

of the city, specifying the amount, may be issued for the purpose of borrowing money for the construction by said board, for said city, of public water works, as provided in this act.

SECTION 4. This act shall take effect and be in force from and after its passage and publication.

Approved April 4, 1883.

[No. 205, A.]

[Published April 11, 1883.]

CHAPTER 351.

AN ACT to incorporate the city of Nicolet.

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

Corporate
name.

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

Boundaries.

SECTION 2. All the territory within Brown county hereinafter described and bounded, shall be included in and constitute the limits of the city of Nicolet, to-wit: Commencing at a point where the center channel line of Ashwaubenon creek (so called) intersects the center of the channel of Fox river: thence along the center of said creek up stream through private claims twenty-five (25), twenty-six (26), twenty-seven (27), twenty-eight (28) and twenty-nine (29), west side of Fox river, in the county of Brown, including the parts of said private claims lying between Ashwaubenon creek on the west and the Fox river on the east: also fractional section twenty-one (21), township twenty-three (23), range twenty (20) and lot four (4), of fractional section twenty (20), town twenty-

three (23), range twenty (20), and all that part of the northeast quarter ($\frac{1}{4}$) of section twenty-nine (29), town twenty-three (23), range twenty (20), lying east of Ashwaubenon creek, and all that part of section twenty-eight (28), town twenty-three (23), range twenty (20), lying north of the east and west quarter ($\frac{1}{4}$) line of said section twenty-eight (28); also a tract of land about fifteen (15) acres, owned by G. E. Armstrong and James Millar, being all of fractional section twenty-seven (27), west of Fox river, town twenty-three (23), range twenty (20), and lots four (4), and five (5), in section twenty-eight (28), town twenty-three (23), range twenty (20), and lots one (1) and two (2), and three (3), all in section thirty-three (33), town twenty-three (23), range twenty (20); thence easterly from the south point of said lot three (3), to the center of the channel of Fox river; thence following said channel down stream to the place of beginning, shall constitute the limits and boundaries of the city of Nicolet.

SECTION 3. The city of Nicolet shall be divided into two wards as follows, to-wit: All pieces and parcels of land within the incorporated limits of the city of Nicolet lying east of the Chicago & Northwestern railroad main track and south of the center line of Main street in said city; also blocks one (1), two (2), three (3), four (4), five (5) and six (6), Depere company's addition to West Depere, lying east of the center line of Fifth street, and also block (7), same addition; and all lying north of the center line of Main street in said city, shall constitute the First ward. All of private claims twenty-five (25), twenty-six (26), twenty-seven (27), twenty-eight (28), lying east of the Ashwaubenon creek and west of the Fox river, excepting blocks one (1), two (2), three (3), four (4), five (5) and six (6), Depere company's addition to West Depere; also that part of private claim twenty-nine (29), lying east of the Ashwaubenon creek and west of the Chicago & Northwestern railroad main track, and lot four (4), section twenty (20), town twenty-three (23), range twenty (20), all of fractional section twenty-one (21), town twenty-three (23), range twenty (20), also all of those parts of sections twenty-eight (28), and twenty-nine (29), town twenty-three (23), range twenty (20), within the incorporated limits of said city, and lying east of the Ashwaubenon creek

Ward boundaries.

and west of the Chicago & Northwestern railroad main track shall constitute the Second ward.

ELECTIONS.

Elections, when held.

SECTION 4. The first election under this charter shall be held at the place where the last general election was held in the village of West De Pere on the third Tuesday of April, 1883, and thereafter the annual election for city and ward officers shall be held on the first Tuesday in April in each year, at such place in such wards as the common council shall designate; ten days' notice shall be given of the time and place of holding such election. All elections under this charter shall be conducted in the same manner as the general elections for state and county officers, and the qualifications of voters shall be the same as in such general elections. The mayor, treasurer, assessor, and aldermen shall be qualified voters and residents in said city; the polls shall be kept open from nine o'clock in the forenoon until sundown.

Officers to be elected.

SECTION 5. The officers to be elected by the people shall be a mayor, treasurer, assessor and two justices of the peace from the city at large, three aldermen and one constable from each ward, a clerk, marshal and all other necessary officers shall be appointed by the common council. All elective officers, except justices of the peace, shall, unless elected to fill a vacancy, hold their respective offices for one year and until their successors are elected and qualified. Justices of the peace shall hold their offices for two years and until their successors are elected and qualified. The terms of every officer elected under this act shall commence on the second Tuesday in April of the year for which such officer is elected, except justices of the peace, who shall qualify in the same manner as provided by the general laws of this state. The term of office of all appointed officers shall expire with that of the members of the body appointing them.

Vacancies, how filled.

SECTION 6. Whenever a vacancy shall occur in the office of mayor or justice of the peace, the council may order a new election, and shall give five days' notice thereof. Vacancies in other offices shall be filled by the council. The person elected or appointed to fill a vacancy shall hold his office and discharge the duties thereof for the unexpired term, with the same rights and subject

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

SECTION 7. All elections by the people shall be by ballot, and a plurality of votes shall constitute an election. The votes of all elective officers shall be on one ballot, and shall be deposited in one ballot box. When two or more candidates for one elective office shall receive an equal number of votes for the same office, the election shall be determined by casting of lots in the presence of the common council, at such time and in such manner as it shall direct.

Election by ballot—tie vote.

SECTION 8. The elections shall be held and conducted in the same manner and under the same penalties, and all guards against illegal voting observed, and inspectors and clerks appointed, and vacancies in the board of inspectors filled as required by the laws of this state regarding elections.

Manner of conducting elections.

SECTION 9. When an election shall be closed, and the number of votes for candidates or persons voted for shall be counted and ascertained, the said inspectors shall make a return thereof, stating therein the number of votes for each person for each and every office, and shall deliver or cause to be delivered, such return to the city clerk, within three days after election. The common council shall, on the fourth day after such election, meet and canvass said returns and declare the results as it appears from the same, and the city clerk shall forthwith give notice to each person elected of his respective election.

Canvass and return of votes.

SECTION 10. The common council shall have power, for due cause, to expel any of its members. The mayor shall have power to suspend any police officer or watchman, appointed by the council, when complained of, until the council shall take up his case and dispense of it. He shall also have power to fill any vacancy thus created for the time being. All officers appointed by the mayor or common council may be removed at the pleasure of the council by a two-thirds vote of the aldermen elect.

Expulsions and removals.

SECTION 11. Special elections to fill vacancies, or for any other purpose, shall be held and conducted in the same manner and the returns thereof shall be made in the same form and manner as general or annual elections, and within such time as may be prescribed by ordinance. All

Special elections.

election notices shall be by publication in some newspaper published in the city or county, or by publishing the same by posting up three written or printed notices in each ward.

Election of supervisors.

SECTION 12. A supervisor to represent each ward of said city in the county board of supervisors of Brown county, shall be annually elected at the time and place of the election of aldermen for said city. Each supervisor so elected shall hold his office for one year, and shall be when so elected, a resident of the ward for which he is elected.

Upon whom election duties fall.

SECTION 13. All the duties herein required of the common council and aldermen in regard to elections, shall be performed so far as may be necessary by the present president and board of trustees of the village of West De Pere, in regard to the first election, and the organization of the city government under this act.

In case of failure to elect.

SECTION 14. Should there be a failure by the people to elect any officer therein required to be elected, on the day designated, the common council may order a new election to be held, five days' notice of the time and place of holding the election first being given.

Officers, their powers and duties.

SECTION 15. Every person elected or appointed to any office under the provisions of this act, except justices of the peace, shall, before entering 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 taking the same, with the clerk of the city. The treasurer, clerk, 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 Nicolet, a bond, with two or more sureties, the aggregate amounts of whose property within the state, above all their respective debts, liabilities and exemptions, as shown by their several and respective affidavits attached to, or indorsed on such bond, shall be at least double the sum named as penalty in such bond. Said bond shall contain such penal sum and such conditions as the common council may deem proper, and shall be subject to the approval of said council. The council may, from time to time, require new additional bonds, and remove from office any officer neglecting or refusing to give the same. All official bonds executed to the city of Nicolet, 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 disbursements of any of the funds of said city, or may have any control over such funds at any time, and such other bonds as the common council may direct, shall be duly witnessed and acknowledged and recorded in the office of the register of deeds for the county of Brown. The bond of the city clerk shall be filed with the city treasurer.

SECTION 16. The mayor shall preside over the meetings of the common council, but shall have a vote only in case of a tie. He 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 chief executive officer and head of the police of the city. He may appoint policemen, which appointments shall be approved by the common council before they shall enter upon the duties of their office, and the compensation of said policemen, as well as temporary policemen and watchmen as may be appointed, shall be fixed by the common council, and whenever in his judgment occasion requires, he may appoint as many special or temporary policemen as he may deem necessary, but their appointments shall not continue beyond the next meeting of the common council thereafter, unless approved by said council. The mayor shall, at the first regular meeting of the common council in each year, make out and announce such standing committees of the year, and on such subjects as may be, by ordinance or resolution of the common council, required.

Mayor, his duties.

PRESIDENT—HIS DUTIES.

SECTION 17. The common council shall, after its first meeting for organization each year, after the annual election, choose by ballot from its number a president, who, in the absence of the mayor, shall preside over the meetings of the common council, and in case of the absence of

Election of president, his duties.

the mayor from the city, or his inability for any reason to discharge the duties of his office, the president shall exercise all the powers and discharge all the duties of the mayor for the time being, except the signing of city bonds. In case of the absence of both mayor and the president at any meetings of the council, the council may choose from its number a president *pro tem.*, who, for the time being, shall discharge all the duties of the mayor. The president, or president *pro tem.*, while presiding over the council or performing the duties of the mayor, shall be styled acting mayor, and their acts, except the signing of city bonds, shall have the same force and validity as if done by the mayor.

CITY CLERK — HIS DUTIES.

Duties of city clerk.

SECTION 18. The clerk shall keep the corporate seal and all the papers and records of the city, and keep a full record of the proceedings of the common council, at whose meetings it shall be his duty to attend; copies of any and all books, papers, instruments or documents, duly filed and kept in his office, and of the endorsements thereon, transcripts from the records of the proceedings of the common council, duly certified by him under the corporate seal of the city, shall be evidence in all courts in like manner as the originals. He shall draw and countersign all orders on the treasury in pursuance of any order or resolution of the common council, and keep a full and accurate account thereof, and of the fund on which the same is drawn, in books provided for that purpose. He shall also keep in such manner as the common council may direct, an accurate account with the treasurer, and charge him with all tax lists delivered to him for collection, and all sums of money paid into the treasury. The clerk shall have power and authority to administer oaths and affirmations. Whenever the clerk shall be absent from any cause, the council may appoint a clerk *pro tem.*, who, for the time being, shall be vested with the powers and duties of the clerk. The clerk shall receive an annual salary to be fixed by the council.

City attorney, his duties.

