings confirming the whole of said report or any part thereof; and the common council shall direct the board of public works, within one month thereafter, or such further time as may be deemed proper, to view said premises at such time as the board may agree upon, of which at least three days' notice shall be given by publication in the official papers, for the purpose of ascertaining and determining the amount of damages to be paid to the owner or owners of the property proposed to be taken, and also what lands or premises will be benefited by such taking, and to make report of their assessment of such damages and benefits to the common council. Said

Report to be confirmed or rejected by common council.

Benefits and damages.

board may obtain the testimony of witnesses as to the facts in the case in the same manner as provided in section four of this chapter, and shall hear such testimony as may be offered by any party interested, which testimony shall be reduced to writing by one of the members of said board; and said board shall determine and assess, and return such damages and benefits, in the manner hereinafter directed. In case either member of said board of public works shall be interested in the premises, or in any property affected by such proceedings, it shall be the duty of the common council to appoint some disinterested person to act in his stead.

When board of public works interested.

Board of public works to apportion charges to lots benefited and to ward fund.

SECTION 6. Whenever it shall have been determined by the report of the jury that it is necessary to take certain lands for public use for the purpose of laying out public squares, grounds, streets, or alleys, or of enlarging or widening the same, and such report, or any part thereof, shall have been confirmed by the common council and referred to the board of public works, the board of public works shall have power, in their own discretion, or upon the written request of the aldermen of the ward in which such lands so to be taken are situated, to view the premises with such aldermen, and, together with such aldermen, to determine whether the whole cost thereof should be chargeable as benefits to the lots and lands subject to special assessment therefor, or whether any and what portion of such cost should be chargeable to and paid out of the ward fund of the ward in which such lots or lands are situated; and if the said board of public works and the said aldermen shall determine that any proportion of such cost should be paid out of such ward fund, they shall so report in writing to the common council, stating in their report what proportion should be so paid; and thereupon the common council shall have power, by resolution duly passed by an affirmative vote of two-thirds of the members thereof, to order the proportion of such cost so reported by the said board of public works and the said aldermen, or any greater or less proportion thereof, to be charged to the ward fund of the proper ward, which shall accordingly be done; and thereafter the lots or lands benefited shall not be assessed for more than the remaining proportion of such cost; *provided, nevertheless*, that no such resolution shall be passed or have any effect so as to charge the ward fund of any ward, unless the aldermen of such ward shall sign such report as aforesaid.

Two third vote necessary to ratify such appointment.

Board of public works to make final award of

SECTION 7. The board of public works, within the time limited by the common council, shall view and ex-

amine the premises proposed to be taken, and all such other premises as will in their judgment be injured or benefited thereby, and, after hearing such testimony as they may obtain, or as may be offered by any party interested, they shall proceed to make their assessment, and to determine and appraise the value of the real estate so proposed to be taken, and the injury arising to the owners thereof respectively in consequence of the taking 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.

damages and benefits.

SECTION 8. If the damage to any person be greater than the benefits received, or if the benefits be greater than the damages, in either case the board shall strike a balance, and carry the difference forward to another column, so that the assessment will show what amount is to be received or paid by such owner or owners respectively, and the difference only shall in any case be collected of them, or payable to them.

Balance struck between benefits and damages.

SECTION 9. Whenever there is any building upon the land proposed to be taken, and the land and the building belong to different persons, or if the land be subject to lease, judgment, mortgage or other lien, or if there be any estate in it less than an estate in fee, the injury done to such persons or interests respectively may be awarded to them by the board, less the benefits resulting to them respectively from the proposed improvement.

Buildings, easements and mortgages.

SECTION 10. Having ascertained the damages and expenses of the proposed improvement as aforesaid, the board shall thereupon apportion and assess the same, or such proportion thereof as shall have been determined to be chargeable to the lots and lands benefited in accordance with the provisions of section six of this chapter, together with the costs of the proceedings, upon the real estate by them deemed benefited, in proportion to the benefits resulting thereto from the proposed improvement, as nearly as may be, and shall describe the real estate upon which their assessments may be made.

Apportioning and assessing damages.

SECTION 11. It shall be the duty of the board of public works, after such assessment shall be made, and before the same shall be reported by the board to the common council, to give public notice of not less than six days in the official papers of the city, that such assessment has been made, and that the same will be open for review and correction by the board of public works, at the office of the board, for not less than ten

Notice of assessment to be given in the official papers.

days after the first publication of such notice, during certain hours—and not less than two hours—of each lay day, and that all persons will be heard by the said board of public works in objection to such assessments, and generally in the matter of such review and correction. It shall be sufficient to state in such notice in brief, what such assessment has been made for, and in what locality.

Persons interested in the property assessment to be heard by the board.

SECTION 12. During the time specified in the notice mentioned in the last preceding section, it shall be the duty of the board of public works to hear all persons interested in the property assessed, or otherwise personally interested in such assessment, in making objections to any part of such assessment, and to hear all evidence which may be produced in support of such objections; and the board shall thereupon have power to review, modify and correct such assessments in such manner as they shall deem just, at any time during such review and for three days thereafter; and thereupon it shall be the duty of the said board to make report of such assessment in writing, signed by them, together with the testimony taken, to the common council within the time limited by said council. Should the time originally limited for making such report prove insufficient, the common council may in their discretion, from time to time, enlarge or extend the same.

Report to council.

When made.

Assessment to be entered on the journal of the common council.

Section 13. The assessment so reported shall be laid before the common council when in session, and and the fact of its presentation shall be entered upon the journal and mentioned in the published proceedings of such session, with a statement in brief for what purpose and in what locality such assessment has been made; but the common council shall not have power to act finally upon such report until at least one week from the date of the session at which it was so presented. At or after the expiration of such period of one week last mentioned, the common council may, in their discretion, revise and correct the assessment, and shall confirm the same as corrected by them or without correction, or refer it back to the said board for revision and correction. If said assessment shall be so referred back, the said board of public works shall proceed to review, correct and report the same in like manner and upon like notice as herein required in relation to the first assessment; and all parties interested shall have the like rights, and the board of public works and the common council respectively shall perform like duties and have like powers in relation to any such

Reviewing and correcting assessment.

subsequent assessment, as are hereby given in relation to the first.

SECTION 14. Any person or persons owning or having any interest in any property affected by such assessment, may, within twenty days after the confirmation of such assessment by the common council, appeal therefrom to the circuit court of Milwaukee county, by filing with the clerk of said circuit court his notice of appeal, setting forth therein his interest in the premises and the grounds of his appeal, together with a bond to the city of Milwaukee in the penal sum of five hundred dollars, conditioned for the payment of all costs that shall be adjudged against him on such appeal; which bond shall be signed by at least two sufficient sureties, each of whom shall make affidavit, indorsed upon such bond, that he is worth five hundred dollars over and above all his debts, in property not exempt from execution; and said bond and sureties, if objected to by the city attorney, shall also be approved by the judge of the said court. Such appeal shall be ineffectual unless the appellant shall also, within said twenty days, serve a copy of his notice of appeal and bond upon the city attorney. In case of any appeal under the provisions of this section, the the city clerk shall send to the clerk of said circuit court a certified copy of the assessment of damages and benefits made and reported by the said board of public works, as confirmed by the common council, and of all the proceedings of the common council in relation thereto. The appeal shall be tried as ordinary issues of fact are tried in said circuit court; the form of the issue shall be subject to the direction of the court; and the court shall permit any person or persons interested in such damages or benefits to become parties to such appeal, upon their petition setting forth the nature and extent of such interest. If on such trial the benefits assessed by the said board of public works shall be diminished, or the damages so assessed shall be increased, then and in either case, the appellant shall recover costs on such appeal, otherwise the city shall recover costs. When the jury shall by their verdict award damages to the owner of any lot or part of a lot, and judgment shall have been rendered upon such verdict, the said city shall pay the amount of such judgment, and the cost, if any, recovered therewith, or make provision for the payment thereof, within one year after the same shall have been rendered: *provided*, that in case of an appeal from such

Appeals from assessment.

Bond for cost.

Notice of appeal to be served on city attorney.

Who may become parties to such appeal.

Judgments and costs.

judgment to the supreme court, the time of the pendency of such appeal shall not form any part of such year.

The only remedy.

SECTION 15. An appeal to the circuit court, as provided in and by the foregoing section, shall be the only remedy for damages sustained by the acts or proceedings of the said city or its officers in the matter to which such assessment relates; and no action at law or in equity shall be had or maintained for such injuries or on account of such acts and proceedings.

When city may enter upon and take premises.

SECTION 16. Whenever the damages awarded to the owner by the report of the board of public works, as confirmed by the common council, for any property condemned by said city for public use, shall have been paid or tendered to such owner or his agent; or when sufficient money for that purpose shall be provided in the hands of the city treasurer, and ready to be paid over to such owner, and ten days' notice thereof shall have been given by the board of public works in the official papers, the city may enter upon and appropriate such property to the use for which the same was condemned; and the same shall thereafter be subject to all the laws and ordinances of the city, to the same extent as streets, alleys and public grounds heretofore opened or laid out. The claimant of such damages shall, in all cases furnish an abstract of title, showing himself entitled to the same, before they shall be paid to him. If in any case, there shall be any doubt as to who is entitled to the damages for land taken, the city may require of the claimant a bond, with good and sufficient sureties, to hold said city harmless from all loss, costs and expenses in case any other person should claim said damages. The damages assessed by the board of public works, or awarded by the verdict of the jury and judgment rendered thereon in case of appeal, shall be paid or tendered, or provided in the hands of the city treasurer and ready to be paid over to the person or persons entitled thereto, and notice thereof given in the official papers as herein provided, within twelve months after the rendering of such judgment, or after the confirmation of such assessment by the common council in case no appeal shall have been taken; and if not so paid, or tendered, or provided in the hands of the city treasurer, all the proceedings in any such case shall be void: *provided*, that such period of twelve months shall be exclusive of the time any such judgment may be pending in the supreme court on appeal. The benefits assessed and reported by the board of public works, from the confir-

Bond may be required of claimant for damages.

Time within which damages shall be paid.

Assessed benefits shall remain a lien upon premises.

mation of such report by the common council, shall be and remain a lien upon the premises so determined by the board of public works to be benefited by the taking and appropriation of lands to the public use as proposed.

SECTION 17. When the whole of any lot or tract of land or other premises, under lease or other contract, shall be taken by virtue of this act, all the covenants, contracts or engagements between landlord and tenant, or any other contracting parties, touching the same or any part thereof, shall, upon confirmation of such report, respectively cease and be absolutely discharged. When only part of a lot or tract of land, or other premises, so under lease or other contract, shall be taken for any of the purposes aforesaid, all the covenants, contracts or agreements respecting the same, upon the confirmation of such report, shall be absolutely discharged as to the part thereof so taken, but shall remain valid as to the residue thereof; and the rents, considerations and payments reserved, payable and to be paid for or in respect to the same, shall be so apportioned that the part thereof justly and equitably payable for such residue thereof, and no more, shall be paid or recoverable for or in respect to the same.

When premises are taken all covenants cease.

SECTION 18. When any known owner of lands or tenements affected by any proceedings under this chapter shall be an infant, or labor under legal disability, the judge of the circuit court of Milwaukee county, or in his absence the judge of any court of record in said county, may, upon the application of the city attorney, or of such party, or his next friend, appoint a guardian for such party, and all notices required by this chapter shall be served upon such guardian.

Proceedings when owner is an infant.

SECTION 19. Whenever any public ground, street, or alley shall be laid out, widened or enlarged, under the provisions of this chapter, the board of public works shall cause an accurate survey, plat and profile thereof to be made, and filed in the office of the city engineer.

Survey to be made.

SECTION 20. In all cases where the report or verdict of a jury may have established the necessity of taking private property for any authorized public use in said city previous to the passage of this act, the damages and benefits arising therefrom may be assessed as required by this act, and all proceedings subsequent to such report or verdict may be had and continued to final completion, in the same manner as if such proceedings had been originally instituted under this act.

Ex post facto.

Former proceedings confirmed.

SECTION 21. All the proceedings of the common council heretofore had, in laying out streets and alleys are hereby confirmed; and all the streets and alleys heretofore laid out and opened by the common council, except such as have been legally vacated are hereby declared public highways.

Directory.

SECTION 22. All the foregoing directions given in this chapter shall be deemed only directory; and no error, irregularity, or informality in any of the proceedings under the provisions of this chapter of this act, not affecting substantial justice, shall in any way affect the validity of the proceedings.

Power of common council to vacate streets, alleys and public walks, how exercised.

SECTION 23. The common council shall have power, and are hereby authorized to vacate, in whole or in part, such highways, streets, alleys and public walks within the corporate limits of the city, as in their opinion the public interest may require to be vacated, or such as in their opinion are of no public utility; *provided, however,* the necessity of vacating any such highway, street, alley or public walk or any part thereof shall first be established by a verdict or report of a jury, in like manner as is provided for laying out public squares, grounds and streets, in this chapter.

Sites for school buildings.

SECTION 24. All provisions of this act relating to the taking of land by said city for public purposes shall apply to lands required for the sites of school buildings, and for the premises attached to such buildings.

Plats hereafter made to conform to those in existence.

SECTION 25. In all cases where lands in the city shall hereafter be sub-divided into lots and blocks or where streets, alleys or public grounds shall be donated or granted to the public, the owner or owners thereof, shall, in platting the same, cause the streets and alleys in such plat to correspond in width and general direction with the streets and alleys through the lots and blocks in said city adjacent to the lot or tract so platted, and shall submit such maps or plats thereof to the board of public works and to the common council of said city for their approval; and if such plat or map shall be approved by said board and by the common council, it shall be lawful for the party or parties making such plat to record the same and the evidence of such approval, in the manner prescribed in the revised statutes of the state concerning town plats; but except such plat shall be approved by a writing endorsed thereon and subscribed by said board of public works, and by resolution adopted by said common council, a copy of which, duly certified by the city

Must be approved by common council before registration.

clerk, shall be affixed to said plat, it shall not be lawful for the register of deeds of Milwaukee county to receive such plat or map for record or to record the same, and the same shall have no validity; and the person or persons neglecting or refusing to comply with the requirements of this section shall forfeit and pay a sum not less than one hundred dollars nor more than one thousand dollars; and the register of deeds who shall record such plat without such approval of the board of public works endorsed thereon, or without such copy of a resolution of the common council thereto attached approving the same, shall forfeit and pay a sum not less than fifty dollars nor more than one hundred dollars. All forfeitures and liabilities which may be incurred and arise under and by virtue of this section shall be prosecuted for and recovered in the name of the city of Milwaukee, and paid into the city treasury for the use and benefit of said city.

Penalty for noncompliance.

SECTION 26. Whenever the said common council, with the concurrence of three-fourths of the members elected thereto, shall declare by their resolution that it is necessary for the public interest to open a public street or alley, or to take land for any public purpose authorized by this act, the said common council shall have power to open such public street or alley, or to take land for such public purpose, as the case may be, without any petition therefor, and to proceed thereafter in that behalf as in cases of petition therefor duly made; and in such case no bond shall be required: *provided*, that in cases of streets and alleys such resolution shall also be approved by a majority of the aldermen of the ward in which the land proposed to be taken may be situated. The resolution provided for in this section shall declare why it is necessary for the public interest so to proceed; and no such resolution shall be passed by the common council at the same meeting in which it is first considered, but the same shall lie over to a future meeting thereof. And the yeas and nays on the passage of such resolution shall be taken and duly entered in the journal of proceedings of the council.

Three-fourths vote will dispense with petition for opening streets and alleys.

Yeas and nays on such resolution.

SECTION 27. In case it shall be necessary to take any property for the purpose of opening and constructing the canals, water channels and slips, or any part thereof, laid out and established in the valley of the Menomonee river, under and in pursuance of chapter ninety-one of the local laws of 1869, or to take any property for the purpose of opening and constructing the water channel of the Kinnickinnick river, when

How property in Menomonee and Kinnickinnick valleys may be taken.

the same shall be adopted and established, recorded and filed as provided by section twenty of chapter one hundred and twenty-nine of the laws of 1873, the board of public works shall apply to the common council, by petition, stating the necessity and describing the property necessary to be taken; and shall thereupon, when so ordered by the common council, proceed to cause such property to be taken as may be necessary; and in so doing, the same proceedings shall be had as are prescribed in this chapter for taking lands for streets, except that the application of the board of public works shall be in the place of the petition of ten freeholders. Parties interested shall have the same right of appeal as is given by this chapter in case of laying out streets, and all the provisions of this chapter relating to assessments of damages and benefits, appeals and compensation to owners, shall be applicable to cases arising under this section.

Appeals.

Advances for damages may be made from ward fund.

SECTION 28. Whenever any property shall be condemned for any of the purposes mentioned in this act, and after the assessment of benefits and damages shall have been made by the board of public works and confirmed by the common council as provided in this chapter, the common council shall have power, with the concurrence of the aldermen of the ward, to advance by appropriation from the ward fund of the ward in which the premises to be taken are situated, the amount required to pay the damages so assessed and confirmed, for the purpose of paying or tendering the same to the owner or owners of property so taken, as provided in section sixteen of this chapter; and in case such advance shall have been made, the special tax collected from the property benefited, under such assessment, shall be credited to said ward fund to reimburse said fund the amount so advanced.

CHAPTER VII.

CITY IMPROVEMENTS AND SPECIAL ASSESSMENTS.

Annual estimate of ward improvement.

SECTION 1. The board of public works of said city shall, with the concurrence of a majority of the aldermen of the several wards, by the first of May of each year or as soon as practicable thereafter determine for each ward upon a general system of improvements for the year ensuing, and report the same to the common council, mentioning in said report the most necessary improvements first, and the others in the order of their necessity; and after the same shall have been approved by the common council, the said system shall be carried

out, and not materially deviated from except in case of necessity.

SECTION 2. The grading, graveling and planking, macadamizing, or paving to the center of any street or alley, and the grading, graveling and macadamizing, planking or paving of any sidewalk, the paving of any gutter, and the construction of cross walks where there is no intersection of streets, shall be chargeable to and payable by the lots fronting or abutting upon such street, alley, sidewalk or gutter, to the amount which such grading, graveling, macadamizing, planking or paving, shall be adjudged by said board to benefit such lots. The expense of all such improvements or works across streets at their intersections with streets and alleys, and across public grounds, and to the middle of streets and alleys adjacent to public grounds, shall be paid out of the fund of the ward in which such improvements are made or such works are done; and the expense of maintaining, renewing, keeping in repair and cleansing all streets and the pavement or other surface thereof in all cases where such streets shall have been constructed to the grade established by the common council and graveled, planked, macadamized or paved, as required by the common council, at the expense of the lots fronting or abutting on such streets, and of the ward fund, as hereinbefore provided, shall be paid out of the general fund of said city; *provided*, that when a street which has been graveled, is ordered to be paved, planked or macadamized, the expense of such paving, planking or macadamizing shall be chargeable to and payable by the lots fronting or abutting upon said street, as hereinbefore provided for the first improvement of a street: *and further provided*, that when a change in the grade of any street shall be ordered, the expense of cutting or filling incurred by such change of grade, shall be chargeable to, and paid by special assessment on the lots or property fronting or abutting on the street of which the grade shall be so changed.

Street improvement when chargeable to lots and when ward fund.

When to general city fund.

SECTION 3. The construction and keeping in repair of the docks in front of lots or parcels of land along the banks of the rivers and public navigable canals in said city, and the dredging and redredging from time to time of said rivers and canals to a width of fifty feet from their dock lines towards their centers, shall be chargeable to and payable by the lots or parcels of land so fronting; and said board shall have the same authority over said rivers and canals, and lots or lands fronting thereon, as they have over streets and lots or

Construction and repair of docks.

lands fronting thereon, and shall be governed by the same rules in respect thereto as in cases of improvements upon streets: *provided*, that dredging chargeable to lots and lands fronting on said rivers and canals shall be ordered and done by said city only when the middle portion of such rivers and canals respectively shall have been dredged or shall be dredged at the same time by the city; *and provided, further*, that no part of the cost of construction of any of the public navigable canals in said city shall be chargeable to said city or to any ward thereof, but the whole cost of such construction shall be chargeable exclusively to the lots and lands abutting thereon.

Dredging, etc.

Canals chargeable to lands abutting thereon

Common council may order construction of canals.

Apportionment of costs.

Petitions for canals.

SECTION 4. The construction of the public navigable canals in said city; including the canals, water channels, and slips, laid out and established in the valley of the Menomonee river—shall include all such excavations, dredging, and docking, as the common council shall by ordinance or resolution in its discretion require, to make the same suitable and convenient for navigation. The board of public works shall, from time to time, with the approval of the common council, order the construction of the canals, water channels, and slips, in the valley of the Menomonee river, and shall cause the same to be done as they may deem necessary for the public interests, in accordance with the system of canals, water channel and slips, established in said valley pursuant to chapter ninety-one of the local laws of 1869. Whenever they shall order any portion of such work to be done, like proceedings shall be had as are provided by this chapter in case of grading streets; and the expense of such construction shall be apportioned by the board of public works among, and shall be a charge and lien upon, the several lots or parcels of land extending to and abutting on said canals, water channels or slips respectively, in proportion to the amount of work done opposite to such lots or parcels of land to be estimated by the city engineer, and shall be collected as other special taxes are levied and collected by and under this act, but no work in the construction of such canals, water channels or slips shall be ordered by said board except on the petition in writing of the persons owning land adjoining the work to be done, to the extent of a majority of the lineal feet of such land, measured on the line of such proposed work; but in case any portion of such adjoining land is owned by persons not residents of the said city of Milwaukee, the said board may order such work to be done on the petition of

persons owning a majority of the lineal feet of such land owned by residents of the said city, measured on the line of such proposed work.

