

to be paid to each, and they shall not receive any greater compensation than that so fixed.

SECTION 5. Chapter 106, of the laws of 1885, is hereby repealed. Chapter 106  
repealed

SECTION 6. This act shall take effect and be in force from and after its passage and publication.  
Approved March 26, 1885.

[No. 19, A.]

[Published March 30, 1885.]

## CHAPTER 140.

AN ACT to incorporate the city of Cumberland.

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

### CHAPTER I.

#### THE CITY OF CUMBERLAND, ITS CORPORATE POWERS.

SECTION 1. All that district of country in the county of Barron, in the state of Wisconsin, hereinafter described, is hereby set off and separated from the town of Cumberland, and shall be a city by the name of Cumberland and the people now inhabiting and those who shall inhabit said district shall be a municipal corporation by the name of the city of Cumberland, 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 the courts of law and equity, and shall have a common seal, and may alter the same at pleasure. Corporate  
name.

### CHAPTER II.

#### CITY AND WARD BOUNDARIES.

SECTION 1. The north half of section number eighteen, all of sections number six and seven, all City bound-  
aries.

being in township number thirty-five north, of range number thirteen west, in the county of Barron and state of Wisconsin, shall be included in and constitute the limits of the city of Cumberland.

Ward bound-  
ries.

SECTION 2. The city shall be divided into three wards, called first, second and third wards, limited and bounded as follows: All that portion of said city lying south of a line drawn east and west along the centre of Elm street and extended east and west from end of Elm street to the east and west boundaries of said city, shall constitute the first ward. And all that portion of said city lying north of the aforesaid line of Elm street and south of a line drawn through the center of Water street, in Griggs, Foster & Miller's addition to Cumberland, east and west, and extended east and west from the ends of Water street to the east and west boundaries of said city, shall constitute the second ward. And all that portion of said city lying north of the aforesaid line of Water street, and the extensions east and west, shall constitute the third ward.

### CHAPTER III.

#### ELECTIONS.

Elections.

SECTION 1. The annual election of ward and city officers shall be held on the first Tuesday in April in each and every year at such place in each ward as the common council shall designate, and the polls shall be kept open from one o'clock in the afternoon until five o'clock in the afternoon, and ten days previous notice shall be given by the common council of the time and place of holding such elections, and of the city and ward officers to be elected; provided, that of the first election under this charter a notice of three days shall have the same force and effect as that of the longer time hereinbefore mentioned.

Elective offi-  
cers.

SECTION 2. The elective officers of said city shall be a mayor, a treasurer, an assessor, and a police justice, elected by and for the city at large, and two aldermen, one justice of the peace, and one constable, to be elected by and for each ward; also one supervisor to represent his ward in the board of supervisors of Barron county, to

be elected by each ward. The mayor, treasurer, assessor and police justice shall be qualified voters in the said city, and the ward officers aforesaid shall be qualified voters in the ward for which they were elected. The city clerk, attorney, marshal, and all other officers necessary for the proper management of the affairs of said city shall be appointed by the common council. All elective officers, except justice of the peace, shall unless otherwise provided, hold their respective offices for one year, and until their successors are elected and qualified; provided, however, the common council shall have power, for due cause, to expel any of their own members, and to remove from office any officer or agent under the city government, due notice being first given to the officer complained of. The justices of the peace shall hold their offices for two years and until their successors are elected and qualified. The mayor shall have power to suspend any police officer or watchman appointed by the council when complained of for cause until the council shall take up his case and dispose of it. He shall also have power to fill any vacancy thus created for the time being.

SECTION 3. Whenever a vacancy shall occur in the office of mayor, treasurer, police justice or alderman, such vacancy shall be filled by a new election which shall be ordered by the common council within ten days after such vacancy shall occur; any vacancy happening in any other office shall be filled by the common council; the person elected or appointed to fill any vacancy, shall hold his office and discharge the duties thereof for the unexpired term and with the same rights and subject to the same liabilities as the person whose office he may be elected or appointed to fill.

In case of vacancy how filled.

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

Election shall be by ballot.