SECTION 19. The common council after its first meeting for organization, may appoint a city attorney, whose duty it shall be to conduct all the law business of the corporation. He shall.

when required, furnish opinions upon subjects connected with the welfare of the corporation submitted to him by the council or any committee. He shall keep a docket of all 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, which docket shall be the property of the city and shall, at all times, be open to inspection of the mayor or any committee of the common council. It shall also be the duty of the city attorney to draft all general ordinances, all bonds, contracts, leases, conveyances and other instruments of writing that may be required by the business of the city, and to perform such other duties as may be prescribed by the charter and ordinances. He shall receive an annual salary to be fixed by the council.

STREET SUPERINTENDENT — HIS DUTIES.

SECTION 20. The common council shall also, at its first meeting for organization each year after the annual election, choose by ballot a street superintendent. The street superintendent shall see that all ordinances of the city relating to the obstruction and cleaning of sidewalks, streets, bridges, alleys, public grounds, reservoirs, gutters, sewers and waters of the rivers in said city are duly observed and kept, and to control the persons employed therein. He shall have the general supervision over all work let by contract for the making, grading, paving, graveling, planking, repairing and cleaning of streets, bridges, alleys, public grounds, reservoirs and gutters, unless the common council shall otherwise direct. He shall receive such compensation as the council may determine.

Election of street superintendent, his duties.

CITY SURVEYOR — HIS DUTIES.

SECTION 21. The common council may also, at its first meeting for organization, after the annual election, or as soon thereafter as convenient, elect a city surveyor, who shall be a practical surveyor and engineer. He shall keep his office at some convenient place within said city; and the common council shall prescribe his duties and fix the fees and compensation for any service performed by him. All surveys, profiles, plans or estimates made by him for the city or either of the wards, shall be the property of said city, and

Election of city surveyor, his duties.

shall be carefully preserved in the office of the clerk, open to the inspection of parties interested.

JUSTICES OF THE PEACE—JURISDICTION, ETC.

Jurisdiction of justices of the peace.

SECTION 22. The justices of the peace elected under this act shall have the same jurisdiction and perform all the duties of justices of the peace and shall qualify in the same manner as provided by the general laws of this state; except that the official bonds or agreements shall be approved by a majority of the common council. And they shall have jurisdiction in all cases arising under this act, and the ordinances of said city, and in all actions for the recovery of any penalty or fine under all laws, ordinances, by-laws or police regulations thereof. And no suits shall be commenced or prosecuted in the name of said city, for any violation of an ordinance thereof, except by consent of the mayor, city attorney or other officers of said city, but any such suits that shall be commenced or prosecuted before one of said justices shall be presumed to have been commenced or prosecuted by his consent.

ASSESSOR—HIS DUTIES.

Duties of assessor.

SECTION 23. The assessor shall assess all the taxable property of the city of Nicolet as required by law without regard to wards; and shall complete and return his assessment roll in the manner hereinafter provided and receive such compensation as the council may determine.

TREASURER—HIS DUTIES.

Duties of treasurer.

SECTION 24. The city treasurer shall perform all the duties required of him by law; collect all city, county and state taxes, and pay over all moneys in his hands according to law. He shall keep in a proper book, an account of all moneys received and of all moneys paid out, and the same shall, at all times, be open to the inspection of the voters of the city. He shall make reports quarterly, and render an itemized account to the common council of all sums received, when and by whom the same was paid, and also of all moneys by him paid out; and all moneys raised, received, recovered or collected by means of any tax, license, penalty, forfeiture, fine or otherwise belonging to said city under the authority of this act, shall be paid into the treasury of the city, and

shall not be drawn therefrom except by an order issued by order of the common council, and signed by the mayor or acting mayor, and countersigned or attested by the city clerk; provided, that the school fund may be drawn out as provided by other provisions of this act. The treasurer shall have the same powers and be subject to the same laws and liabilities and governed by the same laws as treasurers of towns in this state.

SECTION 25. On the first day of April in each year, the treasurer shall file in the office of the city clerk, a statement, showing in detail, the monthly receipts and disbursements of the preceding year, an account of each separate fund, and the condition of such funds at the date of the report.

Annual report
of treasurer.

CITY MARSHAL.

SECTION 26. The city marshal shall attend the meetings of the common council and shall perform such duties as shall be prescribed by the common council for the preservation of the peace and the collection of license money and fines, and shall receive such compensation as the common council may determine. He shall possess all the powers of a constable within the city limits and be subject to the same liabilities. He shall execute and return all writs and processes to him directed, and when necessary in criminal cases, as for the violation of any of the ordinances of the city, or the laws of this state, may pursue the offender and serve the same in any part of the state. He shall suppress all riots, disturbances and breaches of the peace, and cause to be abated all nuisances in said city. He shall apprehend all persons in the act of committing any offense against any law of this state, or violating any ordinance of said city, and within reasonable time bring such persons before competent authority for examination, and for such services he shall receive such fees as are allowed by law to constables for like services. He shall see that all peddlers, hawkers, auctioneers, common showmen and all other exhibitors or other persons pursuing any business or occupation subject to license under the laws of this state and the ordinances of the city, are duly licensed, and to prosecute, in the name of the city, all persons pursuing such business without license, or otherwise violating the laws or ordinances in re-

Duties of city
marshal.

spect thereto, and shall see that all ordinances of said city are duly observed and enforced.

Further duties may be required of officer.

SECTION 27. 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 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 of such officer. 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 said council, the services of such officer are no longer needed.

Penalty for failure to deliver to successor.

SECTION 28. If any person having been an officer in the city, shall not, within ten days after notification and request, deliver to his successor in office all property, books, papers and effects belonging to said city or pertaining to the office he may have held, he shall forfeit and pay to the use of the city not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500), besides all damages caused by his neglect or refusal so to deliver, and such successor may recover the possession of such books, papers, property and effects in the manner prescribed by the laws of this state.

Who are officers of the peace.

SECTION 29. The mayor, acting mayor, sheriff of Brown county, and each and every alderman, justice of the peace, marshal, under sheriff and deputy sheriff of Brown county, constable, policeman and watchman, shall be officers of the peace, and may command the peace, and suppress in a summary manner, all rioting and disorderly behavior within the limits of the city; and for such purposes may command the assistance of all bystanders, and if need be, of all citizens; and if any person, bystander, military officer or private, shall refuse to aid in maintaining the peace when so required, every such person shall forfeit and pay a fine of fifty dollars (\$50), and in cases where the civil powers may be required to suppress riotous or disorderly behavior, the superior officer present

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

SECTION 30. The mayor and aldermen shall constitute the common council, and the style of all ordinances shall be, "the common council of the city of Nicolet do ordain," etc.

Common council and style of ordinances.

SECTION 31. The common council shall hold its first annual meetings each year on the second Tuesday of April, and thereafter stated meetings at such time and places as it shall appoint, and the mayor may call special meetings by notice to each of the members, to be served personally or left at his usual place of abode, which notice shall specify the object of the meeting and the business to be transacted, and no other business shall come before such meeting. The common council shall determine the rules for its own government and proceedings; provided, such rules are consistent with the provisions of this act. A majority of the aldermen elected shall constitute a quorum for the transaction of business, but a smaller number may adjourn; its sessions shall be open and public; its proceedings shall be recorded in full, and all its 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. The vote of the common council shall, in all cases, be taken by ayes and noes, and every vote shall be entered at length upon the journal. The common council shall be the judge of the election and qualification 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 may 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.

First annual meeting of common council and rules governing.

POWERS OF THE COUNCIL.

SECTION 32. The common council shall have the management and control of the finances, except school moneys, and of all other property of the city, and shall likewise, in addition to all other powers herein vested in it, have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify, amend and repeal all such

Powers of common council.

ordinances, rules, resolutions and by-laws for the government and good order of the city, for the suppression of vice, for the prevention of crime, and for the benefit of the trade, commerce and health thereof, and for carrying into effect the powers vested in said common council, and to declare and impose penalties, and to enforce the same against any person or persons who may violate any of the provisions of said ordinances, rules, by-laws and regulations; and such ordinances, rules and by-laws are hereby declared to be and have the force of law; provided, that they be not repugnant to the constitution and laws of the United States or of this state, and for these purposes shall have authority by ordinance, resolution or by-law.

To grant and regulate licenses for saloons, etc.

1st. To regulate groceries, taverns, victualing houses, saloons, gardens, and all other places within said city where spirituous, vinous or fermented liquors are sold or given away, and to license, regulate and restrain tavern keepers, groceries, keepers of saloons, victualing houses or other houses or places for dealing in, selling or giving away spirituous, vinous or fermented liquors, and to regulate the amounts to be paid for such license, and to restrain or prohibit any person from vending, giving or dealing in spirituous, vinous or fermented liquors unless duly licensed by authority of the common council. Such license shall not be granted for a longer term than one year, and shall run from the first day of May; provided, however, when any such license is applied for after that date, the same be granted to expire on the first day of May next following, on the applicants paying *pro rata* therefor.

Bowling or nine pin alleys.

2nd. To license, tax, regulate, suppress or prohibit billiard tables, nine pin alleys, bowling saloons and ball alleys.

Shows and showmen.

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

Gambling.

4th. To restrain, prohibit and suppress all descriptions of gambling and fraudulent devices and practices, and all playing of cards, dice or other games of chance with or without betting.

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

6th. To compel the owner or occupant of any grocery, cellar, tallow chandler shop, soap factory, tannery, stable, barn, privy, sewer, meat market, or other unwholesome or nauseous house or place, to cleanse, remove or abate the same from time to time, as often as it may be deemed necessary for the health, comfort and convenience of the inhabitants of said city. Unwholesome or nauseous places.

7th. 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 limits, and the distance of two miles therefrom, distilleries, slaughter houses, 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. Breweries, tanneries, etc.

8th. To prevent the encumbering of the streets, sidewalks, lanes or alleys with railroad cars, locomotives, engine or engines, carriages, carts, wagons, sleighs, boxes, lumber, fire wood, or any other materials or substances whatever. Encumbering streets, etc.

9th. To prevent horse racing and immoderate riding or driving in the streets, and 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 streets, alley or public grounds. Racing and immoderate driving.

10th. To license, regulate and restrain the keeping, conveying, vending and storage of gunpowder and other combustible and dangerous material. Gunpowder.

11th. To regulate and determine the times and places of bathing and swimming in the rivers, harbor and other waters in and adjoining said city, and to prevent any obscene or indecent exhibition, exposure or conduct. Swimming or bathing.

12th. To restrain, regulate, or prohibit the running at large of cattle, horses, mules, swine, sheep, goats, poultry and geese, and to authorize the dis- Restrain cattle, horses, etc.

training, impounding and sale of the same for the penalty incurred and the costs of the proceedings, and also to impose penalties on the owners of any such animals for a violation of any ordinance in relation thereto.

Dogs, etc. 13th. To prevent the running at large of dogs, and to authorize the destruction of the same in a summary manner when at large contrary to the ordinance.