SECTION 5. The docking and dredging of the Milwaukee, Menomonee and Kinnickinnick rivers, and of the public canals in said city, after their construction, opposite to any street or to public grounds abutting thereon, and the dredging of the middle ground of said rivers, and of said canals after their construction, further than fifty feet from either dock-line, shall be done at the cost of the city. The board of public works, subject to the approval of the common council, shall have power and are hereby authorized, and it shall be their duty when ordered thereto by the common council, without petition in that behalf, to cause the Milwaukee, Menomonee and Kinnickinnick rivers, or any portion thereof, to be docked and dredged, and to proceed therein in like manner as in cases of grading and improving streets, to make so much of the expense as is not chargeable to the city, a lien and charge upon the lots and parcels of land extending to and abutting on said rivers respectively.

Docking and dredging at city expense.

Common council may order docking and dredging.

SECTION 6. Whenever the board of public works shall deem it necessary to grade or otherwise improve any street, alley, sidewalk, or public ground, or to dredge or dock any of the rivers or of the public canals after their first construction, or to abate any nuisance caused by stagnant water in said city, they shall cause to be made an estimate of the cost of such work, and shall put the same on file in their office; and such estimate shall be open to the inspection of any party interested. Thereupon the said board shall make to the common council such recommendation in relation to the proposed work as they may deem proper; and upon the same being adopted by the common council, in whole or in part, the said board may order so much of the work to be done as shall have been adopted: *provided*, that no such work, chargeable to lots or parcels of land fronting or abutting on the same, except repairs, and except docking and dredging, shall be ordered unless a petition therefor shall first be presented to the common council, signed by the residents of the city owning a majority of the feet in front of all the lots fronting upon such proposed improvements, owned by residents of such city; or unless, in the absence of such petition, the resolution of the common council ordering such work shall receive the votes of three-fourths of the aldermen elected, and shall declare why it is necessary for the public interest to proceed with-

Grading—dredging—stagnant water.

Petitions necessary.

Shall lie over
one meeting.

out such petition; but no such resolution ordering work without a petition therefor, shall be passed at the same meeting in which it is first considered, but the same shall lie over until a future meeting of the common council, and the vote on its passage shall be taken by yeas and nays and duly entered in the journal of proceedings. However, in case the majority of feet in front of all the lots in any one block fronting on the proposed improvement are owned by non-residents of such city, then such work may be ordered upon the petition of the resident owners of a majority of feet in front of any adjoining block, or of the block opposite, *provided*, such owners of lots so petitioning for such work shall have petitioned for, or shall have done similar work in front of the lots owned by them respectively in such adjoining or opposite block. Every person in the actual possession of real estate in the said city under a valid contract in force for the purchase thereof from the owner shall be held in virtue thereof to be a freeholder within the meaning of this act, and to be the owner of such real estate for the purpose of petitioning as owner thereof. Each person signing such petition as a resident or as the owner of property, shall be required to write after his signature thereto, a brief description of the property so owned by him, and of the place of his residence in said city, and to annex thereto an affidavit that he is such resident or owner or both, in the city or ward, as the case may be; and thereupon he shall be taken to be such resident or owner, or both, and such petition shall be as valid and have the same effect as if such person were the owner of such property, or a resident of the city or ward, as stated in his affidavit, although in fact it should thereafter appear that he was not such owner or resident.

Who are free-
holders.

Affidavits.

Assessments of
benefits for
street work.

SECTION 7. Before ordering any work to be done by the owners of lots or lands fronting on the same, said board shall view the premises, and consider the amount proposed to be made chargeable against said several lots or pieces of land and the benefits which in their opinion will actually accrue to the owner of the same in consequence of such improvement, and shall assess against the several lots or pieces of land, or parts of lots or pieces of land, which they may deem benefited by the proposed improvement, the amount of such benefit which those lots or pieces of land will severally, in the opinion of said board, derive from such improvement when completed in the manner contemplated in the estimate of the cost of such work, made as provided by section six of this chapter, taking into

consideration in each case any injury which in the opinion of the board, may result to each lot or piece of land from such improvement; and in case the benefits, in their opinion, amount to less than the cost of the improvement, the balance shall be paid out of the ward fund of the ward or wards in which such improvement is made; and said board shall endorse their decision, and assessment in every case on the estimate of the cost of such improvement filed in their office.

Assessment of damages.

SECTION 8. In all cases in which the grade of any street has been permanently established by ordinance since February 20, 1852, or shall hereafter be so established, and, after such permanent establishment thereof, and after such street shall have been actually graded to such established grade, the grade so established has been or shall be altered by the city, the owner of any lot or parcel of land which may be affected or injured in consequence of such alteration of grade shall be entitled to compensation therefor; and it shall be the duty of the board of public works, before ordering to be done the work of actually changing such established grade by excavating or filling such street to the new grade as so altered, and at the time of making their assessment of benefits as provided in the next preceding section, to consider, determine and assess against the lots which they may deem benefited by the proposed improvement, to the amount of such benefits, the damages, costs and charges, including the cost of such improvement—arising from such alteration of grade to the owner of any lot, parcel of land or tenement, which may be affected or injured in consequence thereof, taking into consideration in each case any advantages and benefits which may be conferred thereby upon such lot, parcel of land or tenement, in common with other property on the street affected by such grade; and the excess of the said damages, costs and charges over the benefits assessed as provided in the preceding section, shall be paid out of the ward funds of the ward or wards in which such improvement and alteration of grade shall be made: *provided*, that no owner of any lot, parcel of land or tenement, who shall personally or by his authorized agent have signed a petition asking for such alteration of grade, or a petition asking for the grading of a street in conformity with such altered grade, shall be entitled to compensation, but every such owner shall be deemed thereby to have waived and relinquished all claim to compensation for any injury in consequence thereof; and no damages, costs or charges arising to such owner from

Compensation to lot owners for change of grade.

Assessment therefor.

Benefits and damages.

Petitioners for change of grade not entitled to compensation therefor.

such alteration of grade, shall be assessed or paid to such owner.

Notice of assessment to be given.

SECTION 9. As soon as any assessment of benefits or damages, or of both, shall be made as in the preceding sections of this chapter provided, the said board shall give notice to all parties interested, by advertisement for not less than six days in the official papers of the said city, that such assessment has been made and is ready for inspection in their office, and that the same will be open for review and correction by the said board at their office for not less than ten days after the first publication of such notice, during certain hours—not less than two hours of each lay day—and that all persons interested will be heard by the board in objection to such assessment and generally in the matter of such review and correction. It shall be sufficient to state in such notice, in brief, what such assessment has been made for, and in what locality, and no further notice or publication of such assessment shall be necessary. During the time mentioned in such notice the said board shall hear objections and evidence, and they shall have power to review, modify and correct such assessment in such manner as they shall deem just, at any time during such review, and for three days thereafter; and thereupon said board shall endorse such corrected and completed assessment upon the estimate of the cost of such improvement made and filed in their office as provided in section six of this chapter, and shall file a duplicate of such estimate and assessment in the office of the city clerk, who shall lay the same before the common council at their next meeting; and after one week from that time the common council may confirm or correct said assessments or any of them, or may refer the same back to the board of public works; and the said common council and the said board of public works shall respectively have the like powers and perform the like duties in relation to such assessment, and any subsequent assessment made pursuant to such reference by the common council, as are prescribed and conferred in cases of lands condemned for the public use, in and by chapter VI of this act.

What such notice shall contain.

Reviewing, correcting and affirming assessments.

Notice of confirmation of assessment.

SECTION 10. Thereupon, as soon as the common council shall have confirmed such assessment of benefits and damages, the said board shall give notice for six days in the official city papers to the owner or owners of any lot or parcel of land fronting upon any such improvement to be made, requiring him or them to do the work mentioned in such notice within a reasonable time to be therein specified; and if such work shall

not be done within such time, the said board shall contract for the doing of the same as hereinbefore provided. Such contract shall require the contractor to receive certificates upon or against the several lots, parts of lots or parcels of land, which may be assessed with benefits on account of the same, to apply in payment of the contract price as now provided by law; *provided*, that in any case where the contract price of the work to the center of the street or alley, done opposite to any lot or parcel of ground shall exceed the benefits assessed to such lot, the excess shall be paid out of the ward fund of the ward in which such lot, part of lot or parcel of land shall be situated. In fixing the time to be done, the board shall take into consideration the amount of work to be done, and the convenience and facilities of the parties for doing the same.

Contractors to receive certificates in payment for work.

Fixing time.

SECTION 11. The owner of any lot or tract of land or tenement, who feels himself aggrieved by such assessment as confirmed by the common council, as to the amount of benefits thereby adjudged to accrue to him by reason of any improvements charged against his lot or parcel of land, or the amount of damages, costs and charges arising to such owner from an alteration or grade, may, within twenty days after such confirmation by the common council, appeal therefrom to the circuit court of Milwaukee county; and such appeal shall be taken, tried and determined, and bonds for costs shall be given and costs awarded therein, in like manner as in cases of appeals to the said circuit court provided for in chapter six of this act. Such appeal shall not affect the rights of the contractor, or the proceedings in reference to his contract, but the certificate against the lot or parcel of land in question shall be given as if no appeal had been taken; and in case the appellant shall succeed, the difference between the amount charged in the certificate and the amount of benefit finally adjudged shall be paid by the city out of the proper ward fund to the appellant, but not until he shall have done the work in question, or have paid the certificate issued for doing the same. The amount assessed by the board of public works, or finally adjudged on appeal, for damages, costs, and charges arising from an alteration of the grade in excess of the amount charged against property deemed benefited, shall be paid by the city out of the proper ward fund to the person or persons thereto entitled, within one year after the confirmation of the assessment by the common council, or after final judgment therefor

Appeals from assessments, how and when taken.

Assessment for damages when to be paid.

rendered by the court on appeal, as aforesaid: *provided*, that the time during which an appeal from such judgment may be pending in the supreme court shall not be deemed part of the year so limited.

Limiting right
of action.

SECTION 12. The appeal given by the last preceding section from the assessment of the board of public works as confirmed by the common council, to the said circuit court, shall be the only remedy for the recovery of any damages, costs and charges arising from any alteration of grade by the said city, or sustained by reason of any proceedings or acts of the said city or its officers, in the matter to which such assessment of damages or benefits relates; and no action at law shall be maintained for such damages or injuries, whether arising from an alteration of grade or otherwise.

Certificates for
work charge
able to lots.

SECTION 13. After the completion and performance of any contract entered into by the board of public works for work chargeable to the lots or lands fronting thereon, or to other lots upon which assessments of benefits have been made therefor by virtue of this act, they shall give to the contractor or contractors a certificate signed by the board or the president thereof, and countersigned by the comptroller, stating the amount of work done by such contractor, the nature thereof, and the description of the lot or parcel of land upon which the same is chargeable. It shall be the duty of the comptroller to keep a register of all certificates issued by the board of public works against lots, and countersigned by him, which said certificates may be paid by the owner or owners of such lots at any time before the sale of such lots for the non-payment of taxes, to the city treasurer; who shall receive the amounts paid on such certificates and hold the same for the benefit of the owners of such certificates, and such owners shall be entitled thereto on producing and surrendering such certificates to be cancelled. And if the amount thereof shall not be paid before [the] time of making out the annual tax list, the same shall be assessed upon said lots or parcels of land respectively, and collected for the use and benefit of the holders of such certificates, as other taxes on real estate are collected as provided by law; 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. All certificates issued under and in pursuance of any of the provisions of this chapter shall be liens upon the lots or parcels of land against which the same shall respectively be chargeable, from and after the time when such certificates

Certificates
may be paid by
owner.

If not paid cer-
tificates shall
be taxed a-
gainst lots.

Certificates
shall be liens
on lots.

shall be countersigned and registered by the city comptroller. Such certificates shall draw interest at the rate of twenty-five per cent. per annum upon the amounts named in the same, from the time when such lots or lands shall be sold by the city treasurer as required by law, for and on account of such certificate liens; and may be transferred by the person or persons to whom the same may be issued, by the endorsement of his or their names thereon; and such transfer shall in no way affect or impair the lien given by this act, but shall transfer to the assignee all the rights of the assignor.

Certificates shall draw interest after sale.

SECTION 14. In all cases where the board of public works shall have issued a certificate for work done on any street, sidewalk or alley, chargeable to lots or lands according to the provisions of this act, and the lot or tract of land described in such certificate shall have been subdivided prior to the date of such certificate, then the work certified to in such certificate shall be chargeable to that subdivision of such lot or tract of land which fronts on the street, sidewalk or alley on which such work shall have been done according to law; and it shall be lawful for the city treasurer, in collecting the special taxes assessed by reason of the issue of such certificates, to collect the amount named in such certificates from that subdivision of lot or tract of land, which fronts on the street or alley named in such certificates, and on which said work was done according to law.

Certificates, when lots subdivided.

Collectable from subdivisions.

SECTION 15. Whenever snow shall fall upon any of the sidewalks of the said city, so that the same shall be encumbered thereby, and such snow shall not be removed therefrom within twenty-four hours after the snow shall have ceased falling, the said board shall have power, forthwith, without notice or letting, to employ persons or to make contract or contracts to remove such snow from any sidewalk or part of sidewalk in said city, where they shall by resolution declare it to be necessary, and to assess the cost thereof against all lots, parts of lots and parcels of land abutting on such sidewalk or part of sidewalk in the manner hereinafter directed.

Removing snow from sidewalks

SECTION 16. It is hereby made the imperative duty of the board of public works, unless otherwise provided by ordinance of the common council, to cause the streets, alleys and sidewalks in the city to be kept in proper repair, and in a cleanly and wholesome condition at all times, and for this purpose they are empowered to employ the necessary labor, or to contract

Streets, alleys and sidewalks to be kept cleanly and wholesome.

Expense chargeable to city fund.

Repairing and relaying sidewalks.

Notice for repairs.

Time for making them.

Petitions dispensed with.

Occupants of buildings to be notified.

Dangerous sidewalks.

pursuant to law, for such cleaning and repairing as they may deem necessary for the safety and health of the people; the expense of such cleaning and repairing, except of alleys and sidewalks, shall be chargeable to and paid out of the general city fund; and said board are also hereby empowered to cause sidewalks to be repaired, or to be taken up and relaid, with part new and part old materials of the kind previously laid down, and to assess the expense thereof against the lot or piece of land in front of which such work may be done, in the manner hereinafter provided: *provided, however*, that before causing such work of repairing or relaying sidewalks as aforesaid, said board shall make an order particularly describing the work to be done, and shall give public notice for at least six days, in the official papers, to all persons interested, that such repairs or relaying are necessary, and that specifications of the same are on file in their office where they can be examined, and that such persons so interested can make such repairs, or relay such sidewalks at any time within twenty days from the first publication of such notice; after which time all such repairs or relaying remaining undone will be done under the direction of the board of public works, and the expense thereof assessed against the lots or parts of lots or parcels of land respectively in front of which such repairs and relaying shall be so done by said board; and said board is hereby empowered to cause such unfinished work to be done by contract or by men in their employ; and no petition for any such repairing or relaying, and no further notice for doing such work shall be necessary: *provided*, that in all cases in which notice is required under this section, if the lots, parts of lots or parcels of land affected have any building or buildings thereon, actually occupied, the board of public works shall first cause written or printed notice, stating the repairs necessary and requiring such repairs to be made within ten days after the service thereof, to be given to the occupants of such buildings by leaving the same at each of such occupied buildings; and only in case such repairs shall not be made within the said time by such occupants, shall the said board of public works have power, in such cases, to procure the same to be made as provided in this section.

SECTION 17. Whenever any sidewalk, or part of any sidewalk, shall, in the judgment of the said board, declared by resolution to that effect, be in a dangerous condition to persons passing over it, for want of being repaired or remade, the said board shall have power to

order the same to be forthwith repaired or remade, and thereupon forthwith to employ fit persons to repair or remake the same for a fair price, and charge the expense thereof to the lots, parts of lots, or parcels of land abutting thereon, by a special assessment; and such assessment shall be a valid charge and lien upon such lots, parts of lots or parcels of land, without any estimate, notice, letting or other proceeding preliminary to the doing of such work, except the resolution of said board so declaring such sidewalks to be dangerous.

How repaired.

SECTION 18. Whenever any nuisance, source of filth or cause of sickness shall be found on private property, or in the alley in front or rear of such property, the common council may order the owner or occupant thereof, at his own expense, to remove or abate the same within twenty-four hours from the date of the order, or within such time as may be named in said order; and if the owner or occupant shall refuse or neglect so to do, within the time named in said order, then the board of public works shall forthwith cause said nuisance, source of filth, or cause of sickness to be abated or removed, at the expense of the lot or tract of land in the front or rear of which, or upon which such nuisance, source of filth or cause of sickness may be found.

Nuisances on private property.

How abated.

SECTION 19. In all cases mentioned in sections fifteen, sixteen, seventeen and eighteen of the chapter, or in either of said sections, wherein the board of public works are authorized to do any work or cause the same to be done, and to charge or assess the expense thereof upon the lots, parts of lots or parcels of land upon or in front or rear of which such work may be done, the expense of such work shall, in the first place, be defrayed out of the ward fund of the proper ward. It shall be the duty of said board to keep a strict account of the labor expended upon such work in front or rear of each such lot, part of lot or parcel of land, and of the cost thereof, and to make a report to the comptroller monthly on the first of each month for each ward in said city, stating and certifying the description of the lots, parts of lots, or parcels of land, in front or rear of, or upon which work chargeable thereto under either of said sections, shall have been done by said board under authority thereof during the preceding month, the nature of the work so chargeable to each lot or parcel, and the amount actually expended therefor, and the comptroller shall, at the time of

When to be charged to the ward fund.

When to lots.

Shall be levied
against lots.

making his annual report to the common council of the lots or parcels of land subject to special tax or assessment, required by section fourteen of chapter three of this act, include therein the said lots or parcels of land so reported to him by said board of public works, with the aggregate amount chargeable thereto, according to such reports, for work done during the preceding year, under said sections fifteen, sixteen, seventeen and eighteen of this chapter; and such amounts shall be levied on the lots or parcels of land respectively to which they are so chargeable, in like manner as other special taxes are levied in said city; and when collected, the same shall be credited to the account of the ward fund of the ward in which such property is situated.

Commissioners
of public works
not to be inter-
ested in con-
tracts or im-
provements.

SECTION 20. If any commissioner of public works shall in any case be directly interested in any property liable to be assessed with benefits on account of any public improvements, or entitled to an assessment of damages arising from an alteration of grade, the common council shall in such case appoint some disinterested person to act in his stead; and the person so appointed shall, for the particular case in which he is so appointed, possess all the powers and authority of, and be subject to all the duties and restrictions imposed by law upon, a member of said board.

Canada thistles

SECTION 21. The said board, under direction of the common council, shall have power to make contracts for the removal of Canada thistles and other noxious plants and weeds from streets, alleys, and public grounds in any ward of the city; the cost thereof to be chargeable to the ward fund of the proper ward.

CHAPTER VIII.

SEWERS.

Sewerage dis-
tricts.

SECTION 1. The city of Milwaukee is hereby divided into three sewerage districts, as follows: All that part of the city embraced in the First, Third and Seventh wards, shall constitute one district, to be known as the East sewerage district. All that part of said city embraced in the Second, Fourth, Sixth, Ninth, Tenth and Thirteenth wards, shall constitute one district, to be known as the West sewerage district. All that part of said city embraced in the Fifth, Eighth, Eleventh and Twelfth wards, shall constitute one district, to be known as the South sewerage district.

Diagrams for
each district.

SECTION 2. The board of public works of said city shall cause to be made from time to time, as fast as the

preliminary surveys can be completed, diagrams for each such district, in addition to and extension of those already made and adopted under and pursuant to the provisions of chapter two hundred and seventy-four of the local laws of 1870, which diagrams shall conform to the system of sewerage in the district, and show the plan thereof, and contain, as nearly as practicable, the lots, blocks and tracts of land, the main sewers to be constructed, the branch and minor sewers, the man-holes, the catch basins and their connections through overflow pipes with the sewers, the sewers already constructed, and any other data deemed by them necessary for information: *provided*, that the plans for sewerage heretofore made and adopted pursuant to said chapter two hundred and seventy-four, shall remain in full force and be deviated from only by authority of the common council; and that all sewers already constructed under chapter three hundred and ninety-nine of the local laws of 1869, or chapter two hundred and seventy-four of the local laws of 1870, shall be considered as part of the plan, to be in no respect altered or changed, and that other sewers previously constructed may be included in the diagrams to be prepared, so far as the same can be used in the proposed system of sewerage.