SECTION 5. All persons who are qualified electors of the state of Wisconsin, and who shall have

Qualified electors.

resided in the ward where they offer their vote ten days next preceeding such election, shall be deemed qualified electors of said city and ward.

Inspectors of election and manner of conducting the same.

SECTION 6. The election in said city shall be held and conducted by the alderman and supervisor of each ward who shall be the inspectors of election for their respective wards, and shall take the usual oaths or affirmations as by the judges and inspectors of elections, and shall have the power to appoint clerks of such elections, and to administer the necessary oaths, and in case of the absence of any or all of the inspectors of the ward at the time for opening the polls, the voters present shall select some person or persons to act in their places as inspectors of election. Said election shall be held and conducted in the same manner and under the same penalties, and vacancies in the board of inspectors thereof filled as required by the laws of this state regarding elections.

In case of illegal voting.

SECTION 7. If either of the inspectors shall suspect that any person offering a vote does not possess the qualifications of an elector, or if such vote be challenged by an elector, the inspectors before receiving the vote of any such person shall require him to take the following oath: You do solemnly swear (or affirm as the case may be) that you are twenty-one years of age, and that you are a citizen of the United States (or have declared your intention to become a citizen conformably with the laws of the United States on the subject of naturalization), that you have resided within the state of Wisconsin one year, that you are an actual resident within this city and ward, and that you have not voted at this election, and that you have made no bet or wager or become directly or indirectly interested in any bet or wager depending on the result of this election. And if the person appearing to vote shall take such oath falsely, he shall be deemed guilty of willful and corrupt perjury, and upon conviction thereof upon indictment or information, shall suffer the punishment provided by law for persons guilty of perjury. If any person who is not a qualified voter shall vote at any election, or if any person duly qualified shall vote in any other ward than the one in which he resides, or shall vote more than once at any one election, he shall forfeit and pay to the city of Cumberland a sum not exceeding two hun-

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

SECTION 8. When an election shall be closed and the number of votes for each candidate or person voted for shall be counted and ascertained, the said inspectors shall make 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 any election. The common council shall on the fourth day after such election meet and canvass said return and declare the result as it appears from the said returns, and the city clerk shall forthwith give notice to each person elected of his respective election. Canvassing  
votes.

SECTION 9. Special elections to fill vacancies or for any other purpose, shall be held and conducted by the alderman and supervisor of each ward in the same manner, and the returns thereof shall be made in the same manner as general or annual elections, and within such time as may be prescribed by ordinance. Special elec-  
tions how filled.

SECTION 10. Any officer removing from the city, or any ward officer removing from the ward for which he is elected, or any officer who shall neglect or refuse, for ten days after notice of his election or appointment, to enter upon the discharge of the duties of his office, shall be deemed to have vacated his office, and the common council shall proceed to fill such vacancy as herein provided. Vacation in  
office.

SECTION 11. There shall be elected at the first

**Election of ward aldermen.**

election under this act, one alderman for each ward, who shall hold his office for two years, and one alderman for each ward who shall hold his office for one year; and thereafter, at each annual election, one alderman in each ward who shall hold his office for two years. There shall each year also be elected a supervisor for each ward to represent the city in the county board of supervisors, who shall hold his office one year; provided that the first election under this act shall be held at one place, to be designated by the village board of the village of Cumberland, and said board shall act as inspectors of such election and shall prescribe the manner of holding and conducting such election, and shall provide ballot boxes for the reception of ballots from the qualified voters of the respective wards, and shall canvass and make returns of the result of such election as provided by this chapter and the general laws of this state.

**Votes to be in one ballot.**

SECTION 12. The votes for aldermen and all other elective officers shall be on one ballot and shall be deposited in one ballot box.

**Ballots how written.**

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

**Village officers to hold until their successors are elected.**

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

**Present village board to perform election duties.**

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

**When first election shall be held.**

SECTION 16. The first election of officers under the provisions of this act shall be held on the first Tuesday in April, A. D. 1885. The election of

justices of the peace shall be held at the same time and place and so held every two years thereafter, and the justices of the peace now residing in the village of Cumberland shall hold their offices until their term of office expire in addition to any justices who may be elected under this act.

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

In case of failure to elect.