Putrid carcasses. 14th. To prevent any person from bringing, depositing or having within said city, any putrid carcass or other unwholesome substance, and to require the removal of the same by any person who shall have upon his premises any such substance, or putrid or unsound beef, pork, fish, hides, skins, or substance of any kind, and on his default, to authorize the removal thereof by some competent officer, at the expense of such person or persons.

Pounds, cisterns, etc. 15th. To make and establish public pounds, pumps, wells, cisterns and reservoirs.

Lamps and lighting of streets. 16th. To erect lamps and regulate the lighting thereof, and to provide for lighting streets, public grounds and public buildings with gas or otherwise.

Hackmen, cabmen, etc. 17th. To regulate, license and suppress omnibus drivers, hackmen, coachmen, cabmen, cartmen, draymen, and all others who may pursue like occupations in this city, and to prescribe their compensation.

Runners and solicitors. 18th. To restrain and regulate runners and solicitors for boats, vessels, cars, railroads, stages, public houses, or other establishments.

Boards of health. 19th. To establish and regulate boards of health, and to define their powers and duties.

Cemetery grounds. 20th. To provide hospitals and cemetery grounds, and may buy and hold cemetery grounds outside of the city limits, regulate the burial of the dead, and the return of the bills of mortality, and exempt burial grounds set apart for public use from taxation.

Pest houses. 21st. To erect or establish one or more pest houses, hospitals and dispensaries, and control and regulate the same.

Contagious or infectious diseases. 22d. To regulate, control and prevent the landing of persons from boats, vessels, cars and stages, wherein are contagious or infectious diseases or disorders, and to make such disposition of such persons as to preserve the health of said city; 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 exceeding two miles beyond the city limits.

23d. To abate and remove all nuisances under the ordinances, the laws of the state, 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 part of the city, or within its jurisdiction, by indictment, information or otherwise.

24th. To establish public markets and to make rules and regulations for the government of the same, to appoint suitable officers for overseeing and regulating such markets, and to restrain all persons from interrupting or interfering with the due observance of such rules and regulations.

25th. To regulate the size, weight, quality and sale of bread, and to provide for the seizure and forfeiture of bread baked contrary thereto.

26th. To prevent all persons from riding or driving any ox, mule, cattle, or other animals on the sidewalks in said city, or in any other way doing any damage to said sidewalks.

27th. To prevent the shooting of firearms or crackers, and to prevent the exhibition of any fireworks in any situation which may be considered by the council dangerous to the city or any property therein, or annoying to any citizens thereof.

28th. To restrain and punish vagrants, mendicants, street beggars, and prostitutes; and to restrain drunkenness or obscenity in the streets or public places, and to provide for the arresting, removing and punishing any person or persons who may be guilty of the same.

29th. To regulate butchers, and to regulate and restrain the sale of game, poultry, fresh meat, vegetables, fish, butter, eggs and other provisions in the city, and to cause the seizure and destruction of tainted or unwholesome meat, butter, vegetables, fruit or provisions.

- Hay and fuel.** 30th. To regulate the place and manner of the weighing and selling hay and measuring and selling fuel and lime, and to appoint suitable persons to superintend and conduct the same; and to appoint a fish inspector, and regulate by ordinance his duties and fees, and to regulate the measuring and inspection of lumber, shingles, timber, posts, staves and headings and all building material, and to appoint an inspector.
- Snow and dirt.** 31st. To compel the owner or occupants of buildings and grounds to remove snow, dirt or rubbish from the sidewalks, streets or alleys opposite thereto, and to compel such owner or occupant to remove from the lot owned or occupied by him, all such substances as the board of health shall direct, and in his default, to authorize the removal or destruction thereof by some officer of the city, at the expense of such owner or occupant.
- Piers and wharves.** 32d. To regulate the construction of piers and wharves extending into Fox river, within the limits of the city.
- Wharf and dock lines.** 33d. To establish wharf and dock lines upon the banks of Fox river, within said city, and to restrain and prevent encroachments upon said river, and obstructions thereto, and to construct, alter and maintain, or cause to be constructed, altered and maintained at the expense of the city, wharves at the foot of the streets, along the banks of said river.
- Watchmen and policemen.** 34th. To appoint watchmen and policemen, and to establish and regulate the police of the city, and prescribe their duties.
- Auctions and vendues.** 35th. To regulate the times, places and manner of holding public auctions and vendues.
- Auctioneers, peddlers, breweries, etc.** 36th. To tax, license and regulate auctioneers, distilleries, brewers and pawn-brokers, and to tax, license, regulate and restrain hawkers and peddlers, keepers or proprietors of gift book stores, gift concerts and other gift enterprises.
- Protect monuments.** 37th. To protect monuments in the city, and to direct and regulate the planting and preservation of ornamental trees in the streets and public grounds.
- Weights and measures.** 38th. To provide, by ordinance, for a standard of weights and measures, and for the punishment of the use of false weights and measures.
- Sewers.** 39th. To provide for and regulate the construction of gutters or sewers within said city.
- Streets and alleys.** 40th. To control, regulate, repair, amend and

clear the streets and alleys, bridges, and side and cross walks, and lay out, open, widen, straighten, alter and vacate streets and alleys, and establish and alter the grade thereof, and alter or change the name thereof, and prevent the encumbering of the streets and alleys in any manner, and protect the same from any encroachment or injury; or to regulate the manner of using the streets and pavements in said city, and protect the same from injury by vehicles used thereon.

41st. To control and regulate the streets, alleys and public grounds in said city, and to remove and abate any obstructions and encroachments therein. Streets and alleys.

42d. To regulate or prohibit the keeping of any lumber yard, and the placing, piling or selling of lumber, timber, wood or other combustible materials within the limits of said city. Lumber yards.

43d. To preserve the rivers and harbors, 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 logs, or floating matter; to prevent and remove all obstructions therein and punish the authors thereof. Rivers and harbors.

44th. To authorize the arrest, fine and imprisonment as vagrants of all persons who, not having visible means to maintain themselves and without employment, idly loitering or rambling about or staying in groceries, drinking saloons, houses of ill-fame, or houses of bad repute, gambling houses, or who shall be found trespassing in the night time upon the private premises of others, or begging or placing themselves in the street or other thoroughfare or public place to beg or receive alms; also keepers, exhibitors or visitors at any gambling table, gambling house or other place of device, and all persons who go about for the purpose of gaming, or who shall have in their possession any article or thing used for obtaining money under false pretenses, or who shall disturb any concert, theater or other public entertainment or place where public or private schools are held, either week-day or Sunday, or places where religious worship is held. Vagrants.

Concealed
weapons.

45th. To regulate and prohibit the carrying or wearing by any person, under his clothes, or concealed about his person, of any pistol, sling-shot, or knuckles, 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 weapon.

Ordinances.

46th. To make, ordain, amend and repeal all such ordinances, by-laws and police regulations, not contrary to the constitution of this state for the good order and government of the city, and which may be necessary or expedient to carry into effect the powers, vested in the mayor and common council or any officer of said city by this act, or which may be vested in any officer of said city by any ordinance thereof.

Laws and ordi-
nances, how
passed.

SECTION 33. All laws, ordinances, regulations, and by-laws shall be passed by an affirmative vote of a majority of the common council, and shall be signed by the mayor, and shall be published in some newspaper in Brown county, or in pamphlet or book form, purporting to be published by authority of the common council, or by the city clerk posting notices or copies thereof in three public places in the city, or certified by the clerk of said city to have been published, shall be *prima facie* evidence of its passage and publication, and they shall be recorded by the city clerk in books to be provided for that purpose; 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.

Seven days
grace.

SECTION 34. No ordinance or resolution requiring the signature of the mayor, shall take effect until seven days after the passage of the same, unless sooner approved in writing by the mayor, for the time being.

Veto power.

SECTION 35. The mayor shall have power to veto any ordinance, act or resolution passed by the common council, by notifying the common council of his objections thereto at any time within seven days after the passage of such ordinance or resolution. In case of no session of the council on any day after the passage of the same and before the expiration of the said seven days, such notification shall be made by filing with the clerk

a copy of his objections, and the clerk shall thereupon call a special meeting of the council in the manner provided by section 31 of this act, to consider such veto and objections; and in case the council shall not, within one week after the receipt of such objection or such filing with the clerk, re-enact such ordinance or pass such resolution by the vote of two-thirds of the aldermen elect, the same shall be null and void. If the mayor shall not return any ordinance, act or resolution so presented to him within seven days after the passage thereof, it shall take effect in the same manner as if he signed it.

SECTION 36. 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.

How veto may be rescinded.

SECTION 37. 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. Actions upon any report of a committee made to the common council, shall be deferred to the next regular meeting of the same, by request of one-third of the aldermen present.

Committees.

SECTION 38. The powers conferred upon the said council to provide for the abatement or removal of nuisances, shall not bar or hinder suits, prosecutions or proceedings 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 any one time, gambling houses, or houses of ill-fame, disorderly taverns and houses or places where spirituous, vinous or fermented liquors are sold without license required therefor, within the limits of said city, are hereby declared and shall be deemed public or common nuisances.

Powers conferred shall not bar or hinder suits.

SECTION 39. The council shall examine, audit and adjust the accounts of the clerk, treasurer, marshal, superintendent of streets, and all other officers and agents of the city, at such times as it may deem proper, and also at the end of the year, and before the time for which the officers of said city are elected or appointed shall have expired, and the common council shall require each and every such officer and agent to exhibit his

Common council shall examine and audit accounts.

books, funds and money, accounts and vouchers for such examination and settlement, and if any such officer or agent shall refuse to comply with the order of said council, in the discharge of his said duties, in pursuance of this section, or shall neglect or refuse to render his accounts or present his books, funds, moneys and vouchers to said council, it shall be the duty of the common council to declare the office of such person vacant: and the common council shall order suits and proceedings at law against any officer or agent of said city who may be found delinquent or defaulting in his accounts or in the discharge of his official duties, and shall make a full record of all adjustments and settlements.

Power of council to lay out public streets.

SECTION 40. The common council shall have power to lay out public squares, grounds, streets, and alleys, and to widen the same, as follows: Whenever ten or more freeholders residing in any one ward shall, by petition, represent to the common council that it is necessary to take certain lands within the ward where such petitioners reside, for the public use, for the purpose of laying out public squares, grounds, streets or alleys, or the enlarging or widening of the same, the courses and distances, metes and bounds of the lands proposed to be taken, together with the names and residences of the owners of such premises, if the same shall be known to the petitioners, to be set forth in such petition. The common council may then, by resolution, resolve to grant the prayer of said petitioners; and it shall forthwith cause an accurate survey and plat of all lands necessary for said purposes, to be made and filed with the city clerk, and it may purchase, or take by donation such grounds as shall be needed, by agreement with the owner, and take from them conveyances thereof to the city for such use or in fee; but otherwise, it shall, by resolution, declare its purpose to take the same, and therein describe, by metes and bounds, the location of the proposed improvement, and the land proposed to be taken therefor, defining separately each parcel and the amount thereof owned by a distinct owner, mentioning the names of the owners or occupants, so far as known, and therein fix a day, time and place when and where it will apply to the county judge of Brown county for a jury to condemn and appraise the same.