Present sewerage plan to remain in force.

Present sewers not to be disturbed.

SECTION 3. On the completion of any such diagram, said board shall give notice in the official papers of the city, for at least six days, that a plan of sewerage is open at their office for inspection. Any person owning real estate in such district may file with said board written objections to the said plan, stating therein the nature and reason of his objections, and may also suggest improvements to said plan.

Notice of diagram to be given.

SECTION 4. The said board may reconsider and modify said plan, and at the expiration of ten days after the time such notice shall have been given to said resident freeholders of the district, shall report such plan to the common council for its approval.

Plan may be modified by board

SECTION 5. The common council shall take such plan into consideration, and within thirty days after receiving the same shall return it to the board approved, or, if objected to, with a statement in writing of such objections, or of any alterations or improvements thereof which they may deem desirable.

Council to ratify or condemn.

SECTION 6. The said board may, on return of such plan by the common council, modify or change the same in accordance with the suggestions of the common council, or may prepare a different plan which

Plan may be changed, or a new one prepared.

shall be again submitted to the common council, and may generally modify and change their action in the premises until a plan shall be mutually agreed upon by the board and common council: *provided*, that no plan shall take effect until approved by the common council, and no plan thus approved shall be deviated from except by consent of the council; *and, provided further*, that sewers may be ordered and constructed in any district without the plans of such district being completed in their whole extent and all their details.

Board to annually report the sewers necessary in each district.

SECTION 7. On or before the first day of March in each year the board of public works shall report to the common council the sewers necessary in their judgment to be built in each district during the current year, in accordance with the plan, stating the precise location and extent of the same, and the kind of material of which they should be composed. The common council shall take such report into consideration, and may approve the same, and make such additions to it or alterations in it in any respect as to them may seem best, and return the same to the board; and it shall be the duty of the board to carry out the work as directed in the report thus returned from the common council. The board may also from time to time during the year, as may be necessary, recommend to the common council the construction of other sewers than those contained in the general report; which recommendation the common council shall take into consideration and return to the board approved, negatived or altered, as may to them seem best, and the board shall carry out the work as prescribed in the action of the common council: *provided*, that no sewer shall be built or contracted for by the board, until the same has been authorized or ordered by the common council.

May recommend others-

Sewers to be built only upon order of common council.

Board shall advertise for proposals.

SECTION 8. After the common council shall, by resolution or otherwise, have ordered the construction of any sewer, the board shall advertise for and receive bids to do the work so ordered, having first procured to be carefully prepared, and put on file in their office for the examination and guidance of bidders, plans and specifications describing the particular work to be done, and the kinds and qualities of materials to be used, as directed by the common council, and shall let the contract to the lowest responsible and reliable bidder, subject, however, to the provisions of chapter five of this act.

Contract shall be let to lowest bidders.

Contractor to take certificate in part payment.

SECTION 9. Such contract shall require the contractor to receive as payment for so much of the work as has been assessed against the lots opposite to the

front of which any such sewer shall extend, certifies against such lots respectively; and the residue of such contract shall be paid out of the proceeds of the general sewerage tax, to be levied on the real estate and personal property within the sewerage district by the common council on the recommendation of the board of public works.

SECTION 10. After any contract for work under this act, to be paid for in whole or in part by special assessments, shall have been entered into, the board of public works shall make or cause to be made an assessment against all lots, parts of lots and parcels of land, fronting or abutting on the work so contracted to be done, on each side of the same for its whole length, and which have not before been so assessed for sewerage purposes, at the rate of eighty cents per lineal foot of the whole frontage of each lot, part of lot or lots, or parcel of land fronting or abutting on either side of such sewer, except corner lots, which shall be assessed therefor as follows: corner lots not subdivided in ownership, and subdivisions of corner lots, constituting the actual corner of corner lots subdivided in ownership, shall be entitled to a deduction in making such assessment, of one-third from the aggregate of the street lines of such corner lots or corner subdivisions thereof on all the streets in front thereof; such deduction to be made in the assessment of the longest street line of such corner lots or corner subdivisions thereof, or in case of equal street lines thereof, in the assessment for the second sewer to which they are liable: *provided, however*, that when the actual cost of any sewer shall be less than one dollar and sixty cents per lineal foot, then, and in that case, the assessment shall be for the actual cost of such sewer per lineal foot, one half thereof to be chargeable against the property fronting or abutting thereon on each side thereof. Whenever any lot which, as originally platted fronts or abuts on any sewer, is subdivided, and the subdivisions thereof are owned by different persons, no subdivision of such lot, not fronting or abutting on such sewer, and not owned by the same person who owns the subdivision fronting or abutting on such sewer, shall be assessed for the cost of such sewer.

Sewerage assessment, when and how made, and for what amounts.

Deductions, what lots entitled to, and for what amount.

Subdivisions how charged.

SECTION 11. Whenever any lot or parcel of land, shall be subdivided by sale or any other contract, after the assessment of benefits accruing to it by a system of sewerage shall have been made, and before such system shall have been fully carried out and extended to such lot—and the assessment on such work paid,—

Notice of subdivisions, duties of board when given.

any party interested may give notice to the board of such subdivision, and in such case, or when the said board shall in any other way become cognizant of the fact of such subdivision, they may make an equitable apportionment of the said benefit tax against any said lot between the different parcels of it, but if, by neglect of the owners of the lot so subdivided, no such apportionment shall be made, then the entire lot shall be liable for the entire tax.

Sewers in street and alley crossings chargeable to sewerage fund.

SECTION 12. The cost of all sewers in street and alley crossings, and of all sewers in excess of one dollar and sixty cents per lineal foot chargeable to lots and lands as provided in section ten of this chapter—of all catch basins for receiving the water from the gutters, and of the overflow pipes connecting them with the sewers,—of all temporary catch basins,—and of the repairing and cleaning of sewers—and all expenditures for temporary work necessary to carry out the system of sewerage herein provided, and all costs for constructing sewers not provided for by special assessment shall be paid out of the fund of the proper sewerage district; and all cleaning and repairing of sewers and catch basins, and all temporary work necessary to be done as above stated, shall be done by the authority of the board of public works as may be necessary.

Cleaning and repairing.

Board to make annual report of money required for that year in each district.

SECTION 13. The board of public works shall report to the common council on or before the third Tuesday in April of each year, as accurately as may be, the amount of money required for sewerage purposes for that year in each district, in addition to the special assessments made; and the common council are hereby authorized to direct the levy and collection of a tax for sewerage purposes in each district for such amount as may be necessary, not however, to exceed in any one year the sum of two and one-half mills on the dollar on all the property, real and personal, subject to taxation within any such sewerage district; which tax, so levied, shall, when collected, be paid into the city treasury and be placed in the fund of the sewerage district in which the same has been collected; and the city comptroller is hereby directed and required to keep a separate and distinct account with each sewerage district.

Sewerage tax, how levied and collected.

Contractor entitled to certificate on completion of work.

SECTION 14. Any person to whom a contract is awarded for the construction of a sewer shall receive in payment certificates against the lots, parts of lots, or parcels of land so as heretofore directed to be assessed, so far as the same will go in liquidation of the amount of such contract, and shall be entitled to

receive city orders for the balance due, payable only out of the fund of the proper district; and it shall be the duty of the board of public works, after the completion of any contract and acceptance of the work, to issue such certificates on the request of the person entitled to receive them: and where any sum is found to be due a contractor over and above the amount of certificates so to be issued and received in part payment, to certify the same to the common council which may direct an order to be drawn on the proper fund for the payment of the same. All certificates of special assessments for building sewers shall be made by the board of public works and signed by the board or by the president thereof, and countersigned by the comptroller of the said city, and delivered by the said board of public works to the persons entitled to receive the same, in the same manner as certificates of assessments for other work in the said city.

Certificate of special assessment, how executed.

SECTION 15. All contracts entered into by the board of public works under this chapter shall be approved as to form and execution by the city attorney, and, before taking effect, shall be signed by the president of the board and countersigned by the comptroller, and all bonds taken by them shall be entered into in the name of, and shall be executed to, the city of Milwaukee, and shall be approved by the board. All contracts entered into under this chapter shall be expressly subject to the powers given to said board by chapter five of this act. And in case any work shall be suspended, in consequence of the default of any contractor, or in case the bids shall be deemed excessive, or the parties making proposals for any work shall not be deemed responsible or proper parties to be entrusted with its performance, the said board shall proceed as provided in said chapter five.

Contracts to be approved by city attorney.

In case of suspension or default.

SECTION 16. The grades of sewers to be constructed shall be fixed by the board of public works, with the approval of the common council; and the said board shall make or cause to be made a profile of such grades upon the plans of the sewer to be constructed, giving a sufficient number of bench marks and their elevation, and such other data as may be necessary to make future surveys. And in all cases the work shall be subject to the superintendence and direction of the said board; and no contractor shall be entitled to recover compensation for any work executed by him, in any form of action, unless such work shall have been approved by the said board: *provided*, that the said board may from time to time, as the work progresses, at their

Grades of sewers.

Work to be approved by board.

Board may grant estimates.

discretion, grant to any contractor for a sewer an estimate of the amount and proportionate value of the work already done, withholding in all cases twenty-five per cent of said estimate, which shall entitle the holder to receive the amount thereof, less such twenty-five per cent., from the public fund.

Board may order sewer pipe laid before paving any street.

SECTION 17. Whenever the common council shall order the paving or repairing of any street in the city of Milwaukee, in which water and gas mains and sewers, or either of them, shall have been previously laid and constructed, they may also by resolution require the board of public works to cause water and gas service pipes and house drains to be first laid in such street at the cost of the property fronting on such street, from the main sewer and water and gas mains in such street, to the curb line on either side of the street, at intervals not less than twenty feet, along the whole length of such paved street except at street and alley crossings; and the board of public works shall thereupon give notice to the owners or occupants of the property adjoining such paved street, by publication thereof for six days in the official papers, requiring them to do such work opposite their respective lots, according to a plan and specification to be before prepared and on file in the office of said board, showing the location and size and the kind and quality of materials of such lateral sewers or drains, and water and gas service pipe; and if such owners or occupants shall refuse or neglect to do the same before the paving or repairing of said street so ordered, and within ten days after the publication of such notice, the said board may procure the same to be done, and charge and assess the expense thereof to the lots or parts of lots fronting upon such work in the manner provided in and by section nineteen of chapter seven of this act; and the same shall be levied and collected as other special assessments are levied and collected in said city: *provided*, that no street shall be paved or repaved by order of the common council, unless the water and gas mains and service pipes, and necessary sewers and their connections shall, as required by the common council, be first laid and constructed in that portion of such street so to be paved or repaved.

Notice thereof to be given.

If not done by owners, may be assessed against property.

No street to be paved till gas and water mains and sewer pipe be laid.

Board to see that all proper drains are made

SECTION 18. It shall be the duty of the said board to see that proper drains or sewers are constructed from every lot in said city, which in their judgment requires it; and that such private drains or sewers are made to communicate with the public sewers in a proper manner; and they shall have power to require such

number of private drains and sewers to be constructed as they may deem expedient.

SECTION 19. The said board shall prescribe the location, arrangement, form, materials and construction of every drain and sewer for every lot in the city emptying into the public sewers, and shall determine the manner and plan of the connection of the same; the work of construction shall be in all cases subject to the superintendence and control of said board, and shall be executed strictly in compliance with their orders; but the cost of such private sewers shall not be included in the estimate of the cost of the general plan of sewerage in any district, and shall be charged upon the lot or lots for the benefit of which such private sewers shall be constructed.

Board to have control, etc.

SECTION 20. The said board shall have at their office, ready for the examination of the parties interested, the specifications of any private drains or sewers so ordered to be constructed, and they shall give to the lot owners six days' notice in the official papers to construct the same, designating therein a reasonable time within which the work shall be completed; and in case any lot owner neglects to do the work required of him to be done, within the time specified in said notice, they shall advertise for proposals and let the same by contract; and at the completion of the contract, shall give to the contractor a certificate or certificates against such lot or lots, which shall be proceeded with and shall have the like effect as other certificates given for work chargeable to lots.

Specifications of private drains and sewers to be kept open for examination.

Certificates.

SECTION 21. Any person who has taken such contract from said board to construct a private drain or sewer from any lot, shall be authorized to enter upon such lot and construct thereon such drain or sewer, and shall have free ingress and egress upon the same with men and teams for that purpose, and to deposit all the necessary building materials, and generally to do and perform all things necessary to a complete execution of the work.

Contractor may enter premises, etc.

SECTION 22. No private drain shall be connected with any public sewer without the said board first issuing their order or permit for such connection; and there shall be paid for such order or permit into the general fund of the sewerage district, by the owner of any lot from which a private drain is led into a public sewer, an amount to be fixed by said board, proportioned to the size of such private drain, but not less than two and a half nor more than five dollars for every drain from any lot or parcel of a lot; and in

Permit to connect private with public sewers.

Fee therefor.

case such amount is not paid, it shall be a lien upon such lot, and shall be collected as other taxes on real estate are collected: *provided*, that no charge shall be made for the order or permit herein referred to, when the connection for which it is used is made before the sewer is finished in front of the premises to be connected.

Penalty for breaking or obstructing sewers.

SECTION 23. No person shall break open or make connections with any public sewer, except by the consent and under the direction of the board of public works; and any person who shall do so, or shall willfully or maliciously obstruct, damage or injure any public or private sewer or drain in said city, or willfully injure any of the materials employed or used in said city for the purposes of sewerage, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than five hundred dollars, or imprisoned in the county jail not to exceed three months.

Contractors to restore streets and alleys to former condition.

SECTION 24. Any contractor or other person acting under the direction of the board of public works may lay sewers in and through any alleys and streets of said city, and through any breakwater into Lake Michigan, and also in any highways of Milwaukee county, whether within the limits of said city or not: *provided*, that it shall be the duty of such contractor to repair such streets, alleys, breakwaters, and highways, and to restore the same to their former condition, upon the completion of such sewers.

CHAPTER IX.

HARBOR AND RIVERS.

Milwaukee harbor what it includes.

SECTION 1. The harbor of Milwaukee shall include the Milwaukee river from lake Michigan to the dam across said river in said city, and all those portions of the Kinnickinnick river and of the Menomonee river, and the canals, water channels and slips laid out and established in the valley of said Menomonee river under and in pursuance of chapter ninety-one of the local laws of 1869, which are within the limits of the city of Milwaukee, and also lake Michigan to a distance of one mile from the shore along the east front of said city; and said rivers, and said canals, water channels and slips are hereby declared to be public highways and navigable from lake Michigan to said dam and to the western and southern limits of said city.

Kinnickinnick a navigable river.

SECTION 2. Whenever the survey and plat of the Kinnickinnick river describing the channel and dock lines of said river shall be made, adopted and estab-

lished, recorded and filed, as provided by section twenty of chapter one hundred and twenty-nine of the laws of 1873, the water channel of said river as described and represented by such survey and plat shall be deemed to be and is hereby declared to be a public navigable river, subject to all laws and regulations applicable to it as such.

SECTION 3. The common council of said city shall have power, by ordinance, to establish dock and wharf lines upon the banks of the Milwaukee, Menomonee and Kinnickinnick rivers, and the public canals in said city wherever the same are not established by statute; to restrain and prevent encroachments upon said rivers and canals, and obstructions thereto; and to construct, alter and maintain, or cause to be constructed, altered and maintained, at the expense of the city, docks or wharves along the banks of said rivers and canals, where the same are not by law required to be constructed and maintained at the expense of the owners of the lots bounded on said rivers and canals respectively.

SECTION 4. The board of public works shall annually; in the month of April, appoint one or more harbor masters, subject to the approval of the common council. The duties and compensation of such harbor masters, shall be prescribed by the common council, by ordinance. Their term of office shall be one year, and until their successors are appointed and qualified; but they shall be subject to removal at any time by the board of public works, with the approval of the common council.

SECTION 5. The board of public works shall appoint, subject to the approval of the common council, all bridge tenders whose number, duties and compensation shall be fixed and determined by the common council. Any bridge tender may be removed at pleasure by the board of public works or by the mayor

BRIDGES.

SECTION 6. Draw or swing bridges, with openings sufficient for the passage of vessels shall be maintained and supported at the expense of the city at the following places in said city, to wit:

ACROSS THE MILWAUKEE RIVER;

From Pleasant street, in the First ward, to Dock street, in the Sixth ward;

From Water street, in the First ward, to Cherry street, in the Sixth ward.

From Division street, in the First and Seventh wards to Chestnut street, in the Second ward ;

From Martin street, in the Seventh ward, to State street, in the Second ward ;

From Oneida street, in the Seventh ward, to Wells street, in the Fourth ward ;

From Wisconsin street, in the Third and Seventh wards, to Spring street, in the Fourth ward ;

From Huron street, in the Third ward, to Clybourn street, in the Fourth ward.

From East Water street in the third ward to Ferry street in the Fifth ward ;

From Broadway in the Third ward to Lake street in the Fifth ward.

ACROSS THE MEMOMONEE RIVER AND CANALS ;

From West Water street in the Fourth ward to Reed street in the Fifth ward ;

On First avenue in the Fifth and Eighth wards ;

On Sixth street in the Fourth ward ;

On the Muskego road in the Fourth ward.

ACROSS THE SOUTH MEMOMONEE CANAL ;

On Sixth avenue in the Eighth ward.

ACROSS THE KINNICKINNICK RIVER ;

On Clinton street and on Kinnickinnick avenue in the Twelfth ward ; and

ACROSS THE BAYOU ;

In the sixth ward.

Buffalo street
bridge ap-
proaches.

It shall be the duty of the common council to perfect as soon as practicable, the arrangement now pending for the conveyance to the city of Milwaukee of a strip of land not less than sixty feet in width, extending from the west dock line of the Milwaukee river to West Water street, in the Fourth ward, at the point located for the western approach of the bridge proposed to be constructed across said river, from Buffalo street, in said Third ward, to the Fourth ward ; and as soon as such strip of land shall be duly conveyed to said city, the common council shall proceed to construct and complete a draw or swing bridge, and to maintain the same, across said river, from said Buffalo street to the Fourth ward, as provided by chapter 129 of the laws of 1873.

Stationary
bridges.

SECTION 7. Stationary bridges shall also be maintained at the expense of the city across the Milwaukee

river, from Racine street in the first ward to Humboldt avenue in the sixth ward, and on North street, from the first ward to the sixth ward; also across the Milwaukee and Rock River Canal at the foot of Humboldt avenue, at the foot of Walnut street, and at the foot of Cherry street, and across the bayou on Dock street in the sixth ward; across Holton's canal on Canal street in the fourth and eighth wards; in the valley of the Menomonee river on the Muskego river in the eighth ward; across the Kinnickinnick river at the intersection of Clinton street and Lincoln avenue; and across the old channel of the Menomonee river at Canal street in the fourth and eighth wards.

SECTION 8. The common council of said city shall have power to construct swing bridges across any of the rivers or canals in the city, in addition to those mentioned and provided for in section seven of this chapter, whenever in their judgment public convenience may require the same: *provided*, that the same shall be so constructed as not unnecessarily to impede the navigation of the river or canal over which the same may be constructed; *and provided further*, that the act, resolution or ordinance for the construction of any such bridge shall require for its passage or adoption a vote of two-thirds of all the members elect of the common council, and shall have no force or validity without such two-thirds vote.

Other swing bridges may be constructed by a two-thirds vote.

SECTION 9. Whenever the common council shall by ordinance or resolution order the construction of any bridge, the board of public works shall have power to advertise for plans, with bids thereon, allowing each and every contractor to present his own plan and bid; also to prepare or procure plans and to advertise for bids thereon; and the authority is hereby extended to the board of public works to select therefrom such bid and plan as shall seem to them to be the best for the interest of the city; and to report the same together with all other plans and bids for such bridge to said council with their reasons for their choice; and the said council may approve said selection, and order contracts to be entered into accordingly, or may disapprove of the same, and by a vote of two-thirds of the council in favor thereof, may select any other of the plans and bids so reported, and direct the board of public works to enter into contract on the same: *provided*, that no contract shall be entered into under this section without the authority of the council expressed by ordinance or resolution.

Board to advertise for plans.

Council to select and approve plans.

SECTION 10. The general laws for the preservation

Preservation of bridges.

of bridges, and the punishment by such laws provided for willful and malicious injuries done thereto, are hereby extended to and shall include all of said bridges, and shall apply to any willful or malicious damage which may be done to either of them by any person or persons whomsoever; and the common council may from time to time make such by-laws or ordinances as they may deem necessary for the preservation of such bridges, and enforce the same by adequate penalties.

Prosecution for damage thereto

In case of any damage being done to any of said bridges by any vessel or water craft, or by the master or any person in command thereof, such vessel or water craft may be proceeded against under the law to provide for the collection of demands against boats and vessels.

CHAPTER X.

WATER WORKS.

Surrender of water works to city.