## CHAPTER IV.

### OFFICIAL OATH AND BOND OF CITY OFFICERS.

SECTION 1. Every person elected or appointed to fill any office under the provisions of this act, except justices of the peace, shall, before he enters upon the duties of his office, take and subscribe an oath of office and file the same, duly certified by the officer taking the same, with the clerk of the city, and the treasurer, clerk, marshal, constables and such other officers as the common council may direct, shall severally, before they enter upon the duties of their respective offices, execute to the city of Cumberland a bond with at least two sureties, who shall swear that they are worth in the aggregate penalty specified in said bond, over and above all debts, exemptions or liabilities, and said bonds shall contain such penal sum and such conditions as the common council may deem proper, and they may from time to time require new additional bonds and remove from office any officer refusing or neglecting to give the same.

Oath of office and bond of officers.

SECTION 2. The mayor shall be present and preside over the meetings of the common council and take care that the laws of the state and the ordinances of the city are duly observed and enforced, and that all other executive officers of the city discharge their respective duties. He shall from time to time, give the common council such information and recommend such measures as he may deem advantageous to the city. The mayor shall be the chief executive officer and head of the police of the city, and in case of a riot or other dis-

Duties of mayor.

turbance or apparent necessity, he may appoint as many special or temporary constables as he may deem necessary. The mayor shall have a vote only in case of a tie. The mayor shall have power to veto any ordinance or resolution passed by the common council by notifying the common council of his objection 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 in case the council shall not within one week after the receipt of such objections or such filing with the clerk so enact such ordinance, or pass such resolution by the votes of two-thirds of the aldermen elect, the same shall be null and void. No ordinance or resolution shall take effect until one week after the passage of the same, unless sooner approved in writing by the mayor or acting mayor for the time being.

President of  
council.

SECTION 3. At the first meeting of the common council in each year, they shall proceed to elect by ballot one of their members president, and in the absence of the mayor the said president shall preside over the meetings of the common council, and during the absence of the mayor from the city, or his inability, for any reason, to discharge the duties of his office, the said president shall exercise all the powers and discharge all the duties of the mayor, except signing of city bonds. In case the mayor and president shall be absent at any meeting of the common council, they shall proceed to elect a temporary presiding officer, who, for the time being, shall discharge all the duties of the mayor. The temporary presiding officer, or the president, while presiding over the board, or performing the duties of mayor, shall be styled acting mayor, and acts performed by them, or any of them, shall have the same force and validity as if performed by the mayor, excepting the signing of the city bonds, and the said common council shall also at their first meeting in each year, elect a clerk and marshal for the city, who shall hold their respective offices for one year and until others are elected and qualified.

**SECTION 4.** The clerk shall keep the corporate seal, and all the papers and records of the city, and keep a record of the proceedings of the common council, at whose meetings it shall be his duty to attend, and copies of all papers filed in his office and transcripts from the records of the common council certified by him, to have been compared by him with the original and to be a correct transcript therefrom under the corporate seal, shall be evidence in all courts in like manner as if the original were produced. He shall draw and countersign all orders on the treasury, in pursuance of any order or resolution of the common council, and keep a full and accurate account thereof in books provided for that purpose. He shall file in his office all chattel mortgages presented to him for that purpose, and the renewals thereof, and safely keep the same, receiving therefor the same compensation as clerks of towns, and all chattel mortgages and the renewals so filed shall be as valid and legal as if the same had been filed in the town clerk's office in any town; and all chattel mortgages, bills of sale, documents and records on file, and in the office of the village clerk of the village of Cumberland at the time this act shall take effect, shall be transferred to the office of the clerk of the city of Cumberland. The clerk shall have power and authority to administer oaths or affirmations.

Duties of clerk.

**SECTION 5.** The justices of the peace 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 in addition thereto they shall have jurisdiction in all cases arising under this act and the ordinances, resolutions and by-laws passed by said city council, unless therein otherwise provided, and shall hold their offices in their respective wards for which they were elected. All constables elected by virtue of this act shall have and exercise the same powers and duties and be subject to the same liabilities as constables of towns.

Jurisdictions of justices of the peace.