SECTION 41. It shall thereupon cause to be made by the city clerk a notice of the adoption of said resolution, embracing a copy thereof, and notifying all parties interested, that the common council will, at the time and place named, apply to the county judge for the appointment of a jury to condemn and appraise such lands. A copy of such notice shall be served by the street superintendent or any policeman of said city, on the owner of such parcel of land to be taken, if known and a resident within the county, such service to be made in the manner prescribed for serving a summons in an action in the circuit court, and the return of the officer shall be evidence of the facts stated therein. If the notice cannot be so given as to all of the parcels, then the same shall also be published once in each week for three consecutive weeks, in a newspaper published in said city or Brown county, and the affidavits of the printer or foreman of such newspaper shall be evidence of such publication. Such notice shall be served and such publication made for three weeks complete, at least one week before the time fixed therein for such application. If any person so served with notice be a minor or of unsound mind, the county judge shall, before proceeding on the day fixed for hearing such application, appoint for him a guardian for the purposes of such proceeding, who shall give security to the satisfaction of the county judge, and act for such ward.

Condemnation
of lands.

SECTION 42. At the time and place fixed for such hearing, the application, accompanied by a copy of such resolution and such survey, and by proof of the service of the notice, as provided in the last section, shall be filed with the county judge, who shall thereupon make a list of twenty-four competent jurors, residents of said city, but not residents of said ward, nor interested in said application. He shall hear and decide any challenges for cause or favor made to any one, and if sustained shall replace his name with an unobjectionable juror, until the list shall be perfected, whereupon, under direction of said county judge, each party, the common council by the city attorney of said city on one side, and the owners of land or their agents present, or if none be present, or if they disagree, a disinterested person, appointed by the county judge, on the other, shall challenge six names, one at a time alternately, the common

Proceedings
before county
judge.

council beginning. To the twelve jurors remaining, the county judge shall issue a precept requiring them at an hour on a day named, not more than ten nor less than three days thereafter, to appear before him to be sworn, and serve as a juror to view lands and appraise damages in the said proceedings, and at the same time shall publicly adjourn the proceedings to the time and place so named; such precept shall be served by the street superintendent or any policeman of said city, at least one day before such appointed time, by reading the same to each juror, or by leaving a copy at his usual place of abode, in presence of a member of his family.

Where jurors shall appear.

SECTION 43. The jurors summoned shall appear at the time and place named; and if any be excused by the county judge, or fail to attend, he shall direct other qualified disinterested persons to be forthwith summoned in their stead, until twelve be obtained. The county judge shall then administer to them an oath that they shall well and truly inquire into and determine the necessity for taking the lands mentioned in the resolution, and if found necessary, the damages occasioned thereby, and faithfully discharge their duties as jurors according to law.

Shall view premises.

SECTION 44. Under the direction of said county judge, the jury shall view the lands to be taken, and shall then sit before him to hear such competent evidence as shall be produced by any party, and for such purpose such county judge shall possess the same powers as a court in session with a jury, and, if there be necessity, may adjourn the sitting from day to day. The jury shall render a separate, unanimous verdict in writing, signed by it, in which it shall find whether it be necessary to take such lands, or any part thereof, for such purpose, describing such as it finds necessary to be taken; and if any be found necessary to be taken, then a verdict or appraisement of damages, specifying therein the damages to each owner, and separately the value of the land taken from each, and the damage otherwise sustained by each, by reason of the taking thereof; in estimating which, it shall deduct therefrom any special benefit, if any, to be enjoyed by each from such improvement, and a majority of such jury may render such verdict, or appraisement of damages, and shall sign the same. Any technical

error in such verdict may be immediately corrected with the consent of the jury, and shall be thereupon discharged, and its verdict filed by the county judge. In case the jury shall fail to find a verdict, another jury shall be then and there selected, and shall be summoned and sworn, and shall proceed in the same manner.

SECTION 45. Within ten days after such verdict, any land owner whose land has been found necessary to be taken, may appeal from the award of damages to him in such verdict, to the circuit court, by filing with such county judge a motion of appeal, specifying whether the appeal is from the whole award to him or a part, and if a part, what part, and therewith an undertaking, with two sufficient sureties, to be approved by the county judge, to pay all costs that may be awarded against such appellant on appeal, and paying said county judge for his return thereof. The city may likewise appeal from the award of damages to any owner by filing with such county judge a notice of appeal specifying whether the appeal is from the whole award to such owner, or a part, and if a part, what part, and paying said county judge for his return on said appeal. Any party not so appealing, shall be forever concluded by such verdict. Upon an appeal being taken, the county judge shall transmit to the clerk of the circuit court, within ten days, the notice of appeal and undertaking, and thereto annex a copy of all papers and proceedings before him, with his certificate thereof. He shall, after the time for appealing has expired, file with the city clerk, annexed together, all the original papers, including the verdict, with the certificate by him thereof, and that no appeal has been taken from such verdict, except as the facts are, which he shall briefly specify; and the city clerk shall record all proceedings.

SECTION 46. Upon filing such transcript in the circuit court the appeal shall be considered an action pending in such court, and be so entered, the land owner as plaintiff, the city as defendant, and be subject to a change of place of trial, and appeal to the supreme court. The appeal shall be tried by a jury, unless waived, and costs shall be awarded against the appellant, if a more favorable verdict be not obtained than the one appealed from; otherwise against the respondent. Upon

Appeal.

Appeal to be tried by jury.

entry of judgment the clerk of the circuit court shall transmit a certified copy thereof to the city clerk.

In case verdict
is in favor of
city.

SECTION 47. If the verdict of the jury shall determine that it is necessary to take such land, or any part thereof, the common council may, upon return thereof to the clerk, enact an ordinance according thereto, for laying out or widening any such street, public square, grounds or alleys, but shall not enter upon any such land therefor, until the owner is paid in full the damages awarded him by such verdict or appraisement, or such damages be set apart for him in the hands of the city treasurer, there permanently to remain subject to his order. At any time before causing any such land to be actually taken or put to public use, and before the rendition of a judgment in the circuit court for damages, the common council may discontinue all proceedings theretofore taken and the city shall, in such event, be liable for the costs only. All the costs of every such proceeding shall be paid by the city, except when it recovers costs in the circuit court or supreme court. All jurors and witnesses in proceeding under this act shall receive the same fees as jurors and witnesses in the circuit court.

Costs.

SECTION 48. For the payment of the expenses, including all damages and costs incurred for the taking of private property, and for making any improvement mentioned in this act, the common council of said city may, by resolution, levy and assess the whole or any part, not less than one-half of such expenses, as a tax upon such property, as it shall determine is specially benefited thereby, making therein a list thereof in which shall be described every lot or parcel of land so assessed, with the name of the owner thereof, if known, and the amount levied thereon set opposite. Such resolution, signed by the mayor and city clerk, shall be published once in each week for two weeks in a newspaper published in said city or in Brown county, and a notice therewith, that at a certain time therein stated, the said common council will meet at its usual places of meetings and hear all objections which may be made to said assessment or any part thereof. At the time so fixed the said common council shall meet and hear all such objections, and for that purpose may adjourn from day to day, and at the conclu-

sion of such hearing may modify such assessment in whole or in part, and shall adopt a resolution which shall be published in the same manner as ordinances of said city, levying said assessment as the same shall have been finally determined by said common council. The sums so assessed shall be a lien upon said lands upon which they are assessed from the date of the passage of said resolution; and the said several amounts shall be entered against said lot or lots in the tax roll, in addition to and as a part of all other city taxes therein levied on such land, to be collected therewith.

Section 49. The common council shall have Highways. power, and is 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 its opinion the public interest may require to be vacated, or such, as in its opinion, are of no public utility; provided, however, the necessity of vacating any such highways, streets, alleys or public walks, 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 act.

SECTION 50. Improvements. Opening, working, grading, graveling, re-planking, paving and re-paving of streets, to the center thereof, and the construction, reconstruction and rebuilding of sidewalks shall be chargeable to and payable by the lots fronting on such street, but no street or alley shall be opened, graded, graveled, planked or paved, or sidewalks constructed unless upon the petition of a majority of the resident owners of the lots or parts of lots chargeable with the expense thereof, or by a two-thirds vote of the aldermen elect. The cost and expense of establishing grades, surveying streets, alleys or gutters, and of cleaning out gutters, and of estimating work thereon in the execution of any public improvement, shall be chargeable to and payable by the city. Gutters may be ordered by the common council and built at the expense of the lots or parts of lots benefited thereby and fronting upon, or abutting to the street along which said gutter shall be constructed; provided, that in all cases where improvements or work of any kind are charged, by virtue of this section, upon lots as aforesaid, all such improvements

across streets, alleys and public grounds shall be made and paid out of the street fund of the city.

Plans and specifications.

SECTION 51. Whenever the common council shall determine to make any of the improvements mentioned in the preceding section, it shall cause plans and specifications of such improvements to be filed with the city clerk for the inspection of all parties interested. Upon the filing of such plans and specifications the clerk shall immediately give one week's notice to the several owners and occupants of the lots or parts of lots chargeable with the expense of such improvements, to do the work according to the plans and specifications on file, within a time specified in such notice, which shall, in no case, be less than fifteen days after said one week's notice. If the improvement shall not be completed within the time specified, the clerk shall immediately advertise for proposals for doing the same. Such advertisement and preceding notice shall be published not less than one week in some paper in Brown county. It shall state the nature of the improvement, the time within which it must be completed, that plans and specifications thereof, may be seen at the clerk's office, and shall also state when and up to what time bids will be received. All bids shall be opened in a general or special meeting of the common council. The council may authorize the clerk or any appropriate committee of its body to enter into contract for the making and completion of the improvements. All contracts shall be let to the lowest reasonable responsible bidder. Upon the completion of the work done under contract, as provided in this section, and the acceptance thereof in writing by the street superintendent and committee on streets and bridges, the contractor shall be entitled to a certificate therefor, which [shall] be signed by the mayor and street superintendent, and countersigned by the city clerk, and which shall state the amount due for work done by such contractor, the nature thereof, and a description of the lot or parcel of land upon which the same is chargeable. Said certificate may be transferred by endorsement thereon; and if the amount thereof is not paid before the time of making out the annual assessment roll, the certificate may be filed with the city clerk, and amount thereof shall be assessed upon the said lots or land respectively, as a special

tax, and shall be collected for the benefit of the holder of said certificate, as other taxes on real estate are collected under this act. If notice to do the work required shall have been given as herein prescribed, no informality or error in the proceedings shall invalidate such assessment.