SECTION 1. From and after the first day of January, A. D. 1875, or whenever before that time, the board of water commissioners of said city shall, by resolution, surrender the water works and property now in their charge, to the city, and the common council shall consent to accept the same, all the powers, duties and functions of the board of water commissioners of the city of Milwaukee, and of the engineer and assistants, the treasurer and secretary, and all other officers, agents, employes and servants appointed and employed by said board, shall cease and determine; and said board and its officers, agents employes and servants, shall, on that day, or at the time of such surrender and acceptance, deliver the possession of the water works and of all property pertaining thereto, and of all their records, contracts, transactions, reports, accounts, surveys, maps, plats, estimates, profiles, plans and documents of whatsoever nature, to the board of public works, who shall thereupon assume and have the exclusive charge and superintendence, subject to the direction of the common council, of the water works of said city: *provided*, that the common council may by resolution extend the time herein limited, to such later date as to them may seem best, and the powers, duties and functions of said water commissioners, and of their appointees and employes, shall continue till the expiration of the time so extended.

Delivery of property pertaining thereto.

Time may be extended.

Water matters.

SECTION 2. It shall be the duty of said board of public works to examine and consider all matters relative to supplying the city of Milwaukee with a sufficient quantity of pure and wholesome water

to be taken from Lake Michigan, for the use of its inhabitants.

SECTION 3. The said board shall have power to construct jets and fire hydrants for public use, and fountains at such places in the said city as the said board, with the approval of the common council, shall determine, and also to lay water pipes in and through all the alleys, streets and public grounds in the said city, and generally to do all such work as may be found necessary or convenient, from time to time, for the purposes of this chapter.

Public hydrants.

SECTION 4. The said board shall have power, by themselves, their officers, agents and servants, to enter upon any land or water in the said city for the purpose of making examinations or surveys in the performance of their duties under this chapter, without liability therefor; and said board shall have power with the approval of the common council to purchase and acquire for the said city all real and personal property which may be necessary for the construction of the works hereby provided for.

May enter on premises for surveys and examinations.

SECTION 5. Whenever any real estate, or any easement therein or use thereof, shall, in the judgment of said board, be necessary for the construction of the said works, and for any cause an agreement for the purchase thereof cannot be made with the owner thereof, they shall report the same to the common council; and thereupon the said common council shall proceed to take such real estate, easement or use, as provided in chapter six of this act in the case of taking lands for public squares, grounds, streets and alleys, except that no petition or bond shall be necessary; but all the other provisions of the said chapter six shall apply to the taking of such real estate, easement or use, for the construction of such works, so far as the same may be applicable.

Taking of real estate for use of water works.

SECTION 6. All property, real, personal and mixed, acquired for the construction of said water works,—and all plans, specifications, diagrams, papers, books and records connected therewith,—and the said water works and all buildings, machinery and fixtures appertaining thereto, shall be the property of the said city of Milwaukee.

Water works property of city.

SECTION 7. There is hereby created for the said city a separate fund, to be called the water fund. There shall belong to such fund all bonds and proceeds thereof, authorized by law to be issued for the construction of the said water works, all proceeds of all taxes levied for the construction of the said water

Water fund.

- works, all water rates assessed and collected for water proceeding from such water works, and all other proceeds, revenue and income of said water works,—and all other moneys and property in any way derived by the said city in aid of the said water works, or appropriated by the said common council towards the same; and the said fund is hereby exclusively devoted and appropriated to the construction and maintenance of the said water works—and to the payment of said water bonds, until the said works shall be wholly completed and the said bonds wholly paid. Said water fund shall be kept in the city treasury in the custody of the city treasurer, and shall be disbursed by him on vouchers drawn for the same in the manner provided in this act; and said city treasurer and the sureties on his official bond shall be liable for the safe keeping and disbursement thereof. It shall be the duty of the treasurer of said board of water commissioners to submit his account of the water funds in his hands on the first day of January, 1875, or at such time as the water works shall be surrendered, as provided in section one of this chapter, and to settle and adjust such accounts with the city comptroller, and to pay over any balance remaining in his hands on that day to the city treasurer, to the credit of the water fund.
- How kept.** SECTION 8. It shall be the duty of the said board of public works to report to the common council once in three months, all their doings under this chapter, and the state of the said water fund and the general condition of the said water works; and such reports, after being submitted to the common council, shall be filed in the office of the comptroller of the said city.
- Special report.** SECTION 9. It shall be the duty of the comptroller of said city to keep separate accounts of all the funds, receipts, and payments on account of said water works, and a separate record of all the contracts made by the said board touching said water works, and of the estimates of the cost of such contracts, and generally to keep separate books for the said water fund and water works, as he is or may be by law required to keep of other property, funds and interests of the said city.
- Quarterly reports.** SECTION 10. The said water works, and all the grounds, buildings, fixtures, machinery and other things appertaining thereto, shall be under the control of the said board, who shall have the power to regulate and control and have a general supervision over the same, subject to the authority of the said common council.
- Separate account.**
- Control of water works.**

SECTION 11. The said board shall have power, from time to time, to make and enforce by-laws, rules and regulations in relation to the said water works, and, before the actual introduction of water, they shall make by-laws, rules and regulations, fixing uniform water rates to be paid for the use of water furnished by the said water works, and fixing the manner of distributing and supplying water for use or consumption, and for withholding or shutting off the same for cause, and they shall have power, from time to time, to alter, modify or repeal such by-laws, rules and regulations; *provided, however*, that no such by-law, rule or regulation, and no alteration, modification or repeal thereof, shall have any force until submitted to and approved by the said common council.

Water rules
and regulations

To be approved
by council.

SECTION 12. It shall be the duty of the said board of public works on the first day of March and the first day of September in each year, to make and certify to the city treasurer a list of all lots, parts of lots and parcels of land to which water has been furnished from said water works during the preceding six months, with the names of the owners or occupants of such premises, and the amount chargeable to each such owner or occupant for water rates during such six months. The president of said board shall attach to such list his warrant to the city treasurer for the collection of the water rates therein contained from the several persons, firms and corporations against whom they are charged therein, requiring him to make return thereof, with his doings thereon to the city comptroller within two months from the date of such warrant, and shall deliver such list and warrant to the treasurer on or before the fifth day of March and September in each year. On receipt of such list and warrant, the city treasurer shall give notice thereof, and proceed in all things in relation thereto as he is required by chapter eighteen of this act to do in relation to personal taxes; and on the expiration of twenty days, as provided in said chapter eighteen, he shall issue his warrant to the chief of police, returnable within twenty days, for the collection of delinquent water rates; and said chief of police shall give like bond to the city before receiving such warrant, as in case of personal taxes, and shall proceed to collect such delinquent water rates in the same manner and with the same rights, powers and duties in and about the collection thereof, which are conferred upon and exercised by him in the case of personal taxes under said chapter eighteen. In case

List of lots to
which water
has been fur-
nished.

Collection of
water rates.

Delinquent water rates to be taxed against lots.

any of said water rates should remain unpaid at the time when the comptroller is required by this act to make his annual report and schedule to the common council, of lots, parts of lots and parcels of land subject to special assessments in said city, it shall be the duty of the comptroller to include in such schedule and report all the water rates so delinquent, adding thereto a penalty of ten per cent. with a description of of the lots, parts of lots, and parcels of land to which they may be chargeable; and the same shall be levied, entered on the annual tax roll, and collected at the same time and in the same manner with other special taxes and assessments. All water rates for water furnished to any building or premises which shall remain unpaid for thirty days after the same shall be due, with the penalty above provided, shall be a lien on the lot, part of lot, or parcel of land on which such buildings or premises shall be situated. Any water rates which may by mistake have been omitted in any warrant or list thereof delivered for collection as aforesaid, may be entered and collected, as omitted water rates, upon any subsequent list that may be made within one year after such omission.

Penalty.

Shall be a lien on property.

Penalty for polluting water or injuring work, or pipes.

SECTION 13. Any person who shall willfully pollute or otherwise injure any water supplied by the said water works, in any tunnel, aqueduct, reservoir, pipe or other thing, or shall willfully injure the said water works or any building, machinery or fixtures appertaining thereto, or shall willfully, and without authority of the said board, impede or derange the flow of water in any tunnel, aqueduct, pipe or other thing belonging to the said water works, or shall willfully and without authority of the said board, bore or otherwise cause to leak, any tunnel, aqueduct, reservoir, pipe or other thing used in the said water works for holding, conveying or distributing water, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding one thousand dollars, or by imprisonment for a term not exceeding two years, or by both such fine and imprisonment, in the discretion of the court.

Protective ordinances.

SECTION 14. It shall be the duty of the said common council, and they are hereby empowered, from time to time, to pass such ordinances as may be deemed necessary or expedient to protect said water works and the use thereof, and to enforce the by-laws, rules and regulations of the said board of public works.

Assessment of benefits for laying water pipe.

SECTION 15. The board of public works for the city of Milwaukee, before laying water pipe along a street,

alley or other line in said city, shall assess against the several lots, parts of lots or parcels of land which may front or abut on the proposed line of water pipe, or which may be contiguous to and used in connection with any lot or parcel of land so fronting and abutting, the amounts which the said several lots, parts of lots or parcels of land may, in the judgment of the said board, be specially benefited by reason of laying such water pipe, not to exceed, however, the amount prescribed in the next section: *provided*, that no lot, parcel of land or part thereof, shall be subjected to the payment of more than one assessment for water pipe laid in the same street or alley.

SECTION 16. A regular lot (not corner) which may front or abut on the line of water pipe, shall be assessed an amount equal to one-half of the cost, as estimated by the said board of public works, of furnishing and laying a regular minor water pipe of approved materials and manufacture, with the required openings for connections with private service water pipe along the front of such lot; such minor pipe to be not less than four nor more than six inches in diameter, as the said board may determine. Every irregular lot, part of lot, or other parcel of land fronting or abutting on such line of water pipe, and likewise any parcel of land, or lot, which shall be contiguous to any parcel of land, or lot, or part of lot so fronting or abutting, and which in the judgment of the said board is or may be most advantageously used in connection therewith, shall be assessed for such water pipe the amount which in the judgment of said board shall be as nearly as may be in just proportion to the amount assessed for regular lots, as compared with the special benefits derived by each from the laying of the said water pipe.

Assessment for minor water pipe.

Irregular lots.

Corner lot assessments.

SECTION 17. Every corner lot, and every lot, part of lot or parcel of land, which may front or abut on more than one street on which a line of water pipe shall be proposed to be laid, shall be assessed for every such line of water pipe; but the aggregate of the assessment therefor on any such lot, or parcel of land, shall be as nearly as may be in just proportion to the amount assessed for regular lots, as compared with the special benefits derived by them respectively, from the laying of such water pipe; and in making such assessment, the said board shall take into consideration the situation of such lot or parcel of land with respect to its different fronts, and all subdivisions thereof by sale, contract, use or occupation in severalty, and may assess subdivisions separately; and may also assess any

May assess subdivision of corner lots.

subdivision of such lot or parcel of land in connection with any other part of such lot or other lot or land contiguous thereto and most advantageously used in connection therewith.

Apportionment to such subdivision.

SECTION 18. Whenever any lot or parcel of land shall be subdivided by sale or contract, or by use or occupation in severalty, whether such subdivision shall occur before or after the assessment of special benefits as herein provided, the said board of public works may, after ascertaining such fact, at any time before the sale of such lot for the non-payment of the assessment, make an equitable apportionment of the benefit tax against such lot or parcel of land among the different subdivisions thereof.

Report of such assessment to be filed, and published.

SECTION 19. The said board of public works shall file reports of such assessments with the comptroller, who shall record the same in a book to be kept for that purpose, and give notice thereof to the parties interested, by publishing the same for three successive days in the official papers. Any person feeling himself aggrieved by the report of said board, may, within twenty days after the completion of the publication of notice by the comptroller, appeal from such report to the circuit court of Milwaukee county. Such appeal shall be entered and conducted in like manner, and like security for costs shall be required as provided by law in cases of appeals from the decision of the common council of said city to said court, on the returns of assessments of benefits for street improvements. In the making and signing of all reports or returns, under this chapter, by the said board of public works to the comptroller or any other officer of said city, the official signatures of the president and secretary of said board shall be sufficient.

Appeals how taken and conducted.

Comptroller shall keep record of assessments.

SECTION 20. The said board of public works shall, from time to time, make reports to the comptroller of all work done for which assessments shall have been made as hereinbefore provided, and the comptroller shall file such reports and enter the same in his book of records of assessments; and, of all assessments for work so reported to have been done, the comptroller shall, if possible, make certified returns to the city clerk in time to have the same included in the tax levy for the current year; and the same shall be entered on the tax roll in a separate column, under the head of "water pipe assessments;" and the same shall be collected, and the payment thereof shall be enforced by sale, deed, and other proceedings, in like manner as is now provided by law in cases of assessments for

To be entered on tax roll as "water pipe assessments."

street improvements. No certificates shall be issued by the comptroller for such assessments; but all such assessments and the proceeds thereof when collected, shall belong to the fund for the construction of water works, and shall be credited to said fund on the books of the comptroller and treasurer of said city.

CHAPTER XL

PUBLIC DEBT.

SECTION 1. There shall be in the city of Milwaukee a board composed of three persons, who shall be residents of said city, shall be styled "commissioners of the public debt," shall be appointed by the mayor with the approval of the common council, and shall respectively hold the office for the the term of three years and till their successors are appointed and qualified. Each of the present commissioners of the public debt of said city shall continue to hold his office until the expiration of the term for which he was appointed, and until his successor is appointed and qualified. The mayor shall within one month after the expiration of the term of any commissioner, appoint his successor, and, within one month after any vacancy shall occur by death, resignation, or otherwise, shall appoint some person to fill the vacant office for the unexpired term, all such appointments being subject to the approval of the common council.

Commissioners
of public debt.

Appointments,
how made, va-
cancies, how
filled.

SECTION 2. The commissioners of the public debt shall fix their own times of meeting, and the mode of calling their meetings. The action of a majority of them shall be deemed the action of the commissioners. They shall transact all their business at the office of the comptroller, and that officer shall be ex-officio the secretary of the commissioners and shall preserve a full record of all their proceedings.

Transaction of
business.

SECTION 3. It shall be the duty of the commissioners of the public debt to superintend the execution, issue, and use of all bonds issued or to be issued by the city, and the levy, collection and disbursement of the taxes provided for by law for the interest upon such bonds and for the sinking fund for the payment of the principal thereof, and to perform such other services and duties in respect to the same as are or may be prescribed by law.

Duties of com-
missioners.

SECTION 4. All bonds hereafter issued by said city shall be numbered consecutively in such manner as the common council may by ordinance prescribe, shall be signed by the mayor and clerk, sealed with the corpo-

All city bonds
hereafter issued
to be attested
by commission-
ers of public
debt.

Face of bonds shall show, etc.

rate seal, countersigned by the comptroller, and attested by the commissioners of the public debt of the said city, and each and every bond issued shall show on its face for what purpose, and by authority of what law it was issued, and shall have plainly engraved or printed in figures on some convenient place thereon, a statement of the several amounts of the assessed value of the taxable property in the city of Milwaukee for the five several years next preceding the issue of such bonds, and also of the principal sum of the bonded debt of the said city of Milwaukee, issued and yet outstanding—exclusive of the bonds heretofore issued by the said city to railroad companies—specifying severally the amount of each issue of such bonds including the issue of which the bonds bearing such statement shall be a part.

Account of city bonus to be kept.

SECTION 5. An accurate account shall be kept by the comptroller, or by such other officer as may be appointed by law for that purpose, of the issue of all the bonds by the said city, of their numbers, dates and amounts, of the dates of payment of interest and principal thereon, and of the particular purpose for which each bond is issued. All bonds issued by the said city shall be negotiated and disposed of by the said commissioners of the public debt, and such bonds and the proceeds thereof shall be used solely and only for the purposes defined in the law authorizing their issue, and in amount shall not exceed the limits fixed by law for the respective purposes so defined. The commissioners of the public debt shall from time to time, or when requested by the common council, report to the common council of the said city the sale or other disposition of any city bonds issued by said city.

Commissioners of public debt shall negotiate all city bonds.

Aggregate funded debt limited.

SECTION 6. The principal of the aggregate funded debt of the city of Milwaukee, exclusive of bonds heretofore issued to railroad companies, and bonds which may be issued in settlement and liquidation thereof, shall never exceed a sum equal to five per centum on the amount of the assessed value of the taxable property in the said city, which value shall be ascertained and determined by the average annual amount of the assessment rolls thereof for the next preceding five years, and all bonds hereafter issued by said city shall contain a covenant to that effect, and all bonds, notes or other evidences of debt payable at a future day, which shall be issued by the said city contrary to this section and in excess of the limitation herein prescribed, either with or without statutory authority, shall be void; *provided*, that the foregoing lim-

Bonds void when limit exceeded.

itation shall not apply to or include orders drawn upon the city treasurer payable out of the revenues of the current year, nor to the certificates or scrip issued or authorized to be issued by said city, by and under section three of chapter two hundred and fifty-one of the laws of 1873, for the settlement and payment of its bonds heretofore issued to certain railroad companies; *and provided, further*, that the common council may, as provided in chapter seventeen of this act, borrow money to be repaid out of the revenues of the current year. If in any case, the city or any city officer shall hereafter threaten or attempt to issue any such bonds, notes or other evidences of debt, in contravention of the provisions of this section, they shall be restrained by injunction from so doing, upon the application of any holder of bonds of the said city, or of any citizen who shall have paid city taxes in said city for two years then next preceding.

City orders and scrip excepted.

Officers may be restrained from issuing excess.

SECTION 7. A tax upon all of the taxable property, real and personal, in the said city, shall be annually levied and collected at the same time and in the same manner as other taxes are levied and collected in said city, sufficient in amount for the following purposes, to-wit: to pay the interest and provide for the sinking fund upon the bonds and scrip authorized by and issued under sections one and three of the act entitled "an act to enable the city of Milwaukee to re-adjust its corporate debts," approved March 19, 1861, as stipulated and provided in and by section four of the same act. Also to pay the annual interest and to provide the sinking fund upon all bonds of the said city, issued or to be issued to provide means for the construction of water works for said city, or for other purposes, under and in accordance with the provisions of chapter four hundred and six of the private and local laws of 1871, entitled "an act authorizing the city of Milwaukee to issue bonds," approved March 23, 1871, and the several acts amendatory thereof, as specially stipulated and provided in and by section eleven of said chapter four hundred and six. Also to pay the interest on all other bonds of said city, issued or [that may be issued under legal authority and outstanding, according to the terms thereof, and to provide a sinking fund equal to not less than five per centum each year of the principal of such bonds actually issued, for the payment of such principal: *provided*, that this section shall not include or apply to any bonds heretofore issued by said city to any railroad company or companies. Whenever the water works

Interest and sinking fund for bonds of 1861.

Interest and sinking fund for bonds of 1871.

Interest and sinking fund for all other bonds except railroad bonds.

Net revenue of water works to apply on water bonds.

for the construction of which certain bonds styled the "water bonds" have been and are to be issued by the said city in accordance with the provisions of the said chapter four hundred and six of the laws of 1871 and its amendments, shall produce a net revenue or income over and above the expenses thereof, such net revenue or income shall be paid by the board of water commissioners annually into the city treasury, to be applied by the commissioners of the public debt to the interest on the said water bonds, or to the sinking fund for the payment of the principal thereof, and the amount of such revenue or income, appropriated in or for any year by the board of water commissioners to the fund for the payment of such interest or to such sinking fund, may be deducted from the amount of tax to be levied in that year for the payment of the principal or interest of such water bonds.

Amount may be deducted from tax to be levied.

Commissioners of public debt shall annually certify amount necessary to raise by tax, and council shall order it levied.

SECTION 8. The commissioners of the public debt shall, at least ten days before the levy of general city taxes in each year, certify to the common council the amounts necessary to be levied that year for the interest and sinking funds on bonds and scrip of the said city. It shall be the duty of the common council to levy the tax for interest and sinking funds in this act provided for, to the amount so certified by the said commissioners, at the same time in each year that the common council levy the tax for general city purposes; and if they refuse or neglect so to levy in any case for five days after the levy of the tax for general city purposes, the commissioners of the public debt shall levy the same, and certify the amount thereof forthwith to the city clerk; and if the commissioners of the public debt should likewise fail to levy such tax for interest and sinking funds within ten days after the levy of the general city taxes in any year, then the judge of any court of record in Milwaukee county, either in term time or vacation, either in open court or at chambers, may, upon summary application of any holder or holders of bonds of the said city other than bonds heretofore issued to any railroad company, to the amount of ten thousand dollars or more, by order, levy such tax to such amount as he shall deem necessary, and certify the amount thereof to the city clerk, who shall in all cases cause such tax, however levied, to be extended upon the tax roll in like manner as other taxes levied by the common council, but in a separate column suitably marked to distinguish the same. And it shall be the duty of the city treasurer or other collector of taxes to proceed to collect and enforce such tax in the

In default, judge of any court of record may order tax levied.

To be enforced and collected as other taxes.

same manner as other general city taxes are collected and enforced by law. In fixing the amount of the treasurer's bond at the beginning of his term of office, the fact that he has to collect this tax for interest and sinking funds shall be taken into consideration.