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

Duties of treasurer.

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

Duties of city  
marshal.

SECTION 7. The city marshal shall attend all the meetings of the common council, when requested by the mayor, and shall perform such duties as shall be prescribed by the common council, for the preservation of the public peace, and collection of license moneys and fines. He shall possess all the powers of constables of towns, and be subject to the same liabilities. It shall be his duty to execute and return all writs and processes to him directed, and when necessary in criminal cases or for the violation of any ordinances of said city or law of this state, may pursue and serve the same in any part of the state. It shall be his duty to suppress all riots, disturbances and breaches of the peace, and to remove all obstructions in the streets and alleys of said city, and to abate all nuisances in said city, to apprehend any person

in the act of committing any offense against any ordinance of said city or laws of this state, and within reasonable time bring such persons before competent authority for examination, and for such services he shall receive such fees as are allowed to constables for like services. He shall have power to appoint one or more deputies to be approved by the city council, but for whose official acts he shall be responsible and of whom he may require bonds for the faithful discharge of their duties.

SECTION 8. The common council shall have the power, from time to time, to require other and further duties to be performed by any officer, whose duties are herein prescribed, and to appoint such other officers as may be necessary to carry into effect the provisions of this act, and to prescribe their duties and fix the compensation of all officers elected or appointed by them; such compensation shall be fixed by resolution at the time the office is created, or at the commencement of the year, and shall not be increased or diminished during the term such officer shall remain in office, or for which he is elected or appointed.

Oath and further duties may be required.

SECTION 9. The common council, at their first meeting in each year, or as soon thereafter as may be, shall designate one or more newspapers, printed in said city, in which shall be published all ordinances and other proceedings and matters required by this act, or by the by-laws or ordinances of the common council to be published in a public newspaper, which printing or publishing shall be let by contract to the lowest bidder or bidders, provided they are reasonable and not higher than the usual price for such printing.

Official newspaper.

SECTION 10. The city printer or printers, immediately after the publication of any notice or ordinance or resolution or by-law, which by this act is required to be published, shall file with the clerk of the city a copy of such publication with his or their affidavit, or the affidavit of his or their foreman, of the length of time the same has been published, and such affidavit shall be *prima facie* evidence of the publication of such notice, ordinance, by-law or resolution and the clerk shall file the same in his office.

Printed copy to be furnished with affidavit.

SECTION 11. If any person having been an officer in said city shall not, within ten days after

Penalty for failure to deliver to successor.

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

Shall not be interested in any job or contract

**SECTION 12.** No alderman shall be a party to or interested in any job or contract with the city; or any of the wards of said city; and any contract in which any aldermen may be so interested shall be null and void, and in case any money shall have been paid, on any such contract, the common council may sue for and recover the amount so paid from the parties to such contract, and the alderman interested in the same.

Officers of the peace, by whom constituted.

**SECTION 13.** The mayor or acting mayor, sheriff of Barron county, each and every alderman, police justice, justices of the peace, marshal, under sheriff and deputy sheriff of Barron 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 by-standers, and if need be, of all citizens; and if any person, or by-stander, shall refuse to aid in maintaining the peace when so required, every such person shall forfeit and pay a fine of fifty dollars, and in case when the civil power may be so required to suppress riots or disorderly behavior, the superior or senior officer present in the order mentioned in this section shall direct the proceeding.

Election of surveyor and engineer.

**SECTION 14.** There may be elected by the common council a city surveyor who shall be 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 services 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 shall be carefully preserved in the office of the surveyor, open to the inspection of parties interested; and the same, together with the books and papers ap-

pertaining to said office, shall be delivered over by the surveyor at the expiration of his term of office to his successor or the common council.