SECTION 52. Whenever a sidewalk shall become so out of repair as to require rebuilding, the common council may, by a two-thirds vote of the aldermen elect, so order, and the expense thereof shall be chargeable to lots and parts of lots fronting upon that part of the street or alley where such rebuilding of sidewalk has been ordered; and the same proceedings for the doing and completion of the work, and the payment therefor, shall be had as provided in section 51 of this act. Sidewalks.

SECTION 53. The expense of keeping streets and pavements, or other surface thereof in repair, shall be paid out of the street fund. Streets.

SECTION 54. The expense of keeping sidewalks in repair, shall be chargeable to the lots or parts of lots abutting, and the duty of always keeping the sidewalks on, or adjacent to the lots and premises of any person in safe condition and good repair, is hereby expressly enjoined and imposed upon all owners or occupants of said lots and premises. Expense of keeping sidewalks in repair.

SECTION 55. The common council shall cause notice to be given to all owners or occupants of lots, which may be deemed injurious to health by reason of stagnant water remaining thereon, or other cause, if residents, personally, if non-residents, in the official paper, if there be such paper in said city, or in some paper printed in Brown county, for two weeks, to abate such nuisance by draining or filling such lot, within a reasonable time, therein to be specified, which shall, in no case be less than ten days; and if such nuisance shall not be abated or removed within the time specified, the council shall cause the same to be abated or removed at the expense of the property upon which the same may exist, and to that end the same proceedings shall be had as provided in section 51 of this act, except as herein otherwise provided. Unhealthy lots.

SECTION 56. It shall be the duty of the street superintendent to make frequent inspections of the streets, sidewalks, pavements, bridges, and other public ways in all parts of the city; and Duties of street superintendent.

whenever he shall find any defect or want of repair therein, he shall note the same in a book to be kept for that purpose. And whenever a sidewalk shall be out of repair, and shall so remain for the space of twenty-four hours, which, in his opinion, will not cost to exceed five dollars (§5) to repair, he shall be authorized, and it is hereby made his duty, to immediately repair the same; but if it shall, in the opinion of said street superintendent, cost to exceed five dollars (§5) to make said repair, and the said defect or want of repair shall, at the same time, in his opinion, be dangerous to public travel, he shall give written notice to the owner of the lot chargeable with such repair, if said owner shall be known to him and be a resident of said city, to repair said walk immediately, and if said owner shall not be known or shall not reside in said city, or if he shall not within twenty-four hours after the service of said notice, proceed to repair said walk, the street superintendent shall immediately repair said defect. If, in the opinion of said street superintendent, said defect or want of repair in any sidewalk shall not be immediately dangerous to public travel, he shall report said defect to the common council, which may, by resolution or ordinance, require said sidewalk to be repaired, but personal notice shall be given to the lot owner chargeable with said repair, if practicable, and if not practicable, then notice by publication for such time as said common council shall prescribe to make said repairs. Whenever the street superintendent shall have made any repairs as provided in this section, he shall make out an itemized bill of the costs thereof, specifying the lot or piece or parcel of land in front of which said work was done, verified by his oath, and shall deliver the same to the clerk, and the clerk shall forthwith present the same to the owner of such lot or piece or parcel of land, if a resident of the city of Nicolet and to be found, for payment; and if said owner shall refuse or neglect to pay the same for ten days, then the clerk shall report the fact to the common council, and the council shall thereupon levy a special tax upon said lot, piece or parcel of land to pay the same, and the said tax shall be put upon the tax roll and collected in the same manner as other taxes upon real estate are collected. In case the owner of such lot, piece or parcel of land does

not reside in the city of Nicolet, or cannot be found, the said clerk shall return said account to the common council with his certificate, stating the fact, and the same shall then be collected in the same manner as upon refusal of the owner to pay upon presentation of the account as aforesaid.

SECTION 57. All work provided in this act shall be done under the supervision of the street superintendent, unless the common council shall otherwise direct. The street superintendent is authorized and empowered, and it shall be a part of his duties to contract with the lowest bidder for all material which the city may use in carrying out the provisions of this act.

How work to be done.

SECTION 58. Streets, sidewalks and alleys shall be kept clean at the expense of the lots or parts adjacent thereto, and the common council may, by ordinance, adopt general rules and regulations relative thereto, requiring the owners or occupants of lots to keep such streets, sidewalks and alleys clean, and enforce the same by proper and reasonable penalties.

Cleaning sidewalks.

SECTION 59. Where work is ordered to be done at the expense of any lot or parcel of land, for which payment is to be made in certificates, as provided in section 51, of this act, no contractor or other person holding said certificate or certificates, shall receive any pay therefor from the city under any circumstances, until the tax levied for that purpose shall have been paid to the city or county.

Certificates.

SECTION 60. If, after having advertised for proposals to do the work, as provided by said section 51, no bids are received or filed, as required by said section, the common council, by a two-thirds vote of all the aldermen elect, may order the work to be done and paid for out of the general fund. The amount so paid shall be assessed against the respective lots or parcels of land, as provided by section 51, of this act, in case of unpaid certificates.

Advertising.

SECTION 61. The common council may, by an affirmative vote of two-thirds of the aldermen elect, order the construction or reconstruction of a sewer or sewers in said city, the expense of which shall be chargeable to the lots or parts of lots abutting upon said sewer, and in case a sewer shall be laid along the center of the street, the property on each side of said street shall bear its portion, or one-half of said expense. Such work or improvement shall be ordered, and contracts

Sewers.

therefor let, and the cost thereof paid, and notice given, the same and in the same manner as is provided in this act for the paving and re-paving, building and rebuilding of streets and sidewalks, and shall be under the supervision of the street superintendent, but the expense of repairs on sewers shall be paid out of the general fund.

Oath.

SECTION 62. The street superintendent shall take the oath of office prescribed for the aldermen, and shall, within five days from the date of his appointment, give a bond to the city, in the penal sum of one thousand dollars (\$1,000), with good and sufficient sureties, to be approved by the council, conditioned for the faithful performance of the duties of his office, and for such other duties as may be required of him by the council, and for the proper expenditure of the money which may be collected or come in his hands by virtue of his office.

Shall have control of teams, tools, etc., belonging to city.

SECTION 63. The said superintendent shall have control and charge of all teams, wagons, tools and implements owned by said city, and used upon the streets of said city. He shall employ such help, teams, tools and implements as he may require for the performance of all work necessary to be done by him, and shall carry out the details of the general plan laid out for him by the common council and by the highway, street and bridge committee, he shall keep a record time book of the time of all persons and teams employed by him, where employed, and what materials used and where used, and the price to be paid for help, teams and materials; and no bill for services or materials furnished and used upon the streets shall be allowed by the common council, unless first certified to as correct by said superintendent, and in no event shall said street superintendent be interested in or own any teams employed by him in performing any work provided to be done by the provisions of this act; he shall also perform such other duties as the common council shall direct, relative to streets.

Maximum price paid to employes.

SECTION 64. The maximum price to be paid for employes and teams shall be fixed by the council, but the said superintendent shall have the selection and control of the employes and teams so used. It shall also be the duty of said superintendent to make to the common council an annual report of his doings, or oftener, if required by

it, giving in detail, where and what work has been done or performed, where and by whom performed, the amount by him certified to the respective persons who performed work, furnished teams, materials, tools and implements, together with such other information as the said council may direct or demand. Said respective reports shall have annexed thereto an affidavit, signed by and sworn to by said street superintendent, before some person authorized to administer oaths, stating that said reports are in substance and detail true, and for any false swearing in connection with said reports by said superintendent, he shall be deemed guilty of perjury, and be subject to be punished as one guilty of perjury under the laws of this state.

SECTION 65. The common council, for the purpose of guarding against the calamities of fire, shall have power to prescribe the limits within which wooden buildings or buildings of other material, that shall not be considered fire-proof shall be erected or repaired, and to direct that all and every building within the limits prescribed shall be made and constructed of fire-proof materials, and to prohibit the repairing or rebuilding of wooden buildings within the fire limits when the same shall have been damaged to the extent of fifty per cent. of the value thereof, and to prescribe the manner of ascertaining such damages. Fire limits.

SECTION 66. 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 or about any building, and to cause the same to be removed or placed in a safe and secure condition when considered dangerous; to prevent the deposit of ashes in unsafe places; to regulate and prevent the carrying on of manufactures dangerous in causing or promoting fires; to compel the owners and occupants of buildings to have scuttles in the roofs, and stairs or ladders leading to the same; to authorize the mayor, aldermen, fire-wardens and other officers of the city, to keep away from the vicinity of a fire, all idle and suspected persons; and to compel all 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 Chimneys, etc.

prevention and extinguishment of fires as the common council may deem expedient.

Purchase of
fire engines.

SECTION 67. The common council shall have full power to purchase fire engines, hose, and all other necessary fire apparatus and to authorize the formation of fire engine, hook and ladder, and hose companies, and to provide for the due and proper support and regulation of the same, and to order such companies to be disbanded, and their meetings to be prohibited, and their apparatus to be delivered. Each company shall have not more than thirty able-bodied men, between the ages of eighteen and fifty years, and may elect their own officers and form their own by-laws not inconsistent with the laws of this state, or the ordinances or regulations of said city, and shall be formed only by voluntary enlistments. Every active member of said company herewith authorized to be formed, shall be exempt from highway work, poll tax, and from serving on juries during the continuance of such membership, and any person having served for the term of ten years in either such company shall be forever thereafter exempt from poll tax and military and jury duty.

Chief engineer.

SECTION 68. The common council, at its first regular meeting in January in each year, shall elect one chief engineer, and one assistant engineer of the fire department, and one fire warden for each ward, who shall perform such duties as the common council shall prescribe, and who may, at any time, enter into or open any store-house or other building or enclosure, for the purpose of inspecting the same, and with a view to guard against fire. At the time of the election of said engineers, their compensation shall be fixed by the common council.

Fines.

SECTION 69. The net proceeds of all fines and penalties recovered and collected for breach of any ordinance, by-law or regulation made in pursuance of this act, relating to fire department, shall be paid by the city treasurer to the fire department.

Penalty for dis-
obeying lawful
order of chief
engineer.

SECTION 70. When any person shall refuse to obey the lawful order of the chief engineer, or the assistant chief engineer, fire warden, or alderman of the city, the mayor or marshal at any time when said company or companies or any of them, are on duty as a company, either at the time of a fire, fire alarm, parade or inspection, it shall be

lawful for the officer giving such order to arrest or direct orally the city marshal, constable or watchman, or any citizen to arrest such person and to confine him temporarily in any safe place until such companies return with their apparatus to their respective engine houses; and in the same manner such officers or any of them may arrest or direct the arrest and confinement of any person at such fire, who shall be intoxicated or disorderly, and any person who shall refuse to arrest or aid in such arresting, shall be liable to such penalty as the common council may prescribe, not exceeding twenty dollars (§20).