SECTION 9. Money only shall be received by the treasurer or other collecting officer in payment of said tax for interest and sinking funds, and the same shall be kept in and disbursed from the treasury strictly as a separate and distinct fund, not subject to the order of the common council, and shall be paid out only upon orders signed by the mayor, countersigned by the comptroller and approved in writing by a majority of the commissioners of the public debt and specifying the purpose for which they are drawn; and such moneys shall be drawn out only for the purpose of paying interest on the bonds and scrip provided for by section seven of this chapter, and for retiring such bonds and scrip in the manner hereinafter provided.

Money only to be received in payment of such taxes.

Money to be used for no other purpose.

SECTION 10. If upon the sale of any property for delinquent taxes the city shall become the purchaser, it shall appropriate and add to the fund raised for interest and sinking funds, a sum equal to the amount of such delinquent tax which was levied for interest and sinking funds, out of the first moneys which shall be in or come into the treasury from any source whatever.

City shall purchase.

SECTION 11. The city treasurer shall every year, immediately after the sale of land for delinquent taxes, and whenever else he shall be thereto requested by the commissioners of the public debt, in addition to any other report which he shall be required by law to make, report to said commissioners the condition of the interest and sinking funds, embracing a statement of all sums collected and held or disbursed by him for those funds, and no settlement by the treasurer with the common council as to those funds shall be of any validity unless confirmed by said commissioners.

City treasurer to report condition of interest and sinking funds.

SECTION 12. Once in each year, immediately after the coming in of the report mentioned in the last section, the commissioners of the public debt shall cause notice to be given by the comptroller or otherwise by publication in one daily newspaper printed in the city of New York, and one daily newspaper printed in the city of Milwaukee, each of general circulation, for twenty days at least, of the time and place of receiving bids or proposals from bondholders or scripholders to surrender their bonds or scrip for cancellation on payment out of the sinking fund applicable thereto, the manner of directing such proposals, and such other

Commissioners of public debt to advertise for proposals for retirement and cancellation of scrip, or bonds

Proposals how
received and
opened.

things as the commissioners shall direct to be inserted in such notice. The proposals received shall be opened by the commissioners of the public debt, in the presence of the mayor and such other persons as shall choose to attend; and the lowest rates offered, provided the same be at or below par, shall be accepted to the extent of the fund on hand to pay the same at those rates; and the bonds or scrip so offered at the lowest rates shall be paid at those rates on being surrendered for cancellation. When the funds shall not be sufficient to pay all the bonds and scrip which are offered at equal rates and lower than all others, the commissioners shall select at once, and publicly as aforesaid, among such bonds and scrip, by lot, so many as they shall have the means to pay. In case any parties whose proposals shall be accepted shall not, within such reasonable time as the commissioners, with the approval of the mayor, shall fix, surrender their bonds or scrip, the commissioners may with the approval in writing of the mayor, accept the next best proposals, provided they are below par, or they may advertise and proceed throughout anew, in the manner provided in this section, and so in like manner again and again, as often as the last named contingency shall arise. All bids or proposals by bondholders or scripholders under this section shall particularly specify the numbers of the bonds or scrip so proposed to be retired, and shall be accompanied by a certificate in each case of the president or cashier of some reputable bank, or of some person, in either case to be approved by the commissioners of the public debt, to the effect that the bonds or scrip specified in such bid are all deposited in such bank or with such person, and will be delivered up for cancellation if such bid shall be accepted by the commissioners.

May advertise
anew.

What bids
shall specify.

What proposals
insufficient.

SECTION 13. In any case when no proposals, or not sufficient in amount to consume the moneys on hand belonging to the sinking funds, shall be received to retire bonds or scrip at or below par, the commissioners may advertise and proceed throughout again as provided in the last section above, or, with the approval of the mayor, shall in their discretion determine by lot publicly as aforesaid, which bond or bonds, or scrip shall be paid out of the moneys then in the sinking fund provided therefor, at par, including interest, and shall notify the holders of their readiness to pay the same, by advertisement for twenty days in one daily newspaper printed in the city of New York, and one

daily newspaper printed in the city of Milwaukee, each of general circulation, and from the time of the completion of such notice in both papers, such bonds or scrip so determined by lot, shall cease to bear interest, unless the city shall neglect to pay the same for ten days after payment thereof shall afterwards be demanded; and the money shall be kept constantly on hand by the treasurer to pay the same on presentment, unless the commissioners of the public debt, with the approval of the mayor, shall otherwise order.

May stop interest on bonds or scrip.

SECTION 14. The moneys levied and collected for or belonging to, the interest and sinking funds, shall be held in trust for those purposes only, or for the benefit of the holders of the bonds of the different issues or classes for which such funds are specially provided, and shall in no way be diverted from the specific purposes for which they are provided; nor shall the same or any part thereof be subject to attachment or execution, or be liable by any process or proceeding, to be subject to the payment of any other debt than that to meet which they were specially raised or appropriated under this act.

Sinking fund money to be a trust fund.

SECTION 15. All bonds and interest coupons, paid or otherwise retired, shall be forthwith marked cancelled by the commissioners of the public debt, and by them returned to the common council of the said city, who shall forthwith publicly cancel the same.

Cancellation.

CHAPTER XII.

PUBLIC SCHOOLS.

SECTION 1. The public schools of the city of Milwaukee shall be under the general management, control and supervision of a school board, consisting of two persons from each ward, to be appointed by the aldermen of such ward, subject to confirmation by the common council. The members of said board shall hold their offices for two (2) years, unless sooner removed: *provided*, that the present school commissioners shall remain in office for the terms for which they have been elected respectively. A president shall be annually elected by said board, who shall be a member thereof, and in his absence the board shall elect a president for the time.

School board, how elected, term of office, etc.

President, how elected.

SECTION 2. The members of the school board shall take the official oath, and be subject to all the restrictions, disabilities, liabilities, punishments and limitations prescribed by law as to the aldermen in said city of Milwaukee. The council may remove any member

Official, liabilities, disabilities and duties of school board.

of the board for causes for which aldermen are removable. The school board shall not in any one year contract any debt or incur any expense greater than the amount of the school fund subject to their order, without previous ordinance or resolution of the common council. A majority of the whole board shall be a quorum to transact business, but a smaller number may adjourn.

Power and authority of school board.

SECTION 3. The school board of the city of Milwaukee are hereby authorized and required, subject to the approval of the common council, to establish and organize so many public or common schools in addition to those already established in said city, as may be necessary for the accommodation of the children of the city entitled by the constitution and laws of this state to instruction therein; and the common council shall erect, purchase, hire or lease buildings, and furniture and lots for the accommodation of such schools and of the high school in said city, and shall improve, enlarge and repair such school buildings. The school board shall also have power to establish and define, from time to time, the boundaries of all common school districts in the city in such manner as they may deem best calculated to promote the interests of the schools.

School houses and grounds, city property.

SECTION 4. The school houses now erected, and the lots on which they are situated, and the lots now or hereafter purchased for school purposes, and the school houses thereon erected, shall be the property of the city; and no lot shall be purchased or leased, nor shall any school house be erected, without an ordinance or resolution duly passed by the common council. Deeds of conveyance and leases shall be made to the city of Milwaukee.

Text books and system of instruction.

SECTION 5. The school board shall have power to adopt for use in the several public schools in the city suitable text-books, which shall be uniform and continue in use without frequent change; and when the school board shall have adopted for use in the public schools of the city any text-book or text-books, the same shall not be changed by the board for five years next thereafter; and the school board shall require that the system of instruction in the several public schools of the city shall be as nearly uniform as possible; and shall adopt, and at their discretion modify or repeal, by-laws, rules and regulations for their own government, and for the organization, discipline and management of the public schools of said city, and generally adopt such measures as shall promote the

Discipline and management of schools.

good order and public utility of the said schools; *provided*, that such by-laws, rules and regulations shall not conflict with the constitution and laws of this state.

SECTION 6. The school board shall biennially elect by ballot a person of suitable learning, experience in the art of instruction, and practical familiarity with the most improved methods of organizing and conducting a system of public schools, for superintendent of schools, who shall hold his office for two years unless sooner removed. The superintendent of schools shall, under the direction of the school board, have a general supervision of the public schools of the city, of the manner of conducting and grading them, of the teachers, and, in connection with a committee of the board, of the purchase of school apparatus. He shall, in connection with a committee of the board, and with the concurrence of the board, examine, employ and classify teachers, and dismiss them for incompetency or inattention to duty; and shall do and perform all such other duties as may be required by the board. He shall receive a salary not exceeding three thousand dollars per annum, to be fixed by the school board.

Superintendent of schools.

His powers and duties.

Salary.

SECTION 7. Any person feeling himself aggrieved by any act of the superintendent, may, within ten days after the time of such act, appeal to the school board, who shall dispose of such appeal as may be deemed right.

Appeals.

SECTION 8. The board shall also appoint biennially some suitable person to act as secretary of the board, who shall receive a salary not exceeding fourteen hundred dollars per annum, to be fixed by such board. It shall be his duty to attend the meetings of the board, to keep a record of its proceedings and a full and fair account of all receipts and expenditures of the board, and to do and perform all such other duties as shall be required of him by said board. The secretary of the board shall also take the annual enumeration of the children in the city of Milwaukee, as required by law, and he shall receive for such services the sum of six hundred dollars.

Secretary of school board.

Annual enumeration of school children.

SECTION 9. The superintendent of schools, or the secretary of the school board, may be removed from office for misdemeanor in office, incompetency or inattention to the duties of his office, by a vote of two-thirds of the school board: *provided*, that notice in writing of the charges against him, and of the time and place of hearing and acting upon the same, shall be served upon the accused at least five days before the

May be removed by a two-thirds vote.

Accused shall
be heard.

time of hearing and before any action shall be taken by the board thereon; and the accused shall be heard by himself or counsel; and either party may produce witnesses who shall be sworn and give testimony subject to the pains and penalties of perjury.

Certified list
of teachers and
salaries to be
filed with
comptroller.

SECTION 10. It shall be the duty of the secretary of the school board, within ten days after the annual appointment of teachers and other salaried employes, to report to and file with the city comptroller a duly certified list of the teachers and employes so appointed, with the salary allowed to each, and a statement of the time or times fixed for the payment thereof. He shall also, as often as any action shall be taken by said school board changing the salaries of either of the officers of said board, or of any of such teachers or employes, or making a new election or appointment to any position entitling the person appointed to receive a stated salary, immediately after such action is had, in like manner file with the comptroller a certified statement and list of all such changes and appointments. A list of all accounts which may be allowed by said school board, stating the character of the materials or services for which the same were rendered, shall be furnished to said comptroller for his information, immediately after the meeting of said board at which such allowance was made.

HIGH SCHOOL.

High school—
site and build-
ing.

SECTION 11. The school board are hereby authorized, and it shall be their duty, to establish and maintain a high school for said city, which shall be open to students residing in any of the wards of said city; and for that purpose the common council of the city of Milwaukee are hereby authorized to purchase a suitable site and erect or purchase all necessary buildings for the use of said school, and to enter into all contracts necessary for the accomplishment of the purpose of this section; and until such high school buildings shall be erected or purchased, the said school board may use any one of the school buildings now or hereafter owned by the said city.

Teachers and
salaries.

SECTION 12. The said high school shall be one of the public schools of Milwaukee, and as such shall be under the same supervision and control, except as herein provided, as the other public schools of said city. The said board shall have power, and it shall be their duty to employ a principal for said high school, and such other teachers as may be necessary; and the

salary of said principal shall not exceed twenty-five hundred dollars per annum.

SECTION 13. The course of study in said high school shall be liberal, and shall embrace such studies as the said school board shall deem proper; and the said board shall have power to grant diplomas and to confer degrees, in testimony of scholarship and literary acquirements.

Course of study

SECTION 14. The said school board shall have power to make rules and regulations for the government of teachers and students of said high school, to prescribe terms of admission, to determine the text books to be used, to fix the number of classes and the conditions of graduation, and all other matters relating to the management of said high school: *provided*, that no rule, order or regulation made by the said board shall be valid, if inconsistent with the constitution and laws of this state.

Management of high school.

SECTION 15. The school board of the city of Milwaukee are hereby authorized, and it shall be their duty, to establish and maintain in the high school of said city, in addition to the regular course of study, a normal course of study for the special training of teachers for the public schools of the city.

Normal department.

SECTION 16. Certificates of graduation from the normal department of said high school shall qualify the holders thereof to teach in the public schools of the city. No person shall be entitled to a certificate of graduation from the said normal department, who has not been a member of said department for at least one year, or who is less than eighteen years of age.

Certificate of graduation.

SECTION 17. The school board shall report to the common council of the said city, on or before the twentieth day of May in each year, the amount of money required for the support of all the public schools in said city including the high school for the next fiscal year; and it shall be the duty of the said common council to levy and collect a tax, in addition to the tax to be levied for general city purposes, upon all the taxable property of the said city, at the same time and in the same manner as other city taxes are levied and collected by law, which, with the other funds provided for the same purpose, shall be equal to the amount of money required by said school board for the support of said schools; *provided*, that the said common council may by the votes of two-thirds of all the members elect levy a tax for a greater or less amount for such purposes. The said tax and the entire school fund of the city shall not be used or appropriated, directly or

Support of the public schools.

Tax shall be levied.

School moneys shall not be used for any other purpose.

indirectly, for any other purpose than the payment of the salaries of the superintendent of schools, the secretary of the board and the teachers, and of the necessary and current expenses of the schools, including the purchase of school supplies, apparatus, and fuel, and the ordinary and necessary repairs of school furniture.

School moneys
how disbursed.

SECTION 18. All moneys received by or raised in the city of Milwaukee for school purposes, shall be paid over to the city treasurer to be disbursed by him on the orders of the president and secretary of the school board, countersigned by the city comptroller. Such orders shall be made payable to the order of the person in whose favor they have been issued, and shall be the only vouchers of the city treasurer for payments from the school fund; and the school board shall provide for the purchase and delivery of necessary fuel, apparatus and supplies for the schools of the city in like manner as such purchases are made for other city uses: *provided*, that the amount expended by the school board shall not exceed the funds provided for these purposes respectively.

Purchase of
school supplies

School board to
report annually

SECTION 19. The school board shall be governed in all things by the school laws of the state, except as they are altered or modified by this act. They shall report to the common council annually in the month of September, the general proceedings and acts of said board; the number and condition of the public schools kept in said city during the year; the time they have severally been taught; the number and names of teachers and the amount of salary of each; the number of children taught in said schools respectively; the results of the annual enumeration required by law; the extent of school accommodation in the several schools; the amount of school moneys raised or received during the year, distinguishing the amount received from the state fund from the amounts derived from taxes levied by the county board of supervisors and by the common council respectively; and the accounts allowed by them against the school fund in detail, together with such other information as they may deem useful, or as the common council may require. A copy of said report shall be transmitted to the state superintendent of public instruction, and a like copy to the librarian of the State Historical Society at Madison.

CHAPTER XIII.

BOARD OF HEALTH.

SECTION 1. It shall be the duty of the mayor of the city of Milwaukee to appoint annually on the third Tuesday in April, or within one week after entering upon the duties of his office, a committee consisting of five of the aldermen of the city, who shall be known as the board of health of said city, and whose duty it shall be to examine into and consider all measures necessary to the preservation of the public health in said city, and to see that all ordinances and regulations in relation thereto be observed and enforced.

Board of health
how appointed.

SECTION 2. The clerk of said city shall be the clerk of said board, and shall keep a full record of all the acts, orders, resolutions, rules, regulations and proceedings of said board, in a book to be provided for that purpose, and copies of any such acts, orders, resolutions, rules regulations and proceedings made from such record thereof, and certified by said clerk under the corporate seal of said city shall be received as evidence in all courts and places.

Record of proceedings.

SECTION 3. The said board shall have power to appoint with the approval of the common council, and at pleasure to remove, a health officer for said city, to define his general duties, and, in case of necessity, to provide for the necessary assistance to him, and fix the compensation of such appointees and employes, subject to the like approval. The board shall have power to authorize such health officer to exercise any or all of the powers conferred on them, and all directions and orders of the health officer, made under such authority of the board of health, shall have the same force and effect as if made by the said board.

Health officers,
how appointed.

May authorize
health officers.

SECTION 4. The said board of health, and health officer, or any person acting under their orders, shall have authority to enter into and examine at any time all buildings, lots, and places of all descriptions within the city, for the purpose of ascertaining the condition thereof so far as the public health may be affected thereby.

Powers of
board, and
health officers.

SECTION 5. The board of health shall give all such directions, and adopt all such measures, for cleansing and purifying all such buildings, lots and other places, and for causing the removal therefrom of all nauseous substances producing a disagreeable smell or tending to cause sickness or disease, as in their opinion shall

Duties board
of health.

Penalty for dis-
regarding order
of board.

be deemed necessary; and they may do or cause to be done whatever in their judgment shall be needful to carry out such measures. Every person who shall disobey any order of the board of health which shall have been personally served upon him requiring him to abate or remove any nuisance, or to cleanse or purify any premises owned or occupied by him, in the manner or at the time described in the order, shall, on complaint of the board of health, or of any member thereof, or of any person serving such order, before the municipal court of said city, be liable to arrest and summary trial, and punishment by fine not exceeding five hundred dollars or by imprisonment not exceeding six months, or by both such fine and imprisonment in the discretion of the court.

May abate
nuisances at
expense of city.

SECTION 6. It shall be lawful for the board of health, in all cases where they may deem it necessary for the more speedy execution of their orders to cause any such nuisance or nuisances to be abated or removed at the expense of the city, and also to cause any such nuisance or nuisances which may exist upon the property of non-resident owners, or upon property the owners of which cannot be found, or are unknown and cannot be ascertained, to be abated or removed in like manner at the expense of the city, and the sum or sums so expended in the abatement or removal of such nuisance or ordinance [nuisances] in such cases, shall be in lien, in the same manner as any tax upon real estate, upon the lots or premises from or upon which such nuisances shall be abated or removed; the board of health by their president shall certify to the comptroller the description of such property, and the cost of abating and removing such nuisance or nuisances thereon, and the comptroller shall include the same in his annual schedule of lots subject to special taxation; and payment thereof may be enforced in like manner as other special taxes upon real estate are levied and collected in said city: *provided*, that the common council shall from time to time, on application of said board of health, appropriate and set apart out of the general fund of said city, such sums as the council in its discretion shall deem necessary for the purposes of this chapter; and the expenses which the said board are authorized by this section to incur, shall be paid exclusively out of the funds so provided by said city; and said board shall not be authorized to create any liability on the part of said city in excess of the sums which shall have been appropriated and set apart as aforesaid for their use.

Cost thereof
shall remain a
lien on premi-
ses.

Comptroller
shall include
such sums in
schedule of spe-
cial taxes, and
enforce collec-
tion.

SECTION 7. It shall be the duty of the board of health, by resolution, to direct any bedding, clothing, putrid or unsound beef, pork, fish, hides or skins of any kind, or any other articles found within said city, which in their opinion will be dangerous to the health of the inhabitants thereof, to be destroyed or buried, and they may employ such persons as they deem proper to remove or destroy such articles, and every person who shall in any manner resist or hinder any person so employed, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding two hundred and fifty dollars, or imprisonment not exceeding six months, or both. It shall also be their duty to procure suitable places for the reception of persons sick of any pestilential or infectious disease, and, in all cases where sick persons cannot otherwise be provided for, to procure for them proper medical and other attendance and provisions, and to forbid and prevent all communication with any house or family infected with any contagious or pestilential disease, except by means of physicians and nurses.

Board may order clothing or infectious substances destroyed.

Board shall provide pest houses.

SECTION 8. It shall be the duty of the board of health, on complaint being made to them, or whenever they shall deem any business, trade or profession carried on by any person or persons or corporation in the city of Milwaukee, detrimental to the public health, to notify such person or persons or corporation to show cause before the board of health, at a time and place specified in such notice, why such business, trade or profession should not be discontinued or removed; which notice shall not be less than three days (except that in cases of epidemic or pestilence, the board of health may by general order direct a shorter time, not less than twenty-four hours), and may be served by leaving the same at the place of business or residence of the parties to be affected thereby. Cause may be shown by affidavit, and if, in the opinion of the board of health, no good and sufficient cause be shown why such business, trade or profession should not be discontinued or removed, the board shall order the said parties to discontinue or remove the same within such time as the board may deem reasonable and necessary, and the order of the board shall be final and conclusive.

May suppress any business detrimental to health.

Cause for suppression may be shown by affidavit.

SECTION 9. Any person or persons failing or refusing to obey such lawful order of the board of health shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not

Penalty for failing or refusing to obey order of board.

more than two hundred and fifty dollars, or by imprisonment not more than one year, or by both such fine and imprisonment; and such person or persons shall be subject to like punishment for each and every day that he, she or they shall continue such business, trade or profession after the expiration of the time specified in the order of the board of health for the discontinuance or removal of the same.

Ex parte affidavit sufficient in trials.

SECTION 10. In all trials for violation of the provisions of this chapter, the ex-parte affidavit of service of any order, notice or requirement of the said board of health, purporting to be made by the person who made such service, and stating the time, place and manner of the service, shall be deemed and taken as prima facie evidence of the due service of such order, notice or requirement, in all trials in any court.

Fines.

SECTION 11. All fines mentioned in this chapter shall be collected as other fines, and when so collected shall be paid into the city treasury.

Temporary hospitals.