SECTION 71. The common council shall have power to organize a sack company, or to countenance any such company now organized, which shall be known by such name as it may select, and shall consist of not more than thirty members. Such company shall constitute a part of the fire department, and at fires shall be subject to the control of the engineers; the members of said company, either collectively or individually, are hereby authorized and empowered to act as a special police in and for the city of Nicolet, and are hereby vested with all the power and authority which now is or may hereafter be vested in any police officer of said city, and shall be entitled to all the rights and immunities of members of the fire department, except exemption from jury duty. At fires they shall take charge of all property which may be exposed or endangered, and shall, as far as may be in their power, preserve the same from injury or destruction. Such company may, from time to time, adopt such by-laws as they may deem necessary, not inconsistent with the laws of this state or the ordinances of said city. The members thereof shall not be entitled to any compensation for any services rendered in their official capacity. They shall, in case of riot or other disturbances of the peace, have access to all licensed places of amusement in the city, and shall perform such services as may be necessary for the peace and good order of the same.

Sack company
and its duties.

SECTION 72. There shall be a meeting of the different fire companies on the third Monday of April in each year, at such place as may be designated by the chief engineer, when the active members of said companies shall nominate and recommend to the common council for appoint-

Meeting of fire
companies.

ment, one treasurer and one secretary or clerk. The common council shall thereupon confirm or reject said nominations, and the person so appointed shall perform such duties as the common council shall prescribe. In case the common council shall reject such nominees, the said members shall, at a meeting held one week after such rejection, nominate other persons to hold such offices, which nomination shall also be subject to the approval of said council. The treasurer of the fire department shall receive and pay out all moneys belonging to said department, and shall secure the faithful performance of his duty by his bond to said city, in such penal sum as shall be required, and with sureties to be approved by the common council. Such moneys shall be only paid out on orders signed by the chief engineer or acting chief engineer, and countersigned by the clerk of said department.

Officers of company.

SECTION 73. There shall be elected by members of such company aforesaid, annually, at their annual meetings, a clerk or secretary, who shall, on or before the first Monday in May, in each year, return to the city clerk a list containing the name of each member of their respective companies; and when a member of either of said companies, shall cease to be a member thereof, by resignation, expulsion or otherwise, notice thereof shall be given to the city clerk.

Duty of clerk.

SECTION 74. The city clerk is hereby required to keep a record of the members of the several companies organized under this chapter, and such record shall consist of the returns made by the several clerks or secretaries, as above described; and no person shall be exempt from jury duty unless the name is entered on such list. In case any member shall, for any cause, cease to be a member of either of said companies, the clerk shall note that fact on the list thereof, and shall return to the clerk of the board of supervisors for the county of Brown, a list of all persons who are members of either or all of said companies, exempt from jury duty, or before the day now appointed, or which may hereafter be appointed, for the annual meeting for the said board, and said board shall not place the names of any such persons on the jury list for the ensuing year.

Audit accounts.

SECTION 75. The common council shall have power to audit, adjust, and allow all claims and

demands of every nature against the city, except such claims or demands as are payable out of the school fund.

SECTION 76. No action shall hereafter be maintained by any person against the city of Nicolet, upon any claim or demand mentioned in the preceding section, other than a city bond or order, unless such person shall first have presented such claim or demand to the common council of said city. The determination of the common council disallowing in the whole, or in part, any such claim or demand, shall be final and conclusive, and a perpetual bar to any action in any court, founded on such claim or demand, unless an appeal shall be taken from the decision and determination of such common council, as hereinafter provided, or unless such council shall consent and agree to the institution and maintenance of an action by such claimant against the city; provided, however, that when the common council shall refuse or neglect to act upon any such claim or demand duly presented to it, this section shall not be so construed as to prevent the institution and maintenance of an action of said claimant against said city.

In case of suits
against city.

SECTION 77. When the claim or demand of any person against the city shall be disallowed, in whole or in part, by the common council, such person may appeal from the decision of such council to the circuit court for the county of Brown, by causing a written notice of such appeal to be served on the clerk of said city, within thirty days after the making of such decision, and executing a bond to said city, with sufficient surety, to be approved by said clerk, a county judge or court commissioner, conditioned for the faithful prosecution of such appeal, and the payment of all costs that shall be adjudged against the appellant by the court.

Appeal.

SECTION 78. The city clerk, upon such appeal being taken, shall immediately give notice thereof to the city attorney, or shall take such measures as by ordinance or resolution of said common council he may be required to do, and shall make out a brief return of the proceedings in the case before said council with its decision thereon, and shall file the same, together with the bond and all papers in the case in his possession, with the clerk of the circuit court for the county of

Notice to be
given.

Brown, and such appeal shall be entered, tried and determined in the same manner as actions originally brought in said courts, and costs shall therein be awarded in like manner; provided, however, that whenever an appeal is taken from the allowance made by said common council upon any claim, and the recovery upon such appeal shall not exceed the amount allowed by said council, exclusive of interest upon such allowance, the appellant shall pay the costs, which shall be deducted from the amount of the recovery, and when the amount of costs exceeds the sum recovered, judgment shall be rendered against the appellant for the amount of such excess.

Claim must be verified.

SECTION 79. No claim or demand whatever shall be allowed by the common council, unless the same is verified by the owner thereof, or some person in his behalf.

Funds shall be under control of common council.

SECTION 80. All funds in the treasury, except school, state and county funds, shall be under the control of the common council, and shall be drawn out upon the order of the mayor and clerk, duly authorized by a vote of the common council, and all orders drawn upon the treasurer shall specify the purpose for which they were drawn, and shall be payable generally out of any funds in the treasury belonging to the city. City orders shall be receivable for all city taxes, except school and special taxes for bridges and school purposes, and except taxes levied for the payment of principal or interest of any outstanding bonds of said city or village of West De Pere, which shall be collected in money or in orders drawn upon such funds respectively; provided, that the amount 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 indorsement. No tax certificates shall be received in payment of taxes.

Tax for current expenses.

SECTION 81. The common council shall levy annually, to defray the current expenses of said city, a sum not exceeding ten (10) mills upon the dollar of the total assessed valuation of all taxable property in said city, and for all other purposes, except for schools and bridges, and the payment of principal and interest of outstanding bonds.

debts and obligations of said city, a sum not exceeding six (6) mills upon the dollar of the said valuation.

SECTION 82. The common council shall not have power to issue any bonds or other evidence of debt payable at a day subsequent to the date of the issue thereof, except in cases especially authorized by law, nor shall the common council issue in any one year orders upon the city treasurer to an amount greater than the amount of taxes which may be levied under the provisions of this act; provided, that whenever it shall be necessary to rebuild or repair bridges, a special tax may be levied for such purpose, not exceeding five thousand dollars (\$5,000) in any one year; said taxes, when so levied, shall be collected at the same time as other city taxes are collected.

Regarding issuing of evidences of debt.

SECTION 83. Special taxes may also be levied by the city council at any regular meeting, for the purpose of paying the interest or principal of any outstanding bonds now due or hereafter to become due, issued by the village of West De Pere or the city of Nicolet, or which may hereafter be issued by said city by authority of law; provided, however, no greater tax in any one year be levied than shall be necessary to pay the amount which will be due on such bonds at the time such tax shall be collectible by virtue of this act, or shall become due before the time appointed by law for assessing and levying the annual taxes. Said taxes when so levied shall be collectible at the same time as other city taxes are collected.

Special taxes may be levied.

SECTION 84. All property in said city, real, personal and mixed, except such as may be exempt by the laws of the state, shall be subject to taxation for all purposes authorized by law, and the same shall be assessed annually by the assessor elected under this act. In making such assessments and his return thereon, and in making reassessments or assessing property omitted previous years, the said assessor shall have the same powers and subject to the same duties as town assessors, and shall in all things be governed by the general laws of this state in relation to the assessment of taxes, except so far as they may be altered by this act; provided, however, that the common council may prescribe the form of assessment rolls, and more fully define the duties of assessors and make such rules and regulations in

All property in city subject to taxation.

relation to revising, altering or adding to, such rolls as it may from time to time deem advisable.

Real estate exempt by law shall pay special taxes.

SECTION 85. Real estate exempt from taxation by the laws of this state shall be subject to special taxes for sidewalks, sewer and street improvements on the same.

Taxes a lien on property.

SECTION 86. All taxes and assessments, general or special, levied under this act, shall be and remain a lien upon the tenements upon which they may be assessed, from the time of the final completion of the assessment roll, and on all personal property of any person or body politic assessed for personal taxes from the date of the warrant for collection thereof, until such tax shall be paid, and no transfer of such real or personal property shall affect such lien.

Assessor required to return his assessment to board of review.

SECTION 87. The assessor shall complete and return his assessment roll to the board of review of said city, on or before the first Monday in August, each year. During the last week of the month of July in each year, the assessor shall attend at the chambers of the common council for the purpose of hearing the complaints of persons who may feel themselves aggrieved by such assessment, and shall make alterations and such amendments thereto, as justice and equity may require.

In cases of re-assessment.

SECTION 88. In all cases of the re-entry of real estate omitted from assessment for previous years, and in all cases where property shall be re-assessed, or re-assessable as provided by the general laws of this state, the common council shall, in addition to the taxes of the current year, levy and collect such taxes as such omitted lands ought properly to have paid, in case they had not been omitted, or such re-assessment had not been necessary. The city clerk of said city is hereby authorized and empowered to enter upon the tax roll of said city for the year 1883, in a separate column, as an additional tax, opposite each and every lot, tract, piece or parcel of land in said city, the amount of taxes thereon, which remain unpaid for the years 1881 and 1882 as returned to the county treasurer of Brown county by the treasurer of the village of West De Pere, and the same shall be collected by the treasurer of said city the same as other taxes upon the roll, and in case of non-payment, the same shall be returned to the county treasurer of Brown county, and be sold therefor the same as other property. All

amounts of money heretofore paid by any and all persons for taxes for said years of 1881 and 1882, upon each and every piece of property in said village of West De Pere, shall be in full for all taxes thereon for said years, and the said payments shall be a perpetual bar against any and all suits for the recovery of any and all sums of money paid therefor.

SECTION 89. The mayor, clerk and assessor shall constitute a board of review, and shall meet at the chambers of the common council on the first Monday of August in each year, and shall proceed in all respects as town boards are required by law to proceed.

Board of review.

SECTION 90. After the corrections and revisions of the assessment by the board of review the same shall be filed with the city clerk, who shall record all changes made therein by said board; the common council shall thereupon, by resolution, levy such sum or sums of money, not exceeding the authorized percentage as may be sufficient for the several purposes for which taxes are herein authorized to be levied, particularly specifying the purposes for which the same are levied.

Levy of percentage.

SECTION 91. The city clerk, on receiving the corrected assessment roll, and a certificate of the amount of state, county and school tax apportioned to said city, shall calculate and carry out the total amount of such taxes, together with all the city and other local taxes, setting down opposite to the several sums set down, as the valuation of real and personal property, the respective sums assessed as taxes thereon, in dollars and cents, rejecting the fraction of a cent when less than one-half, otherwise reckoning said fraction as a cent.

City clerk shall carry out tax roll.