SECTION 12. The board of health, during the prevalence of Asiatic cholera, or of any epidemic disease, shall have power, when by them it is deemed necessary, to take possession of and occupy as temporary hospitals any building or buildings in the said city; but the city of Milwaukee shall pay for the use of such property so taken a just compensation.

Practicing physicians shall report number of patients attacked with pestilential disease.

SECTION 13. It shall be the duty of each and every practicing physician in the city of Milwaukee:

1. Whenever required by the board of health of said city to report to said board, at such times and in such forms as they may prescribe, the number of persons attacked with any pestilential, contagious or infectious disease, attended by such physician for the twenty-four hours next preceding, and the number of persons attended by such physician who shall have died within the twenty-four hours next preceding such report, of any such pestilential, contagious or infectious disease.

Number still under treatment.

2. To report in writing to said board of health every patient he shall have laboring under any pestilential, contagious or infectious disease; within twenty-four hours after he shall ascertain or suspect the nature of such disease.

Report all deaths within twenty four hours.

3. To report in writing to the board of health, when by them required, the death of any patient who shall have died of any disease, within twenty-four hours thereafter, and to state in such report the specific nature and type of such disease.

Penalty for neglect.

SECTION 14. Any practicing physician who shall

neglect or refuse to perform the duties required of him by or in any section of this chapter shall be considered guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than two hundred and fifty dollars for each offense.

SECTION 15. The common council of said city shall, in making their annual estimates and levy for the expenses of the city government, estimate and provide such sums as may be necessary for the compensation of such officers and all other employes which the said board of health are authorized to appoint by this chapter, and for all other necessary expenses incurred by said board in the performance of the duties prescribed in this chapter; and such expenses shall be audited and allowed and paid as other expenses of said city.

Estimates for salaries and expense of board of health.

SECTION 16. The common council of the city of Milwaukee shall have power to further define the duties of the board of health, and to pass such ordinances in aid of the powers of the board of health as may tend to promote and secure the general health of the inhabitants of said city.

Council may further define duties of board.

SECTION 17. It shall be the special duty of the members of the police force of said city, and of all magistrates and civil officers and all citizens of the state, to aid to the utmost of their power the board of health and the officers mentioned in this chapter, in the performance of their respective duties, and on requisition of the president of said board or of the health officer, it shall be the duty of the chief of police to detail one or more of the policemen of said city to serve the notices of said board, and to perform such other duties as such board may require.

Police and other civil officers to aid board of health.

CHAPTER XIV.

FIRE DEPARTMENT.

SECTION 1. The common council, for the purpose of guarding against the calamities of fire, shall have power, and it shall be their duty, to prescribe the limits within which wooden buildings, or buildings of other materials that shall not be considered fire proof, shall not be erected, placed or repaired; and to direct that all and any buildings within the limits prescribed, shall be made and constructed of fire proof materials; and to prohibit the repairing or rebuilding of wooden buildings within the fire limits, when the same shall have been damaged to the extent of fifty per cent. of

Fire limits.

Repairing and rebuilding.

the value thereof, and to prescribe the manner of ascertaining such damage.

Preventive powers of the common council.

SECTION 2. The common council shall have power to prevent the dangerous construction and condition of chimneys, fire places, hearths, stoves, stove pipes, ovens, boilers and apparatus used in and about any building, and to cause the same to be removed, or placed in a safe and secure condition, when considered dangerous ;—

Ashes.

To prevent the deposit of ashes in unsafe places ;—

Fire buckets,

To require the inhabitants to provide as many fire buckets, and in such manner and time, as they shall prescribe; and to regulate the use of them in time of fire ;—

Manufactories.

To regulate and prevent the carrying on of manufactories dangerous in causing or promoting fires ;—

Fireworks.

To regulate and prevent the use of fire works or fire arms ;—

Scuttles and ladders.

To compel the owners and occupants of buildings to have scuttles in the roofs, and stairs or ladders leading to the same ;—

Idle and suspected persons.

To authorize the mayor, aldermen and other officers of the city to keep away from the vicinity of any fire all idle and suspected persons, and to compel all bystanders to aid in the extinguishment of fires, and in the preservation of property exposed to danger thereat; and generally to establish such regulations for the prevention and extinguishment of fires, and for the safety and protection of persons from injury thereby, as the common council may deem expedient.

Fire engines, and fire companies.

SECTION 3. The common council shall have power to purchase fire engines and other fire apparatus, and to organize a fire department, composed of a chief engineer, one or more assistant engineers, and such other officers and men as shall be required and employed in the management and conduct of such fire engines and apparatus, and to establish rules and regulations for such department.

Apparatus and number of men to each company.

SECTION 4. The city of Milwaukee is hereby empowered and authorized to purchase, for the use of said city, steam fire engines and all necessary hose and apparatus for running and conducting the same in said city; and to employ engineers and all other necessary help to run and conduct said steam fire engines, at stated salaries or monthly wages; but it is expressly provided that in no case shall there be employed to exceed nine persons, including the watchman, to care for, run and conduct each steam fire engine and the hose cart therewith, and that the number of persons employed

as hook and ladder men shall not exceed six for each company.

SECTION 5. The chief engineer of the fire department shall be appointed by the mayor, subject to the confirmation of the common council; and shall hold his office for two years, subject to removal by the mayor with the approval of the common council. All other members of the fire department shall be appointed by the chief engineer, subject to the written approval of the mayor, and shall hold office during the pleasure of such chief engineer. The common council may provide by ordinance for the performance of police or other duties by the members of such department.

Chief engineer,
how appointed.

Other members
how appointed.

SECTION 6. There shall be paid to the treasurer of the city of Milwaukee, on or before the first day of February in each year, by every person who shall act in said city as agent for or in behalf of any individual or association, or association of individuals, whether incorporated by the laws of this state or by the laws of any other state, territory or county, to effect insurance against losses or injury by fire, the sum of two dollars upon each hundred dollars—and at that rate upon the amount of all premiums,—which, during the year or part of a year ending on the next preceding first day of January, shall have been received by such agent or person or company, or by any other person or persons for him or it, or which shall have been agreed to be paid for any insurance effected or agreed to be effected or promised by him as such agent or otherwise, or by such company, against loss or injury by fire in said city.

Tax on fire in-
surance agents.

SECTION 7. No person shall, in said city of Milwaukee, as the agent or otherwise for any individual, individuals, association, or corporation, agree to effect, or effect any insurance upon which the duty mentioned in the next preceding section is required to be paid, or as an agent or otherwise procure such insurance to be effected, unless he shall have first executed to said city of Milwaukee and delivered to the comptroller of said city a bond to be approved by such comptroller in the penal sum of five thousand dollars, with sureties to be approved by said comptroller, conditioned that he will render to said comptroller on or before the first day of February of the next succeeding year a just and true account, verified by his oath that the same is just and true, of all premiums which, during the year ending on the first day of January preceding such report, shall have been received by him

Fire insurance
agents to give
bond to city.

To render ver-
ified accounts.

or by any other person for him, or agreed to be paid, for any insurance against loss or injury by fire in said city which shall have been effected or promised by him, or agreed or promised by him to be effected, from any individual, individuals, association or corporation, and that he will on such first day of February, pay to the treasurer of said city, for the use of said city, two dollars upon every hundred dollars, and at that rate upon the amount of such premiums.

Condition of bond.

Penalty for noncompliance.

SECTION 8. Each and every such agent shall file such a bond with said city comptroller annually on the first secular day of January in each year; and every person who shall in said city effect, agree to effect, promise or procure any insurance specified in the preceding section of this chapter, shall forfeit and pay to the city of Milwaukee for each offense, and for each insurance so effected or agreed or promised to be effected, the sum of one hundred and fifty dollars; such sums may be recovered by said city in a civil action, and said city may maintain an action on such bond or against such agent to recover all moneys required by section six of this chapter to be paid into the city treasury.

How recovered.

Penalty for disobeying lawful order of officers at fires.

SECTION 9. Whenever any person shall refuse to obey any lawful order of the mayor or of any engineer, alderman or policeman at any fire, it shall be lawful for the officer giving such order, to arrest, or to direct orally any policeman, constable, watchman or any citizen to arrest such person, or to confine him temporarily in any safe place until such fires shall be extinguished; and in the same manner such officers, or any of them, may arrest or direct the arrest or confinement of any person at such fire who shall be intoxicated or disorderly; and any person who shall refuse to obey any such lawful order, or who shall refuse to arrest or aid in arresting any person so refusing, shall be liable to such penalty as the common council may prescribe, not exceeding fifteen dollars.

CHAPTER XV.

POLICE DEPARTMENT.

Strength of police force.

Section 1. The police force of the city of Milwaukee shall consist of one chief of police, two lieutenants, and such number of detectives and patrolmen as the common council shall from time to time by ordinance determine and prescribe.

Chief of police, how appointed.

SECTION 2. The chief of police shall be appointed by the mayor, subject to the approval of the common

council, on the third Tuesday in April, A. D. 1874, and biennially thereafter, and may be removed by the mayor with the approval of the common council. The chief of police shall nominate, subject to the approval of the mayor, appoint all other members of the police force, who shall hold office until the third Tuesday of April following the date of their appointment, unless sooner removed by the chief of police with the consent of the mayor; and all appointments in the police shall be reported to the common council annually, and from time to time as changes are made.

Other members of police force, how appointed.

SECTION 3. The mayor or common council may direct the chief of police to detail any of the policemen to perform such official duties as he or they deem proper, and no extra compensation shall be allowed therefor.

Detailed police.

SECTION 4. The mayor and aldermen and the harbor master and bridge tenders of the city, shall severally and respectively have and exercise, within said city, all the powers of policemen of the city, without any compensation or claim to compensation therefor.

Who have ex officio police powers.

SECTION 5. The members of the police force shall perform such duties as shall be prescribed by the common council, for the preservation of the public peace and the good order and health of the city; they shall possess the powers of constables at common law, or by the laws of this state, but shall not serve civil process except where the city is a party.

Duties of police

SECTION 6. The mayor or acting mayor, the sheriff of Milwaukee county, and each and every alderman, justice of the peace, policeman, 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 they may command the assistance of all bystanders, and, if need be, of all citizens and military companies; and if any person, bystander, military officer, or private, shall refuse to aid in maintaining the peace when so required, each such person shall forfeit and pay a fine of fifty dollars; and in cases where the civil power may be required to suppress riotous and disorderly behavior, the superior or senior officer present, in the order above mentioned in this section, shall direct the proceedings.

Officers of the peace.

Penalty for disobeying officers of peace.

SECTION 7. It shall be the duty of the chief of police, on or before the first day of May in each year, to report to the clerk and attorney the names and places of business of all parties sell or dealing in spirituous, vinous or fermented liquors, and to give notice to such

Chief of police to annually report names of liquor dealers.

parties that they are required to pay the city treasurer such license money as may be fixed by law for the selling or dealing in spirituous, vinous or fermented liquors; and from time to time the chief of police shall report the names and places of business of all other parties who, subsequent to or not embraced in such report, shall be or may have been engaged in the selling or dealing in spirituous, vinous or fermented liquors. Every license for the sale of such liquors shall expire on the first day of May following the date of its issue; and in case such license shall be issued prior to the first day of November, the fee for a full year shall be paid therefor; but if issued on or after the first day of November, one-half the fee for a full year shall be paid therefor.

Licenses for
selling liquor.

SECTION 8. No extra compensation shall be paid the chief of police for the performance of the services specified in the foregoing section.

City attorney
shall prosecute
violation of li-
cense ordi-
nance.

SECTION 9. It shall be the duty of the city attorney to prosecute all persons whose names are embraced in such annual report, who shall not have taken out the proper license on or before the fifteenth day of May, and he shall prosecute all parties not embraced in such reports, who shall not have taken out their licenses within two weeks from the time they shall have been notified by the chief of police.

CHAPTER XVI.

SALARIES.

Salaries of city
officials.

SECTION 1. Salaries shall be paid to the several and respective officers of the said city mentioned in this section, for all services during the time of their service, at the following rates per annum, to wit:

To the mayor, two thousand dollars.

To the city treasurer, four thousand dollars.

To the city comptroller, three thousand dollars.

To the deputy comptroller, twelve hundred dollars.

To the city attorney, four thousand dollars.

To the city clerk, two thousand dollars.

To the deputy clerk, twelve hundred dollars.

To the tax commissioner, two thousand dollars.

To the assessors, each six hundred dollars.

To the chief engineer of the fire department, twenty-five hundred dollars.

To the assistant engineers of the fire department, each fifteen hundred dollars.

To the engineers of fire steamers, each twelve hundred dollars.

To the foremen of the fire department, each one thousand dollars.

To the firemen, pipemen and drivers of the fire department, each eight hundred dollars.

To the chief of police, two thousand dollars.

To the first lieutenant of police, fifteen hundred dollars.

To the second lieutenant of police, twelve hundred dollars.

To the detectives, each one thousand dollars.

To the patrolmen, each eight hundred dollars.

To the harbor master, one thousand dollars.

In addition to his salary, as above, the city treasurer shall be allowed not exceeding three thousand dollars per annum, for clerk hire. All salaries of officers and others, which are not fixed absolutely by this act, shall be fixed by the common council, by ordinance, subject to the limitations herein prescribed. Additional salaries.

The salaries and allowance above mentioned, and which shall be fixed as aforesaid by the common council, shall be accepted by such officers and others, respectively, as their sole compensation for the services for which such salaries are allowed. Full compensation.

SECTION 2. All salaries paid by the said city to officers or others shall be payable monthly, at the end of each and every month, by warrants on the city treasurer, signed by the mayor and city clerk, and countersigned by the comptroller. Salaries paid monthly.

SECTION 3. The city treasurer shall keep an accurate account of all moneys received by him for fees, commissions, and per centages, which he is required by section thirty-six of chapter eighteen of this act, to pay into the city treasury for the use of the city; and the city clerk and the city attorney shall each keep a like account of all moneys received by him for and in behalf of said city; and said treasurer, clerk and attorney shall each, at the end of each and every three months during his term of office, pay into the city treasury all such moneys remaining in his hands, and file a transcript of such account with the city comptroller, accompanied by his affidavit that the same is a just, true and complete account of all moneys so received by him during the three months then next preceding, and by the city treasurer's receipt showing that all such moneys have actually been paid into the city treasury; and it shall not be lawful for the mayor, city comptroller, or common council, to pass or settle the accounts, or to order, or draw, countersign or deliver any warrant for the payment of any portion of the salary or Treasurer to keep account of fees, percentages and commissions received.
City clerk and city attorney to pay every months.
Such payments how enforced.

allowance of either of said officers, after any failure by him to file such verified quarterly transcript of account with the city comptroller, or to pay such moneys into the city treasury so long as such officer shall continue to be so delinquent.

Penalty for neglect or violation of duty.

SECTION 4. If either said treasurer, attorney or clerk of said city shall willfully neglect or violate any provision or requirement of the preceding section, or any duty therein or thereby imposed upon him, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than five hundred dollars nor more than five thousand dollars, or by imprisonment in the county jail of said county of Milwaukee not less than two months nor more than one year, or by both fine and imprisonment, in the discretion of the court; and it shall be the duty of the common council to cause an action to be forthwith commenced and prosecuted to final judgment against such officer and the sureties on his official bond, if any, for the recovery of all moneys in his hands, which, by the terms of the preceding section, and the section therein referred to, he is required to pay into the city treasury. In case said common council shall neglect to cause such action to be commenced within thirty days after any delinquency shall occur in the payment of any moneys required to be paid into the city treasury by any officer under said sections, such action may be brought and prosecuted by any taxpayer of the said city, in the name and for the benefit of said city: *provided*, that before commencing such action, a bond to said city shall be executed and filed in the office of the city comptroller, in the penal sum of five hundred dollars, with sufficient sureties approved by the judge of the circuit court of said county of Milwaukee, conditioned to pay all costs and damages which may be recovered against said city in such action, and to indemnify the city against any and all costs, expenses and damages by reason of such action; and such action when so commenced by a taxpayer shall not be subject to the control or management of said city or of any officer thereof.

Council shall order actions for recovery of moneys.

Any tax payer may commence the action on giving bond.

CHAPTER XVII.

FINANCE AND TAXATION.

City orders, how drawn and signed.

SECTION 1. All funds in the city treasury, except school funds and the funds created and set apart for the payment of interest and principal of the funded debt of said city, shall be under the control of the

common council, and shall be drawn out upon the order of the mayor and clerk, duly authorized by a vote of the common council, and countersigned by the city comptroller, except in the case in this city mentioned, to-wit: The common council may provide by ordinance for the payment of such persons as may be employed by the board of public works, or by the common council, in the service of the city, upon monthly pay rolls and shall prescribe the form of such pay rolls and the manner in which the same shall be certified, audited and approved: *provided*, that such pay rolls shall in all cases be certified by the board of public works, approved by the common council, and countersigned by the city comptroller. All orders drawn upon the treasury shall specify the purpose for which they were drawn, and shall be drawn payable generally out of any funds in the treasury belonging to the city and not otherwise appropriated, and all such orders shall be received in payment of any tax or assessment levied by the authority of the city, except the taxes for interest and sinking fund: *provided*, that the amounts or proceeds of all orders which shall be received in payment of taxes, shall be credited to the several and respective funds on account of which such orders were issued. All orders shall be payable to the order of the person in whose favor they may be drawn, and shall be transferable by endorsement. Certificates issued in payment for work done or improvements made, chargeable specially to lots, parts of lots or parcels of land, shall be receivable for the special taxes levied therefor upon such lots, parts of lots and parcels of land respectively.

SECTION 2. The common council of the said city shall have power to levy annually for the general city fund—exclusive of the amounts required for the support of schools, and for the payment of interest and principal on the funded debt of the city, and other special funds authorized by law—a sum not exceeding eight mills upon the dollar of the total assessed valuation of all property, real and personal, in said city, subject to taxation; also for a contingent fund, a sum not exceeding one mill on the dollar of such assessed valuation; also for a fund for ward purposes in each ward, a further sum not exceeding five mills upon the dollar of the total assessed valuation of all property, real and personal, in such ward, subject to taxation; also for a sewerage fund in each sewerage district, a sum not exceeding two and one-half mills upon the dollar of the total assessed valuation of all property, real and per-

Monthly pay rolls.

Orders to specify, etc.

Received for taxes.

Orders transferable.

Certificate receivable for special taxes.

Levy for general city fund.

Contingent fund.

Ward fund.

Sewerage fund.

sonal, in such sewerage district, subject to taxation. The percentage which shall be levied in each ward for ward purposes shall, in no case, exceed the amount estimated and required by the comptroller and the board of public works.

Levy not to exceed estimates.

Annual estimates for receipts and disbursements.

Three-fourths vote required to exceed estimates.

Election expenses.

Contingent fund how appropriated.

City depository.

Shall give bonds.

Treasurers weekly statement.

His liability.

SECTION 3. It shall be the duty of the common council, before the first day of June in each year, to estimate, and by resolution determine what sums in their judgment will be required to meet the expenses and disbursements of said city for the current fiscal year, specifying in such resolution the sum required for each of the several funds authorized or created by law; and it shall not be lawful for said city to expend or contract a liability for any sum in excess of the amount so determined, on account of either or any of the funds of said city, except on the written recommendation of some department of the city government specifying the reasons for such increased expenditure, which must be approved by a vote of three-fourths of the members elect of the common council.

SECTION 4. All election expenses for city, ward, or general elections, shall be chargeable to the ward fund of the proper ward.

SECTION 5. The common council shall have power to appropriate sums from time to time, out of the contingent fund, by a vote of at least three-fourths of all the aldermen elect, for any purpose or purposes which they shall declare by their resolution to be a proper expense to be defrayed by the said city.

SECTION 6. As often as the common council shall think best for the safety or interest of the city, they shall select some bank or banks, or banking associations, with which all funds in the treasury of the city, or which shall be thereafter collected or received by the treasurer, shall be deposited: *provided, however*, that such bank, banks, or banking associations so selected, shall, before receiving such funds, give security in the same manner as is now required of the treasurer of said city, for the safe keeping and proper distribution of such funds, which security shall be approved by the common council.

SECTION 7. The city treasurer shall render weekly statements to the common council of the amounts received and disbursed by him; and the balance over five thousand dollars on hand in the treasury at the end of each week shall be deposited with the bank or banks, or banking associations so selected, it or they giving proper vouchers therefor. From the time of so depositing such funds, the said treasurer shall be re-

lieved from all liability to the city arising from the failure of the bank or banks, or banking associations safely to keep said funds. Such funds shall be drawn out only upon the check of the said treasurer, countersigned by the comptroller of said city.

Funds, how drawn.

SECTION 8. The treasurer and comptroller may, whenever the balance in the treasury does not amount to five thousand dollars, increase it by their check as aforesaid in favor of the treasurer; the true object of this is to enable the treasurer to have funds under his control with which to pay such demands upon the treasury as he is or shall be required by law to pay.

Balance in treasury.

SECTION 9. The common council may, before or after so selecting a depository or depositories, contract with such bank or banks, or banking associations that it or they shall pay to the city such interest upon said funds so to be deposited, as they may mutually agree upon.

Interest on deposits.

SECTION 10. Nothing in this act contained shall be so construed as to authorize the treasurer to apply funds so retained by him, or so to be drawn from the bank on his check countersigned by the comptroller, to purposes other than those to which the same funds are appropriated by law. The common council may at any time, when in their opinion the safety or interests of the city require it, direct all sums so deposited to be paid into the treasury of the city, or to such other bank or banks as they may select under the law.

Limiting city treasurer.

SECTION 11. The common council may from time to time borrow upon the notes of the city signed by the mayor and city comptroller, such sums of money in anticipation of the incoming taxes of the year, as they shall deem necessary to pay accruing interest on the funded debt, and to meet the current expenses of the city. All such notes shall be paid out of the taxes of the current year, at such time as may be agreed on—not later than the first day of February next following their date.

Council may borrow money.

Shall be paid yearly.

SECTION 12. At the first meeting of the common council succeeding the charter election in each year, the city clerk shall prepare and present to the common council a descriptive list, giving the dates, amounts and names of payees of all city orders drawn, which shall have remained in his office three years uncalled for by such payees. The common council shall cause such orders to be compared with such list, and when found or made correct, such list shall be filed and preserved in the office of such clerk, and a copy thereof duly certified by said clerk shall be delivered by him

List of payees of unclaimed city orders.

Limiting time for new orders.

to the comptroller, and all such orders shall be cancelled and destroyed. The person entitled to any such order may, upon application to the common council have a new order issued to him for the amount named in the original order so cancelled, without interest, at any time within six years from the date of such original order, and not afterwards.

CHAPTER XVIII.

ASSESSMENT AND COLLECTION OF TAXES.

Property subject to taxation.

SECTION 1. All property in the said city, real, personal, or mixed, shall be subject to taxation for all purposes authorized by law, excepting only such property as is or shall be exempted from taxation by general laws exempting from taxation throughout the state particular classes of property or property of particular classes of corporations or persons; and the same shall be assessed in the manner hereinafter provided; and the assessors appointed under this act shall have and possess the same powers that are, or may be, conferred upon township assessors, except so far as they may be altered by this act; and the common council may prescribe the form of assessment roll, or more fully define the duties of assessors, and make such rules and regulations in relation to revising, altering or adding to such rolls, as they may from time to time deem advisable: *provided*, that the same shall not be inconsistent with the provisions of this act.

Powers of city assessors.

Tax commissioner, how appointed.

SECTION 2. The mayor shall on the first Monday of January of every second year appoint, subject to confirmation by the common council, a tax commissioner, who shall be at the time of his appointment a resident freeholder in said city of Milwaukee. Such commissioner shall take and subscribe an oath of office and shall enter into a bond in the penal sum of five thousand dollars, with at least two sureties to be approved by the mayor, for the faithful performance of his official duties. The present tax commissioner shall remain in office until the expiration of the term for which he was appointed, and the first appointment under this section shall be then made.

Shall give bond

Tax commissioner to keep record of real estate subject to taxation.

SECTION 3. Said tax commissioner shall have an office, which shall be kept open during the usual business hours of each business day during the term of his office; and shall, in suitable books provided for the purpose, keep a record of all lots, blocks, fractional lots, or parcels of land contained in said city, with the assessed value of each in separate columns, together

with the assessed value of the improvements thereon, and the name of the owner of each, and the street and number of his residence as far as possible, during each and every year of the term of his office; and shall also keep a record of the names of all persons liable to assessment for personal property during each year of the term of his office, with the amount assessed to each person; and as far as possible shall cause to be entered upon said record in a suitable column, opposite the name of such person so assessed, an accurate description of the class of such personal property, whether bonds, stocks, mortgages or money, notes, accounts, choses in action of any kind, or merchandise, manufacturers' stock, capital invested in business, household goods, vessels, pianos, horses and carriages, sewing machines, watches, etc., and any and all other personal property, taxable under the laws of Wisconsin.

Names of persons liable for personal taxes.

Character of personal property.

SECTION 4. He shall also keep a record of all vessels registered in the books of the custom house at the port of Milwaukee, with the names of the owners residing in Milwaukee, and the amount of the interest held by each said owner, together with all other information in relation thereto which may be serviceable in making an assessment of the vessel property owned in whole or in part by any resident of the city of Milwaukee.

Record of vessels.

SECTION 5. Said tax commissioner shall also procure and keep on file in his office all published plats of all lots, blocks, additions, divisions and subdivisions of lots or lands which have been duly authorized by the common council, and all other matters or information which may be valuable in making an assessment of the real and personal property in the said city of Milwaukee. He shall also cause to be copied in a book provided for that purpose, all complaints made in writing at any time in said office of the said tax commissioner, of excessive or erroneous assessments, either of real or personal estate, which said complaints shall be considered and disposed of by the board of assessors at their first meeting thereafter, in the order of their entry, unless otherwise ordered by said board.

Shall keep plats of lots, blocks, etc.

Shall keep record of complaints.

SECTION 6. The mayor, with the concurrence of the common council, shall on the first Monday of January in every second year, appoint an assessor for each ward in said city, who shall have been recommended for such appointment by the tax commissioner for his qualifications as assessor, and who shall be a resident of the ward when appointed and during the term for

Ward assessors when and how appointed.

Board of assessors.

which said appointment is made. Said assessors shall each take the oath of office provided by law to be taken and subscribed by ward or town assessors; and said ward assessors, with said tax commissioner, shall constitute the board of assessors, of which board said tax commissioner shall be *ex-officio* the president.

Present incumbents.

SECTION 7. The tax commissioner and ward assessors now in office shall continue in office until the expiration of the respective terms for which they were appointed, and the first appointments by the mayor under sections two and six of this chapter shall be made at the expiration of the terms of the present commissioner and assessors respectively, unless a vacancy shall sooner occur.

Ward assessors how removed, from office.

SECTION 8. The tax commissioner of the said city shall have power, with the written approval of the mayor, to remove from office any assessor in the said city who shall, in his opinion, be incompetent, or neglect to perform the duties of his office. The mayor and common council shall have power to make appointments to fill the vacancy or vacancies caused by such removal, or occurring in any other manner, and such appointments shall be made in all respects in the same manner as provided in section six of this chapter for original appointments to said office, and the assessors so appointed to fill vacancies shall hold their office for the unexpired term.

Duties of assessors.

SECTION 9. Said assessors shall as soon after their appointment as practicable, under the direction of said tax commissioner, proceed to examine and determine the valuation of all taxable real and personal estate within their several wards. Schedules or rolls of all the taxable real estate in each said ward, and also a list of the names of all persons assessed for personal property in each ward, shall be furnished by the said tax commissioner to the said assessors respectively, to aid them in the performance of their duties, and upon which they shall enter their valuations; and said assessment rolls shall be fully completed and filed in the office of the said tax commissioner within the time provided by law for the completion of the same.

Completion of assessment rolls.

Assessments of buildings, and subdivisions of land.

SECTION 10. The ward assessors in the listing, assessment and valuation of real and personal property liable to taxation in their several wards, and in the review, equalization and correction of their assessments, shall proceed in the manner prescribed by the general laws of this state, except as otherwise provided in this act. Where there are buildings upon any lot or parcel of land, the value of the same shall be set forth in a

separate column. The assessors may, if they deem it advisable, assess any lot or tract of land in such parcels or such subdivisions as they may deem proper, but it shall not be necessary to enter the name of the owner opposite to any tract or parcel of land.

SECTION 11. On the receipt of the rolls of the several ward assessors, with their valuations and assessments of real and personal property, from all the wards, the tax commissioner shall give notice by publication in the official papers of said city for ten days, that on a certain day therein named for each ward the assessment roll for said ward will be open for the examination of the taxable inhabitants thereof; and the tax commissioner and ward assessors shall make all necessary additions to such roll, and correct the same by changes in valuation or description, so as to make the roll as perfect as possible. Any act done by a majority of the board of assessors shall have the same force and effect as if done by the tax commissioner and all the assessors appointed under this act. After the corrections are made, the tax commissioner shall submit the corrected assessment rolls to the board of review.

Tax commissioner to publish notice, etc.

Correction of roll.

SECTION 12. The mayor, city clerk, tax commissioner and ward assessors shall constitute the board of review for said city. Said board shall meet annually at the time fixed by the laws of the state, and proceed, as such board, to review, examine and correct such assessment rolls, and in so doing shall have and exercise all the powers and perform all the duties of a board of review, as the same are or may be prescribed by the general laws of this state, except as may be otherwise provided in this act. Notice of the time and place of the meeting of such board of review, signed by the city clerk, shall be published for ten days in the official papers of the city prior to the day of such meeting. The concurrence of a majority of the board shall be sufficient to decide any question to be passed upon by the board of review.

Board of review

Notice of time and place of meeting how given.

SECTION 13. After the rolls have been examined, corrected and completed by the board of review, and within the time prescribed by law, the assessors shall annually deliver the same as completed, duly verified by their respective oaths annexed thereto as required by law, together with the sworn statements and valuations of personal property, to the city clerk, who shall file and preserve such statements and valuations in his office.

Rolls to be delivered to city clerk.

SECTION 14. The city clerk, upon receiving such assessment rolls, shall examine and perfect the same

Duty of the city clerk.

Council shall levy taxes. and make out therefrom a complete tax roll, in manner and form as provided by law. The common council shall thereupon, by joint resolution, levy such sum or sums of money, or taxes, as may be sufficient for the several purposes for which taxes are by law authorized to be levied in said city, not exceeding however the amounts authorized by law, particularly specifying in such resolution the purposes for which the same are levied, and if not for general city purposes, the ward or district of the city in or upon which the same are levied.

Apportionment of taxes. SECTION 15. As soon as said sums or taxes shall be levied, the common council shall cause the same to be apportioned and extended upon said tax roll, upon a uniform per centage, by setting opposite to the description of each lot, tract or parcel of land, and to the name of each person named in said roll, in proper columns, such proportionate share of the sums or taxes so levied, as may be chargeable upon such lot, tract or parcel of land, or against such person. To such tax roll shall be appended a warrant signed by the mayor and clerk, and sealed with the corporate seal of said city, directed to the city treasurer, requiring and commanding him to collect the taxes and assessments in said tax roll specified in the manner prescribed by this act, and in case said taxes and assessments shall not be paid within such time as in said warrant shall be specified, that then he shall proceed to sell the several lots or parcels of land, or those parts thereof upon which said taxes or assessments shall remain unpaid, and to make due return to the common council within such time as shall be fixed in said warrant.

Warrant to city treasurer.

Compared and certified copy of tax roll. SECTION 16. Such tax roll, before being delivered to the treasurer, shall be compared by the clerk with the assessment rolls on file in his office as corrected; to it he shall append his certificate that the same has been so compared by him, and that the said assessment rolls and the whole thereof, have been copied into such tax roll; and the said tax roll, when so certified, shall be prima facie evidence in any court, that the lands and persons therein named were subject to taxation, and that the assessment was just and equal.

Causes for remission of taxes. SECTION 17. After the assessment roll is completed, the rate of taxation is fixed, the taxes are extended, and the tax roll is placed in the hands of the city treasurer for collection, it shall not be lawful for the common council to remit, annul, or cancel any tax charged against any real or personal property, except in the following specified cases:

1. When a clerical error has been made in the description or transfer of the property from the original assessment books to the tax roll, or in the extension of the tax. Clerical error.

2. When improvements by the erection of buildings have been assessed on lots or lands where none had been made at the time fixed by law for making the assessments. Mistaken improvement.

3. When the tax is manifestly illegal and void, by reason of the exemption of the property from taxation by law. Exempt.

4. When a person has been assessed the same year for the same personal property, in more than one ward. Double assessment.

SECTION 23. All taxes and assessments, general or special, levied under this act, shall be and remain a lien upon the lands and tenements upon which they may be assessed, from the time of the filing of such assessment rolls in the office of the city clerk, and on all personal property of any person or body politic assessed for personal taxes, from the delivery of the warrant for the collection thereof, until such tax shall be paid; and no sale or transfer of such real or personal estate shall affect such lien: *provided*, that, as between the grantor and grantee of any land or lot, when there is no express agreement as to which shall pay the taxes or assessments that may be assessed or become chargeable thereon before the conveyance, if such land is conveyed even with or prior to the date of the warrant authorizing the collection of such taxes or assessments, then the grantee shall pay the same; but if conveyed after that date, the grantor shall pay them. Any personal property belonging to the person taxed may be taken and sold for the payment of taxes upon personal property. Taxes and assessment a lien on all real and personal property.

SECTION 19. In all cases where, by the provisions of this act, any special charge or assessment is made a lien upon land, the amount of such charge or assessment shall be carried out on the tax roll in a separate column or columns, opposite the lot or tract upon which the same may be a lien; and the treasurer may collect and sell, and do all other acts in relation thereto, in the same manner as if the amount of such lien was a general tax. How carried out.

SECTION 20. On the receipt of such tax roll the treasurer shall give one week's notice thereof in the official papers. Such notice shall specify that the taxes on personal property must be paid within twenty days from the first publication of said notice, and the taxes and assessments on real estate before the last day Treasurer to give notice in official papers.

Notice to specify, etc.

of December following, and that all tracts or parcels of land specified in said tax roll, upon which the taxes and assessments shall not be paid by that day, will be sold at a certain time and place to be therein specified; and the publication of such notice shall be deemed a demand; and neglect to pay the taxes and assessments within the time specified shall be deemed a refusal to pay the same.

Treasurer to enforce collection of personal taxes.

SECTION 21. On the expiration of the twenty days mentioned in the preceding section, the treasurer shall proceed to enforce the collection of the personal taxes in the manner provided by law for the collection of personal taxes by town treasurers; and if any such personal taxes shall not be paid or collected in consequence of the neglect or delay of the treasurer, the common council may sue for and recover the amount thereof from the said treasurer and his sureties. In case the taxes on personal property shall not be paid within the time limited in the next preceding section of this chapter, the treasurer shall issue his warrant directed to the chief of police of said city, requiring and commanding him, within a certain time in such warrant to be specified, to proceed and collect such taxes on personal property as shall then remain unpaid. And the chief of police receiving such warrant shall have all the powers of levying, distraining and selling property, and all other remedies and powers that are given by law to town treasurers for the collection of such taxes, and shall be subject to all the liabilities of such town treasurers, and shall be entitled to demand and collect a commission or percentage of five per cent. on all sums collected by him, which per centage shall be added by him to said taxes and collected with the same, and in addition thereto, as compensation for his services; and in case of levy, distress or sale of property by the said chief of police in virtue of such warrant, he shall be entitled, in addition to such commission of five per cent. to collect the same costs and fees allowed by law to constables on execution.

Chief of police may distrain and sell property for taxes.

Other unpaid taxes.

SECTION 22. The warrant of the city treasurer to the chief of police, for the collection of taxes on personal property, shall include, in addition to the unpaid taxes on personal property for the current municipal year, all unpaid taxes on personal property for the next preceding three years. And the chief of police of said city shall have the power, and it shall be his duty to collect the same in like manner as is herein provided

for the collection of the taxes on personal property for the current year.

SECTION 23. Before the treasurer of the city shall issue his warrant to the chief of police for the collection of unpaid personal taxes, the chief of police shall give a bond to the said city in such penal sum not less than twenty thousand dollars, as the common council may prescribe, with at least three sureties, conditioned for the faithful execution of such warrant, and for the payment to the city treasurer, monthly, of all personal taxes by him collected or received under or by virtue of the said warrant in pursuance of law. Such bond shall be executed, acknowledged, approved and recorded as provided and required by section one of chapter three of this act. The chief of police at the end of each and every month from the time of receiving such warrant, shall report to the treasurer a statement in detail of all the personal taxes collected by him during such month, and shall pay over to the treasurer at the same time the whole amount so collected and take his receipt in duplicate therefor—one of which duplicate receipts he shall immediately file with the city comptroller.

Chief of police
to give bond.

To pay over all
collections
monthly.

SECTION 24. On the day and at the place designated in the treasurer's notice, he shall commence by public auction the sale of all tracts and lots, or parts thereof, upon which the taxes or assessments shall remain unpaid, and shall continue such sale from day to day until the whole are disposed of. The sale shall be the smallest undivided portion of the lot or tract, which any person will take and pay the taxes and charges on the whole lot or tract. On receiving the amount of such taxes and charges, the treasurer shall issue to the purchaser his heirs or assigns, a certificate of such sale, containing the name of the purchaser, a description of the premises sold, the amount paid therefor, the rate of interest said certificate may bear, and the time when the right to redeem the same will expire. The treasurer shall keep a record of the lots or tracts sold, the names of the purchasers, the dates and amounts of sales, the time, by whom, and for what sum any lot or tract sold, or any part thereof, was redeemed, and the time, and to whom, the same was conveyed if not redeemed.

Treasurers
sales for delin-
quent taxes.

Record to be
kept.

SECTION 25. In case any purchaser at such sale shall neglect or refuse to pay the amount for which any lot or tract was sold, at such time as the treasurer shall designate, he shall on the day following offer said lot or tract again for sale, and any person bidding off at any such sale any lot or tract of land, and refusing

Forfeiture for
neglect to pay
for lands so
purchased.

to pay for the same within the time designated shall forfeit and pay to the city the sum of five dollars for each lot so purchased and not paid for, to be sued for and collected as other penalties are under this act.

Time for redemption.

SECTION 26. Any lot or tract of land so sold, or any portion thereof or interest therein, may be redeemed by the owner thereof or by any person interested therein, within three years from the day of sale, and at any time prior to the recording of a deed thereof by the treasurer to the purchaser, by the payment to the treasurer of the amount for which the same was sold, together with the interest thereon at the rate of twenty five per cent. per annum, and the legal charges thereon ; and the city treasurer shall receive such redemption money on the same being tendered to him at any time prior to the recording of the tax deed. If the estate of an infant or lunatic be sold, the same may be redeemed upon the like terms at any time within one year after such disability shall be removed.

Rate of interest

Infants and lunatics.

Tax deeds. Notice to be served on owner when practicable, or occupant.

SECTION 27. Any tract or lot of land sold in pursuance of this act, or any part thereof, which shall not be redeemed within three years from the day of sale, shall be conveyed by the treasurer to the purchaser or his assigns, as herein provided ; and the assignee of any tax certificate by endorsement thereon, of any premises sold for taxes by virtue of this act, shall be entitled to receive a deed of such premises in his own name, and with the same effect as though he had been the original purchaser : *provided*, that it shall not be lawful for the treasurer of the city of Milwaukee to issue tax deeds for taxes unpaid on any lot, part of lot, or parcel of land, in said city of Milwaukee, unless three months previous notice in writing of the application for such deed shall have been served upon the occupant or occupants thereof, if the same be occupied, and upon the owner or owners thereof if known, and the proof such service, by affidavit, shall be first furnished to and filed in the office of said city treasurer. Such service may be made personally, or by mailing such notice, with the postage prepaid, to each person required to be served therewith, directed to such person at his place of residence, unless it appears that such residence is not known to the party applying for such tax deed and cannot with reasonable diligence be ascertained by him. Like affidavit of service in either case shall be made and filed as is now required by law of the service of summons in civil actions in this state. No other notice of application for a tax deed shall be necessary in any case than that required in this sec-

Penalty for issuing unlawful or fraudulent deed.

tion, and if the treasurer shall issue any deed for taxes without the foregoing provisions of this section having been complied with, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by fine of not less than five hundred nor more than one thousand dollars, and by imprisonment in the county jail for a term of not less than six months nor more than one year, and his office shall be deemed vacated.

SECTION 28. All deeds executed by the city treasurer on account of sales for taxes or assessments under this act, shall be made in substantially the same form prescribed by law for deeds by the county clerk on account of sales for unpaid taxes; and such deeds shall have the same force and effect as evidence that is or may be given by law to such deeds executed by the county clerk.

Form of tax deed.

SECTION 29. If, at any sale of real or personal estate for taxes or assessments, no bid shall be made for any parcel of land, or for any goods and chattels, the same shall be struck off to the city, and thereupon the city shall receive in its corporate name a certificate of the sale thereof, and shall be vested with the same rights as other purchasers are. If the city shall be purchaser of any personal property by virtue of this chapter, the treasurer shall have the power to sell the same at public sale, and in case the city shall become the purchaser of any real estate at any tax sale, the treasurer is authorized to sell the certificates issued therefor for the amount of such sale and interest at twenty-five per cent. per annum, and to indorse and transfer such certificates to the purchasers.

Struck off to city in absence of other bid.

City may resell.

SECTION 30. Whenever any person shall bid off any lot offered for sale for taxes, which lot shall have been bid off in the name of the city for the taxes of any previous year or years, and the certificate or certificates of such previous sale or sales thereof shall at the time of such subsequent sale remain the property of the city, such person shall, before being entitled to his certificate of such sale, purchase of the city its certificate or certificates by paying the amount of principal, interest and charges thereon, and receive from the treasurer an assignment thereof: *provided*, that any certificate of sale for the amount of any street commissioner's certificate or board of public works' certificate, or other special tax or assessment, held by the city of Milwaukee in trust for the owner of such certificate or of such special tax or assessment, or any certificate of sale for general, city or ward taxes held by said city,

Purchasers to buy cities certificates.