SECTION 92. Upon completion of said roll, the clerk shall make a duplicate copy thereof, and deliver the same to the city treasurer, on or before the second Monday in December, each year. To the roll so delivered shall be annexed a warrant under the hand of the clerk and the corporate seal of the city, which warrant shall be substantially in the form prescribed by the general laws of this state, to be delivered to town treasurers.

Duplicate copies shall be made by clerk.

SECTION 93. The said assessment roll and warrant thereto attached, shall be *prima facie* evidence in all courts that the lands and persons therein

Roll shall be prima facie evidence.

named were subject to taxation, and that the assessment was just and equal.

Reasons for
changing tax
roll specified.

SECTION 94. After the assessment roll is completed and 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:

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

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

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

Duty of treasurer.

SECTION 95. The city treasurer upon the receipt of such duplicate copy of the tax list, shall proceed to collect the same in like manner, and shall have like powers and be subject to like requirements, liabilities and restrictions as town treasurers.

Time list shall
be returned to
county treasurer.

SECTION 96. On or before the fifteenth day of February of each year, unless the time be extended as provided by law, the city treasurer shall make out and return to the treasurer of Brown county, a list of all lands, lots and personal property upon which taxes have not been paid, and shall add to said taxes remaining unpaid five (5) per cent. upon all delinquent lands or lots so returned by the city treasurer to the treasurer of Brown county, and shall make return of said taxes with said five per cent. added, and shall also settle with and pay over all moneys properly payable to said county treasurer in like manner as now is or may hereafter be required of town treasurers; and all the provisions of the general laws of this state shall extend to and may be enforced to collect any delinquent personal property tax of whatever year now due to said city or village of West De Pere.

County treasurer shall sell
all delinquent
lands.

SECTION 97. The county treasurer shall sell all delinquent lands and lots returned from the city of Nicolet, at the same time and in the same manner as other delinquent lands are sold in said county.

SECTION 98. No error or informality in the proceedings of any of the officers in assessing property, levying or collecting taxes, or making return of unpaid taxes, not affecting the substantial justice of the tax itself, shall invalidate or vitiate, or anyway affect the validity of the assessment or tax.

Error does not invalidate.

SECTION 99. All the general laws of this state which now or may hereafter be in force, relative to the assessment and collection of taxes, shall be in force in said city, except as otherwise herein specially provided. The city treasurer shall proceed to enforce the collection of all taxes and assessments in the manner provided by law for the collection of taxes by town treasurers; except as herein otherwise provided.

General laws in regard to taxes to be in force.

SECTION 100. All actions brought to recover any penalty or forfeiture under this act, or the ordinances, by-laws, or police or health regulations made in pursuance thereof, shall be brought in the corporate name of the city. It shall be lawful to declare generally in debt for such penalty or forfeiture, stating the section of this act, or the section of the ordinance, by-law or regulation under which the penalty or forfeiture is claimed, and to give the special matter in evidence under it.

Actions shall be brought in corporate name.

SECTION 101. In all prosecutions for any violation of any of the provisions of this act, or any by-law, ordinance or regulation, the first process shall be a summons, unless oath be made for a warrant, as in cases of tort before justices of the peace, under general statutes of the state for the time being.

Prosecutions, how commenced.

SECTION 102. When the action is commenced by summons, such summons may be substantially in the following form:

Form of summons.

COUNTY OF BROWN,)
 City of Nicolet.) ss.

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

You are hereby commanded to summon A. B., if he shall be found within your county, to appear before the undersigned, ———, in and for said city, at his office in said city, on the ——— day of ———, 18—, at — o'clock in the ——— noon, to answer to the city of Nicolet to

the damage to said city, two hundred dollars (§200) or under.

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

C—— D——.

When made returnable.

SECTION 103. Such summons shall be made returnable and be served in the same manner as is now, or hereafter may be prescribed by the laws of the state for the commencement of actions before justices of the peace by summons; and all proceedings in the action, except as hereafter provided, shall be governed by the laws of the state for the time being, relative to actions commenced by summons and triable before justices of the peace.

SECTION 104. When the actions are commenced by summons the complaint may be substantially in the following form:

Form of complaint.

CITY OF NICOLET }
 against } In —— Court.
 A—— B——. }

Before C—— D——.

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

How made.

SECTION 105. In all cases where oath is made for a warrant, the complaint shall be made on oath, and no other affidavit shall be necessary, which last mentioned complaint may be substantially in the following form:

Form of complaint.

THE CITY OF NICOLET }
 against } In —— Court.
 A. B. }

Before C. D.

County of Brown—ss.

———, being duly sworn, complains on oath to C. D., ——, in and for the city of Nicolet, in said county that A. B., on the ——

day of ———, 18—, at said city, did violate section ——— of this act, or section ——— of an ordinance or by-law or regulation of said city (describing it by its title), which said ——— is now in force, as this complainant verily believes, and prays that said A. B. may be arrested and held to answer to said city of Nicolet therefor.

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

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

What to contain.

COUNTY OF BROWN,)
 City of Nicolet.) ss.

Form of warrant.

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

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

C. D., ———.

Upon the return of the warrant the justice may proceed summarily with the case, unless it be adjourned, by consent or for cause. If the case be adjourned, the defendant, if required by the court so to do, shall recognize with security to be approved by the court, for his or their appearance in such sum as the court shall direct, or in default thereof, may be put in charge of the officer who made the arrest, or be committed to the common jail of Brown county. The complaint as aforesaid shall be the only complaint required, and the answer of not guilty shall put in issue all subject matter embraced in the action.

How justice shall proceed.

Printed copy to be evidence.

SECTION 106. A printed copy of an ordinance, by-law, or regulation, passed by the common council, and published in some newspaper in the county, or in pamphlet or book form, purporting to be published by authority of the common council, or by the city clerk posting notices in three public places in the city, or certified by the clerk of said city to have been so published, shall be *prima facie* evidence of its passage and publication, and shall be received in evidence on the trial of all cases cognizable before any court of this state.

Witnesses and jurors shall attend without the prepayment of fees.

SECTION 107. Witnesses and jurors shall attend before the court in all city and criminal suits, without the payment of fees in advance, or a tender thereof, upon process duly served, and in default thereof their attendance may be compelled by attachment.

City prosecutions, how commenced.

SECTION 108. In city prosecutions the findings of the court shall be either guilty or not guilty. If guilty, the court shall render judgment thereon against the defendant for the fine, penalty or forfeiture prescribed in this act, or in the ordinance, by-law or regulation for the violation of which the person or persons shall have been adjudged guilty, and for costs of suit; but if not guilty, the costs of suit shall be charged against the city. Upon the rendition of judgment against the defendant, and the non-payment thereof, the justice shall forthwith issue execution as in other cases of tort, in case the action was commenced by summons, or a commitment in case it was commenced by warrant, and shall in either case determine and enter upon his docket the length of time the defendant shall be imprisoned for non-payment, which shall, in no case, exceed six months, and also insert such time in the execution or commitment.

Form of execution.

COUNTY OF BROWN,)
 City of Nicolet.) ss.

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

Whereas, the said city of Nicolet, on the — day of —, 18—, recovered a judgment before the undersigned, —, in and for said city, against —, for the sum of — dollars,

together with — dollars and — cents, costs of suit, for the violation of (section — of this act, or section of an ordinance or by-law, or regulation of said city, describing it by its title); you are hereby commanded to levy distress of the goods and chattels of the said — —, excepting such as the law exempts, and make sale thereof according to law to the amount of said sums, together with your fees and twenty-five (25) cents for this writ, and the same return to me in thirty days; and for want of such goods and chattels whereon to levy, to take the body of the said — —, and him convey and deliver to the keeper of the common jail in Brown county; and said keeper is hereby commanded to receive and keep in custody in said jail the said — — for the term of — —, unless the said judgment, together with all the costs and fees are sooner paid, or he be discharged by due course of law.

Given under my hand this — day of —, 18—.

C. D.

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

Form of commitment.

SECTION 109. Any defendant, feeling aggrieved by the judgment of a justice of the peace in any suit commenced under the provisions of this act, by summons or warrant, may appeal from such judgment to the circuit court of the county of Brown, in the manner provided by the general laws of this state for appeals from justices' courts in criminal cases. The justice from whose judgment an appeal shall be taken, shall make a special return of the proceedings had before him, and shall forthwith cause the summons or warrant and return together with the proceedings, and a copy of the entries on his docket in the action, together with the recognizance to be filed in the office of the clerk of said court; and the city may appeal from any such judgment, as in other cases before justices of the peace.

Defendant may appeal from judgment.

SECTION 110. Said appeal shall stand for trial by jury, unless a jury be waived in the manner provided by law, in said circuit court, at the next term thereof after the day of judgment of the justice shall be rendered.

Appeal shall stand for trial.

SECTION 111. If the judgment of the justice shall be affirmed, or if upon the trial the defend-

Infliction of penalty.

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

Shall not work incompetency.

SECTION 112. No person shall be an [incompetent] judge, justice, witness or juror, by reason of his being an inhabitant of said city, in any proceeding or action in which the city shall be a party in interest.

General laws for preservation of bridges, etc.

SECTION 113. The general laws for the preservation of bridges, and the punishment provided by such laws for wilful and malicious injuries done thereto, are hereby extended to and shall include all of the bridges erected or owned by said city, over the Fox river and Ashwaubenon creek, and shall apply to any wilful or malicious damage which may be done to either of them by any person or persons whatever; and the common council of said city may, from time to time, make such by-laws or ordinances as it may deem necessary for the preservation of such bridges, and enforce the same by adequate penalties. In case of any damage 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 by the said city under the law to provide for the collection of demands against boats and vessels which does now or may hereafter exist.

How service against city is made.

SECTION 114. When any suit or action shall be commenced against said city, the service thereof may be made by leaving a copy of the summons with the mayor or clerk of said city, and it shall be the duty of the said mayor or clerk so served forthwith to inform the city attorney thereof, or to take proceedings as by ordinance or resolution of said council may be in such case provided. Judgments against said city shall be collected in the same manner as judgments against towns.

Penalties to be paid into city treasury.

SECTION 115. All penalties and forfeitures recovered and collected under and by virtue of this act, shall be paid into the city treasury for the use and benefit of said city, except as provided in sections 69, 70, 71, 72, 73, 74 and 75 of this act.

SECTION 116. No execution or attachment in

any legal proceedings shall be issued or levied upon or against any property belonging to the city of Nicolet. Nor shall private property in said city be subject to levy or seizure upon attachment or execution, issued to collect or satisfy any contract, debt, obligation, demand or judgment against said city.

City property
exempt from
execution.

SECTION 117. Every member of the common council of the city of Nicolet, who shall directly or indirectly vote to himself or knowingly to any other person, any sum of money for any other purpose whatever, in violation of the city charter or any amendment thereto, or shall ask or receive any compensation for doing any official act, except as inspectors of elections, members of the board of registry, and as members of the board of review; any member of the common council or other city officer who shall be directly or indirectly interested in any contract made with or in behalf of the city, and any member of said council or other city officer who shall directly or indirectly purchase or be interested in the purchase of any city order or city indebtedness for less than the full amount thereof, shall be deemed guilty of a misdemeanor in office, and may be prosecuted by complaint before any justice of the peace in the city, and upon conviction thereof, shall be punished by a fine not exceeding one hundred dollars (\$100), nor less than twenty dollars (\$20), or by imprisonment in the county jail not more than thirty days, nor less than ten days, or both, at the discretion of the court.

Penalty for
collusion in
office.

SECTION 118. All contracts for work ordered by the common council shall be let to the lowest reasonable responsible bidder, who shall have complied with the requirements hereinafter set forth. All bids or proposals shall be sealed and directed to the common council, and shall be accompanied with a bond to the city of Nicolet in the penal sum of one-third the city's estimate of the cost of the work, which bond shall be signed by the bidder and by a responsible surety, who shall make affidavit that he is worth the penal sum of such bond, over and above all his debts, liabilities and exemptions; such bond shall be conditional that such bidder will execute a contract at such time as the common council shall require, with satisfactory sureties, to perform the work specified; said bond may be prosecuted in the name of the

Work to be let
to lowest bid-
der.

city, and judgment recovered thereon for the full amount of the penalty thereof as liquidated damages, in any court having jurisdiction of the action; provided, that the penal sum of any bond in this section required to accompany a bid, need in no case exceed the sum of one hundred dollars (\$100).

Two or more sureties required.

SECTION 119. No contract shall be entered into by the city unless the same shall be executed by two or more sureties for the contractors, guaranteeing to the satisfaction and approval of the proper authorities the performance of such contract by the contractors, 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, liabilities and exemptions. Whenever the lowest bid for any work to be let by said city shall appear to the said council to be unreasonably high, the said council is authorized to reject all bids therefor, and to relet the work anew.

Rules governing contracts in digging streets, etc.

SECTION 120. Whenever the city shall let any work or improvement which shall require the digging up, use or occupancy of any street, alley, highway or public ground within said city, there shall be inserted in the contract therefor substantial covenants requiring such contractors during the night time, and during all times when work thereon is suspended, to put up and maintain such 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 to said city 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.

City shall be rendered harmless.

SECTION 121. 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 any wise 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.

SECTION 122. No moneys shall be appropriated for any purpose whatever, except such as are expressly authorized by this act.

No moneys to be appropriated unless authorized.

SECTION 123. No penalty or judgment recovered in favor of the city shall be remitted or discharged, except by a two-thirds vote of the aldermen elect. The common council may, by an affirmative vote of two-thirds of the aldermen elect, the mayor concurring, grant pardons or commutations, after conviction, for all offenses against the ordinances of the city, upon such conditions as it may deem proper.

Penalties may be remitted.

SECTION 124. The common council may, at any time, cause a new and accurate survey to be made of the line, and boundaries of all streets, alleys, sidewalks, public grounds, wharves and blocks, and may cause to be established such permanent landmarks as it may deem necessary, and to cause an accurate plat or plats thereof to be made, and certified to by the surveyor, which shall be filed in the office of the city clerk.

New and accurate surveys.

SECTION 125. The surveys and landmarks so made and established shall be *prima facie* evidence of the lines and boundaries of all streets, alleys, sidewalks, public grounds, wharves and blocks, in all cases in which they shall be drawn into controversy in all courts in this state.

Prima facie evidence.

SECTION 126. The common council may, at such time as it may deem proper, establish the grades of all the streets, alleys and sidewalks in said city or any or either of them, and shall cause accurate profiles thereof to be made, which shall be filed in the office of the city clerk; and should the grade so established be at any time hereafter altered, all damages, costs, and charges arising therefrom shall be paid by the city to the owners of lots or parcels of land, or tenements which may be affected or injured in consequence of the alteration of such grade.

Regarding grades of streets, etc.

SECTION 127. The said city may have, purchase

Hold real estate.

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

Deeds, how made.

SECTION 128. When the city of Nicolet deeds or leases any real estate, or any interest therein owned by said city, the party of the first part shall be the city of Nicolet, and the person or persons authorized to execute such deed or lease need not be named in the body thereof.

Mayor authorized to convey.

SECTION 129. The mayor of said city is hereby authorized, when the common council shall, by a two-thirds vote, so direct, and shall, by ordinance or resolution describe the real estate and interest to be conveyed, to execute a deed or lease of such real estate or interest therein belonging to said city. The said deed or lease shall be signed by the mayor of the city and countersigned by the city clerk, and sealed with the corporate seal of said city, and duly witnessed and acknowledged, as is provided for the execution of deeds and conveyances.

City clerk shall certify.

SECTION 130. When any such deed or lease is so executed, the city clerk shall attach to such deed or lease a true copy, by him duly certified, of the ordinance or resolution aforesaid, and the same shall be recorded by the register of deeds, with the said deed or lease and such copy so attached, and the record thereof shall, in all courts of this state, be *prima facie* evidence of the authority of the mayor to make and execute such deed or lease.

Failure to hold election does not absolve city.

SECTION 131. 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 common council shall fail to organize as herein provided, it shall not be considered reason for arresting, suspending or abolishing said corporation; but such election or organization may be had at any subsequent day, by order of the mayor; and if any of the duties enjoined by this act, or the ordinances or by-laws or regulations of said city, to be done by any officer at any specified time, and the same are not then done or performed, the common council may appoint another time at which the said act may be done and performed.

Not repealed.

SECTION 132. No general law contravening the provisions of this act, shall be considered as re-

pealing, amending or modifying the same, unless such purpose is expressly set forth in such law.

SECTION 133. All bridges belonging to the city of Nicolet shall be under the jurisdiction of the corporate authorities thereof. Bridges, etc., to be under corporate authority.

SECTION 134. The laws of the state for the relief and support of the poor in towns shall apply to said city of Nicolet, and the common council shall appoint at least three of its number, who shall organize and act as a poor board, with the mayor as president thereof; such board shall be governed by such rules as the common council may prescribe, and in respect to the poor of the city shall have the same powers, be subject to the same liabilities and governed by the same laws as supervisors of towns. Relief of poor.

SECTION 135. The salaries of all city officers of said city shall be paid monthly. Salaries shall be paid monthly.

SECTION 136. No member of the common council shall be elected or appointed to any office, agency or place of public trust or profit by the council, except as provided by this act; neither shall the common council sell or authorize the sale of any city order or certificate of indebtedness for the purpose of raising money for the payment of any debt, for less than the amount expressed upon the face thereof. No member shall be elected, except as provided.

SECTION 137. No compensation or salary shall be paid to the mayor or any alderman of said city except as provided in section 121 of this act. Salary of mayor, etc.

SECTION 138. In all cases where any street has heretofore been laid out or extended, or shall be hereafter laid out or extended, to the line of any railroad right of way in said city of Nicolet, and on both sides thereof, it shall be the duty of the railroad company owning or operating such railroad, to remove its fences from the line of such street on either side of such right of way, and to plank its track at such crossing and make and keep the same accessible and passable for teams at all times. Railroad companies required to remove fences, etc.

SECTION 139. School district number one, heretofore embracing the village of West De Pere, and the management of all school matters in connection with such district, shall remain in like officers, and be conducted in the same manner as heretofore, under the charter of said village of West De Pere, and taxes for maintaining said Respecting school district No. 1.

schools shall be raised and disbursed in like manner as heretofore.

Old ordinances to remain in force.

SECTION 140. All ordinances and regulations now in force in the village of West De Pere, and not inconsistent with this act, shall remain in force until altered, modified or repealed by the common council, after this act shall take effect.

City shall assume the village responsibilities.

SECTION 141. All actions, rights and penalties, fines and forfeitures, in suits or otherwise, which have arisen or accumulated under the several ordinances or acts incorporating West De Pere village, shall be vested in and prosecuted by the corporation hereby created.

All village property to go over to city.

SECTION 142. All moneys, property, effects and credits belonging to the present village of West De Pere shall belong to the city of Nicolet, and shall be transferred to the proper officers of said city by the persons in charge of the same as soon as such officers shall be elected and qualified.

Lawful claims, debts, etc., to be assumed by city.

SECTION 143. Any lawful debt, claim, demand or right of action against the present village of West De Pere shall be and become a lawful debt, claim, demand or right of action against the city of Nicolet.

Plat of city required to be made.

SECTION 144. The common council of said city is hereby authorized and empowered to cause to be made by some competent person a plat of all pieces or parcels of land within said city, which are not embraced and described in any of the recorded plats of land in said city, which plat shall plainly define the boundary of each tract or lot of land designated thereon, and each tract or lot of land embraced in said plat, shall be designated by a number placed thereon. The said plat when completed, shall be certified to by the person making the same, and shall be acknowledged before some officer authorized to take the acknowledgment of deeds, by the mayor and clerk of said city, and when so certified and acknowledged shall be recorded in the office of the register of deeds of Brown county.

Name of plat.

SECTION 145. The said plat shall be called and known as "Assessors' sub-division of lands in the city of Nicolet."

Repealing section.

SECTION 146. All acts and parts of acts inconsistent with and contravening this act are hereby repealed; but nothing in this act contained shall be construed to repeal, alter or amend the following named acts or either of them, but the same

shall continue in force; the said city of Nicolet succeeding to all the rights and privileges conferred therein upon the village of West De Pere, to-wit: Nothing in this [act] contained shall be construed to repeal, alter or amend the following named acts or either of them: Chapter 409 of the general laws of this state, passed in the year 1864, entitled "an act to authorize the village of De Pere and the town of Lawrence to purchase or lease a certain bridge across Fox river." Chapter 157, of the general laws of this state, passed in the year 1880, entitled "an act to amend chapter 409, of the general laws of 1864, entitled an act to authorize the village of De Pere and the town of Lawrence to purchase or lease a certain bridge across Fox river." Chapter 245, of the general laws of this state, passed in the year 1881, entitled "an act relating to the building of bridges by villages situated upon the opposite sides of a river or other body of water in this state, and authorizing villages to borrow money for the purpose of building, purchasing or leasing bridges, and making section 1322 of the revised statutes applicable to the purposes and objects of this act."

SECTION 147. The city council is hereby authorized and empowered, and it shall be lawful and legal for it to effect a loan and borrow a sum of money, not to exceed five thousand dollars (\$5,000), for the purpose of taking up two thousand dollars (\$2,000) school district bonds, and twelve hundred and seventy dollars (\$1270) bridge bonds, and seventeen hundred and thirty dollars (\$1730) to apply to general fund of the city for year 1883, with interest, not to exceed seven (7) per cent. per annum, and to be paid on or before April 1, 1884. This section shall only apply to the present year, 1883. May make a loan.

SECTION 148. This is hereby declared a public act, and shall be liberally construed in all courts in this state. Public act.

SECTION 149. This act shall take effect and be in force from and after its passage and publication.
Approved April 4, 1883.