What certificates may be sold.

may be assigned, sold and transferred by the city treasurer, although said city may hold in trust, in whole or in part, certificates for the sale of lots for the amount of street commissioners' certificates or other special certificates or special taxes or assessments, issued in any prior year, and no liability shall attach to the city or said treasurer by reason thereof; but any such sale, assignment and transfer shall only be made upon payment of all previous general city and ward taxes.

Omitted lands to be assessed for back taxes.

SECTION 31. If it shall appear to the assessors that any lot or parcel of land was omitted in the assessment roll of either or both of the two preceding years, and that the same was then liable to taxation, they shall, in addition to the assessment for that year, assess the lot or tract so omitted, for such year or years in which it shall have been so omitted, at the just value thereof, noting the year when such omission occurred, and such assessment shall have the same force and effect as it would have had if made in the year when the same was omitted. And the common council shall, in addition to the taxes for the current year, levy such taxes upon such lot or tract as the same would have been chargeable with had not the same been so omitted, and such taxes shall be collected as other taxes or assessments are for the current year. All lands shall be subject to taxes that may have been omitted, in whose-soever hands they may have come. Should the tax or the assessment upon any parcel of land be set aside or declared void by reason of any defect or informality in the assessing, levying, selling or conveying the same but not affecting the equity or justice of the tax itself, the common council shall cause the tax or assessment so set aside or declared void to be relieved in such manner as they shall by ordinance direct: *provided*, that if the defect was in the assessment, the same shall be again assessed at such time as the common council may direct, and the said tax or assessment so reassessed or re-levied shall be and continue a lien upon said lot or tract, and shall be collected as other taxes and assessments are collected under this act.

Taxes set aside for informality may be relieved

Treasurer to receive redemption moneys, and cancel certificates.

SECTION 32. The treasurer shall receive all moneys that may be legally tendered him for the redemption of lands sold for taxes, and he shall keep an account thereof, and pay the same over on demand to the persons entitled to receive the same. He shall cancel all certificates so redeemed, and preserve the same in his office; and at the expiration of his term of office, he shall deliver over to his successor all redemption mon-

eyes in his hands, with a statement of the amounts so received.

SECTION 33. When there shall be a sale by the county treasurer and by the city treasurer of any piece or parcel of land for taxes, in the same year, the purchaser of such piece or parcel who may be first in point of time may redeem the same from the subsequent purchaser; and in case he shall not redeem, the right of the last purchaser shall be held paramount in case of the execution of any tax deed therefor. If the first purchaser in point of time shall redeem, it shall be the duty of the proper officer to make an entry in the sales book of the character in which such person may have redeemed; and thereupon the person so redeeming shall be substituted to all the rights of the holder of the certificate so redeemed as aforesaid.

First purchaser to have preference.

SECTION 34. No person shall be permitted to institute any action or proceeding to set aside any assessment or special tax hereafter levied or assessed upon any lot or tract of land, or to set aside any deed executed in consequence of the non-payment of such taxes and of the sale of the premises therefor, unless such person shall first pay to render to the proper party, or deposit for his use with the treasurer, the amount of all state, county and city taxes that may remain unpaid on such lot or tract, together with the interest and charges thereon.

Instituting actions to set aside assessments and taxes.

SECTION 35. All the directions hereby given for the assessing of land and the levying and collection of taxes and assessments, shall be deemed only directory, and no error or informality in the proceedings of any of the officers entrusted with the same, not affecting the substantial justice of the tax itself, shall vitiate or in any way affect the validity of the tax or assessment.

Informality shall not affect validity of tax.

SECTION 36. The city treasurer shall collect the following fees, which he shall account for and pay into the city treasury for the use of the city, to wit: for each certificate by him issued on sale of lands or non-payment of taxes or assessments, twenty-five cents, to be added to the amount of such tax or assessment, and included in such certificate; for each lot redeemed, for which he shall issue a certificate, twenty-five cents, and five cents for each additional lot embraced in such certificate, to be paid by the person redeeming; for each tax deed executed by him, one dollar, and five cents for each additional lot or tract embraced in the same deed, to be paid by the person receiving the same. It shall also be his duty to pay into the city treasury for the use of said city, the full amount of the percentage

Fees for certificates, redemptions, etc.

For tax deed.

Collection fees. or collection fees received by him upon all state, county and school taxes levied upon personal property and real estate in the city of Milwaukee, and collected by said treasurer as required by law to that effect. In case of a distress and sale by him of goods and chattels for the payment of any tax, said treasurer shall be entitled to such fees as are allowed to sheriffs on sales of goods under execution.

COUNTY AND STATE TAXES.

City clerk to make list of real and personal property subject to taxation.

SECTION 37. The city clerk shall annually make a duplicate tax roll, embracing a list of all real property in the city subject to taxation, and also a list of all persons in the city having personal property subject to taxation, and being a copy of the tax roll made by him as provided by section fourteen of this chapter, and upon receiving the certificate of the county clerk of the amount of state, county and school taxes respectively to be collected in said city for the current year, he shall calculate, carry out and extend the same upon such duplicate roll in the manner provided by law, and shall deliver such tax roll with his warrant thereto attached in due form so provided by law, to the city treasurer the collection of the state, county and school taxes therein entered and contained.

City treasurer to comply with state laws.

SECTION 38. The treasurer of the city, in giving bonds, collecting such state, county and school taxes, and making his return to the county treasurer, and in all other things relating to such taxes, shall conform to and be governed by the general laws of the state, except that the return to the county treasurer shall be for the city and not for the wards.

CHAPTER XIX.

DISQUALIFICATIONS, IMPEACHMENTS, ETC.

Ineligibility to office.

SECTION 1. No member of the common council shall hold any other office in the city. If any member of the common council shall, while a member, accept any other public office except that of county supervisor, he shall be deemed to have vacated his office as a member of the common council, and it shall be the duty of the common council to order a special election to fill the vacancy thus created: *provided*, that six months of the term of such member shall remain unexpired at the time such vacancy shall occur.

Special elections.

Ineligible to vote.

SECTION 2. No member of the common council shall vote upon any question, matter or resolution in which he may be directly or indirectly interested.

SECTION 3. No member of the common council shall be a party to or interested in any job or contract with the city, or with any of the wards, and any contract in which any such member may be so interested shall be null and void, and in case any money shall have been paid on any such contract, the common council may sue for and recover the amount so paid, from the parties to such contract, and from the member of the council interested in the same.

Debarred from jobs or contracts.

SECTION 4. No person interested, directly or indirectly, as principal or surety, in any contract or agreement written or verbal, to which the said city shall be a party in interest,—or to which any officer or board under this act shall officially be a party,—for the construction of any sewer, pavement or building, or the performance of any public work whatever, or involving the expenditure, receipt or disposition of money or property of the said city, or of any ward, or by any officer or board under this act, shall be eligible to any office or appointment in said city that will in any manner give him official cognizance or authority over the subject matter of such interest; and if any person thus interested shall be elected or appointed to office, his election or appointment shall be void, and such office shall be deemed vacant.

Principals and sureties in contracts ineligible to offices.

Office held vacant.

SECTION 5. If any member of the common council, or other officer of the corporation, after his election or appointment, or while in office, shall become or cause himself to become interested, directly or indirectly, in any contract or agreement whether written or verbal, to which the corporation or any ward shall be a party in interest, or to which any officer or board under this act shall officially be a party, or in any question, subject, or proceeding, pending before the common council or on which such officer may be called upon to act officially, with intent to gain, directly or indirectly, any benefit, profit, or pecuniary advantage, he shall be removed from his office, and the same shall be declared vacant by the common council; and he shall be deemed guilty of felony, and on conviction thereof, shall be punished by imprisonment in the state prison for not more than one year, or by a fine of not more than five thousand dollars nor less than five hundred dollars, or by both such fine and imprisonment in the discretion of the court.

Penalty for member of common council becoming interested in any city contract.

SECTION 6. If any member of the common council, or other officer or agent of the city government, shall, directly or indirectly, accept or agree to accept or receive, any money, goods or chattels, or any bank note,

Penalty for member of common council accepting consideration

for any vote or omission to vote or using his influence corruptly.

bank bill, bond, promissory note, due bill, bill of exchange, draft, order or certificate, or any security for the payment of money or goods or chattels, or any deed of writing containing a conveyance of land or conveying or transferring an interest in real estate, or any valuable contract in force, or any other property or reward whatever, in consideration that such member of the common council, or other officer or agent, will vote affirmatively or negatively, or that he will not vote, or that he will use his interest and influence, on any question, ordinance, resolution, contract, or other matter or proceeding, pending before the common council, or on which such officer or agent may be called upon to decide or act in any particular manner, such member of the common council, officer, or agent, shall be removed from office and his office declared vacant by the common council; and both he and the person or persons offering or paying such consideration, directly or indirectly, shall be deemed guilty of felony, and, on conviction thereof, shall be punished by imprisonment in the state prison for not more than three years nor less than one year, or by fine not exceeding five thousand dollars nor less than five hundred dollars, or by both such fine and imprisonment at the discretion of the court.

Penalty for offering bribe to member of council.

Dismissal of appointed officers.

SECTION 7. A majority of all the members elect of the common council shall have power to dismiss from office, for malfeasance in office in said city, any person elected or appointed to office in said city, except justices of the peace. And the common council shall provide by ordinance the manner of hearing and disposing of complaints against such officers.

Investigation of charges against members of council or city officers.

SECTION 8. Whenever any charges of official misconduct shall be preferred against any member of the common council of the city of Milwaukee, or any officer of said city, the common council shall appoint a committee to investigate such charges; and it shall be the duty of the committee, as soon as practicable after their appointment, to investigate the matter of any charges which may have been so preferred, and to report the results of their investigation to the said common council; and in case such committee shall deem it necessary or proper for the purposes of their investigation, they may examine witnesses on oath in relation to any such charges; and the several members of such committee are hereby authorized and empowered to administer oaths to witnesses to be examined, for the purposes of such examination.

SECTION 9. Subpœnas may be issued for the purpose of procuring the attendance of witnesses before any committee appointed pursuant to the preceding section. Each subpœna shall state when and where, and before whom, the witness is required to appear and testify, and may require such attendance forthwith, or on a future day named, and the production of books, records, documents and papers therein to be designated. All such subpœnas shall be signed by the city clerk of said city, and shall be issued under the seal of said city, and may be served in the same manner, and shall have the same force and effect as subpœnas issued out of the circuit court. Any willful or corrupt false swearing by any witness or person giving testimony before such committee or any member thereof, or making deposition to any material fact relating to the matter under investigation before such committee shall be deemed guilty of perjury, and shall be punished as such in the manner provided by law. The provisions of law in respect to the attachment of witnesses subpoenaed before justices of the peace and compelling the attendance of such witnesses to appear and testify before them, are hereby applied to the case of witnesses subpoenaed before such committee, and such committee may exercise the powers of arrest, fine and imprisonment for contempt vested in the court in such cases. Writs of attachment and commitment for contempt shall be signed by the chairman of such committee.

Witnesses may be subpoenaed.

False swearing how punished.

Compelling attendance of witnesses.

CHAPTER XX.

MISCELLANEOUS.

SECTION 1. Whenever any injury shall happen to persons or property in the said city of Milwaukee, by reason of any defect or incumbrance of any street, sidewalk, alley or public ground, or from any other cause, for which the said city would be liable; and such defect, incumbrance or other cause of such injury shall arise from or be produced by the wrong, default or negligence of any person or corporation, such person or corporation so guilty of such wrong, default or negligence, shall be primarily liable for all damages for such injury; and the said city shall not be liable therefor until after all legal remedies shall have been exhausted to collect such damages from such person or corporation.

Liability for damages to persons or property.

SECTION 2. The city of Milwaukee shall not be held liable for damages or injuries to persons or property, incurred or happening at any place in the said city

Exemption from liability.

Liability of
contractors.

where work of any kind or nature is being done in or on streets or sidewalks by contractors under contracts with the board of public works, in consequence of the condition of such streets or sidewalks arising from the doing of such work. But if the contractors doing such work shall fail to keep up sufficient fences or protection guards to prevent damage or injury to persons or property, or shall be guilty of other negligence in doing such work, and if injury to persons or property occur by reason of such default of such contractors, such contractors shall be liable in an action by the person so injured.

Two-thirds vote
necessary to
remit, etc.

SECTION 3. No penalty or judgment recovered in favor of the city shall be remitted or discharged without payment, and no resolution for a stay of prosecution for a violation of a city ordinance shall be passed, except by an affirmative vote in either case of two-thirds of all the members elect of the common council.

Competency.

SECTION 4. No person shall be an incompetent judge; justice, witness, or juror, by reason of his being an inhabitant or freeholder in the city of Milwaukee, in any proceeding or action in which the city shall be a party in interest.

Remaining in-
force.

SECTION 5. All ordinances, regulations or resolutions now in force in the city of Milwaukee, and not inconsistent with this act, shall remain in force under this act until altered, modified or repealed by the common council after this act shall take effect.

Vested actions,
etc.

SECTION 6. All actions, rights, fines, penalties and forfeitures, in suit or otherwise, which have accumulated under the several acts consolidated herein, shall be vested in and prosecuted by the corporation hereby created.

Accidental fall-
ure, not to sus-
pend corpor-
ation.

SECTION 7. If any election by the people or common council shall, for any cause, not be held at the time or in the manner herein prescribed, or if the council shall fail to organize as herein 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 common 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 any specified time, are not then done or performed, the common council may appoint another time at which the said acts may be done and performed.

Service of pro-
cess in city
cases, how
made.

SECTION 8. When any suit or action shall be commenced against said city, the service of process therein may be made by leaving a copy of the process by the

proper officer with the mayor, and it shall be the duty of the mayor forthwith to inform the common council thereof, or to take such other proceedings as by the ordinances or resolutions of said council may be in such case provided. When, in any suit, the city shall take an appeal from the order or judgment of any court in the state to a higher court, it shall not be required to furnish an appeal bond.

SECTION 9. All property, real and personal, now or at any time hereafter belonging to said city, or to either of the wards thereof, shall be exempt from levy and sale under or by virtue of any execution; *provided*, that any such property, real or personal, shall be subject to levy and sale by virtue of any execution issued on a judgment for the purchase money thereof. Nor shall any real or personal property of any inhabitant of said city, or of any individual or corporation, be levied on and sold by virtue of any execution issued to satisfy or collect any debt, obligation or contract of said city.

Real and personal property of city exempt from execution

SECTION 10. All property, real, personal, or mixed, belonging to the city of Milwaukee is hereby vested in the corporation created by this act. The officers of said corporation, now in office, shall respectively continue in the same until superceded in accordance with the provisions thereof, but shall be governed by this act, which shall take effect and be in force from and after its passage and publication: *provided*, that the common council of said city, as now constituted and organized, being a board of aldermen and a board of councilors, separate and distinct from each other, shall until the organization of the new common council under this act on the third Tuesday of April, A. D. 1874, have and exercise the duties, powers and functions of the common council of said city, as defined by this act, but in the manner and under the forms and course of procedure prescribed by the act, under which said existing common council was organized; and the mayor shall continue to act as the presiding officer of such common council; *and provided further*, that until the board of health created by this act shall be appointed and organized, the now existing board of health shall continue in office with the duties and powers conferred upon them by the laws creating and regulating such board; *and provided further*, that until the third Tuesday in April, 1874, the salaries and allowances to officers in said city shall continue as they now are, unchanged by anything in this act

Real personal and mixed property vested in city.

Powers of old council continued.

Board of health continued.

Salaries to remain unchanged.

contained; and further provided, that chapter ten of this act, except the first section thereof, shall only take effect and become operative on the first day of January A. D. 1875, or at the time either before or after that date, when, in accordance with the provisions of said section one, the powers, duties and functions of the board of water commissioners of the city of Milwaukee, and of their officers, agents, employes and servants shall cease and determine.

City may acquire real and personal property.

SECTION 11. The said city may lease, purchase and hold real or personal estate sufficient for the convenience of the inhabitants thereof; and may sell and convey the same; and the same shall be free from taxation.

SECTION 12. Real estate exempted from taxation by the laws of the state shall be subject to special taxes as other real estate under this act.

Limiting powers of city justices.

SECTION 13. The justices of the peace elected in the said city shall not have jurisdiction in cases in which the city is a party, nor to hear complaints or conduct examinations or trials in criminal cases within the city; but they may issue warrants in criminal cases, returnable before the municipal court, but no fee shall be received therefor by them.

SECTION 14. No general law of this state, contravening the provisions of this act, shall be considered as repealing, amending or modifying the same, except such purpose be expressly set forth in such law.

Authority to publish charter and laws affecting city.

SECTION 15. The common council of the city of Milwaukee are hereby authorized to cause this act, together with any other acts or parts of acts of the legislature of Wisconsin relating to or affecting said city, and also any ordinances, by-laws, resolutions, rules and regulations of said city or any of its departments, and any other acts, resolutions, contracts or other documents relating to or affecting said city, to be printed and published in book form, and the same shall be admitted and may be read in evidence in all courts and legal proceedings from such printed book so published by order of the said common council, and such book shall be deemed *prima facie* evidence of the contents and passage, and shall be a sufficient publication of all such acts, ordinances, by-laws, rules, resolutions and regulations.

Evidence of legal publication.

Old liabilities not to be disturbed

SECTION 16. This act shall not invalidate any legal act done by the common council of the city of Milwaukee, or by its officers, nor divest their successors under this act of any rights of property or otherwise, or of any liability which may have accrued to, or been

created by said corporation prior to the passage of this act.

SECTION 17. Chapter fifty-six of the session laws of this state for 1852, entitled "an act to consolidate and amend the act to incorporate the city of Milwaukee and the several acts amendatory thereof," approved February 20, 1852; the several acts amendatory of said chapter fifty-six or relating to said city of Milwaukee, particularly mentioned and described as follows, to wit: chapter three hundred and eighty-five of the session laws of the year 1852; chapters twenty-six and one hundred and seventy of the session laws of the year 1853; chapters seventy-three, one hundred and ninety-six, two hundred and forty-seven and three hundred and seventy-two of the session laws of the year 1855; chapters one hundred and fifty-six and three hundred and thirty-eight of the session laws of the year 1856; chapter three hundred and forty-four of the session laws of the year 1857; chapters one hundred and seventeen and two hundred and thirty-three of the session laws of the year 1858; chapters one hundred and seventy-two and one hundred and ninety of the session laws of the year 1859; chapter three hundred and fifty-six of the session laws of the year 1860; chapters two hundred and ninety, two hundred and ninety-one and two hundred and ninety-two of the session laws of the year 1861; chapters one hundred and forty-two, three hundred and eight, three hundred and nine, three hundred and ten and three hundred and forty-seven of the session laws of the year 1862; chapter two hundred and thirty-nine of the session laws of the year 1863; chapters two hundred and eighty-three and five hundred and thirteen of the session laws of the year 1865; chapter two hundred and sixty-eight of the session laws of the year 1866; chapters two hundred and fifty-two, three hundred and ninety-four, five hundred and five, five hundred and forty-four, five hundred and ninety-five and six hundred and eight of the session laws of 1867; chapters one hundred and forty-six, three hundred and thirty-three, three hundred and forty and three hundred and eighty-six of the session laws of the year 1868; chapters two hundred and ninety-nine, three hundred and twenty-four, three hundred and ninety-nine, four hundred and one, four hundred and twenty-seven and four hundred and thirty-two of the session laws of the year 1869; chapters two hundred and forty-five, two hundred and seventy-four and four hundred and one of the sessions laws of the year 1870; chapters seven, one hundred and eight, three

Enumeration
of laws repealed
by the passage
of this act.

hundred and sixty, four hundred and fourteen, four hundred and thirty-eight, four hundred and ninety-two and four hundred and twenty-one, except section four thereof, of the session laws of the year 1871; chapters forty-five and sixty-one of the session laws of the year 1872, and sections one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, twenty-two, twenty-three, twenty-four, thirty-two and thirty-three of chapter one hundred and twenty-nine of the session laws of the year 1873; these and all other acts and parts of acts, inconsistent with or superseded by this act, are hereby repealed; but such repeals shall not in any manner affect, injure or invalidate any contracts, acts, suits, proceedings, claims or demands that may have been entered into, performed or commenced, or that may exist, under or by virtue or in pursuance of the said acts, or any of them; but the same shall remain in full force and effect, and be enforced and carried out as fully and effectually as if this act had not been passed, but in conformity with the provisions of this act so far as the same may be applicable.

Approved March 10, 1874.

CHAPTER 185.

[Published March 27, 1874.]

AN ACT to amend chapter 103 of the general laws of 1873, entitled "an act authorizing the formation of town insurance companies," approved March 23, 1872, and the act amendatory thereto, approved March 17, 1873.

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

Town insurance companies how organized.

SECTION 1. Section 1 of chapter 103 of the general laws of 1872 is hereby amended so as to read as follows: "Section 1. It shall be lawful for any number of persons not less than twenty-five, residing in adjoining towns in any county in this state, who collectively shall own property of not less than twenty-five thousand dollars in value, which they desire to have insured, to form themselves into a company for mutual insurance against loss or damage by fire or lightning; which corporation shall possess the usual powers and be subject to the usual duties of corporations, and the