SECTION 15. The police justice shall have and possess all the authority, powers and rights of a justice of the peace in civil proceedings, and shall have sole exclusive jurisdiction to hear all complaints and conduct all examinations and trials in criminal cases within the city cognizable before a justice of the peace in which the city is a party; but warrants returnable before said police justice may be issued in criminal cases by any other justice in the city; but no fees shall be received therefor by said justice. The police justice shall have exclusive jurisdiction in all cases cognizable before a justice of the peace in which the city is a party, and shall have cognizance and exclusive jurisdiction of all suits, prosecutions or proceedings for the recovery of any fine, forfeitures or penalty under any by-law, ordinance or regulation of the said city of Cumberland or its charter or for a breach or violation of any such ordinance, by-law and regulation, and in all cases of offenses committed against the same. All prosecutions for assaults, batteries and affrays not indictable, and for a breach or violation of any such by-laws, ordinance or regulation shall be commenced in the name of the city of Cumberland, and the same proceedings shall be had in all criminal and civil suits before said justice when not otherwise herein directed as are established and required to be had in civil and criminal actions by the laws of this state before a justice of the peace; provided, that in cases of prosecution for a breach or violation of an ordinance, by-law or regulation of said city or its charter, or for any assault, battery, or breach of the peace, or any affray not indictable, committed within the city limits, defendant shall have the same right of appeal under the same provisions and requirements as now are or may be provided for taking appeals from justices of the peace. In all cases of conviction for assaults, batteries and affrays within the said city, or in all cases of conviction under any ordinance of said city for any breach of the peace, disorderly conduct, keeping houses of ill-fame, or of frequenting the same, and of keeping or maintaining disorderly and ill-governed houses, said justice shall

Powers of police justice defined.

have power, in addition to the fine or penalty imposed, to enter judgment for costs of prosecution against the defendant, and to compel such offenders to give security for their good behavior and to keep the peace for a period not exceeding six months and in a sum not exceeding five hundred dollars. The said police justice shall have the same power and authority in cases of contempt as a court of record; provided, that nothing herein contained shall be deemed to divest the circuit judges of their authority as conservators of the peace, nor to affect in any manner the jurisdiction or power of the circuit courts or supreme court of this state. In case of absence, sickness or other inability of such justice, or for any sufficient reason the mayor, by warrant, may authorize any justice of the peace within said city to perform the duties of said police justice for the city, and it shall thereupon be the duty of the mayor to inform the city attorney and police of such substitution, and make report thereof to the common council, and they may confirm or set aside such appointment or appoint some other justice of the peace, any the justice of the peace so appointed shall for the time being possess all the authority, powers and rights of said police justice. All fines and penalties imposed by the police justice for offenses committed within the city limits, or for violation of any ordinance, by-law or regulation of said city, shall belong to and be a part of the finances of said city.

Police justice to  
make report.

SECTION 16. The police justice shall, as often as the common council may require, report to the common council all the proceedings instituted before him in which the city is interested, and shall at the same time account for and pay over to the city treasurer all fines and penalties collected by him and belonging to said city, and said justice shall be entitled to secure from the county of Barron, such fees in similar cases as are allowed to other justices in the county for similar services.

Duties of as-  
sessor.

SECTION 17. The city assessor shall assess the real and personal property of said city at the time and in the manner provided for assessing towns, and his compensation therefor shall be the same as provided by law for the compensation of town assessors.

SECTION 18. The city attorney shall perform City attorney. all professional services incident to the office, as prescribed by this charter, and the ordinances, resolutions or by-laws of said city, and when notified shall appeal and conduct all prosecutions, when the city is a party, and in all civil actions when the city is plaintiff, and all defenses when the city is a party, and when required shall furnish written opinions to the council or its committees.

## CHAPTER V.

### THE COMMON COUNCIL—ITS GENERAL POWERS AND DUTIES.

SECTION 1. The mayor and aldermen shall constitute the common council, and shall not receive Common council. any compensation for their services and the style of all ordinances shall be, "The mayor and common council of the city of Cumberland do ordain," etc. The common council shall meet at such time and place as they, by resolution, shall direct. A majority of the aldermen shall constitute a quorum.

SECTION 2. The common council shall hold their first annual meeting in each year on the second Tuesday of April, and thereafter stated meetings at such times as they shall appoint, and the mayor may call special meetings by notice to each of the members, to be served personally or left at their several places of abode. The common council shall determine the rules and qualifications of its own members, and have the power to compel the attendance of absent members. First annual meeting when held.

SECTION 3. The common council shall have the management and control of the finances except school moneys, and of all the other public property in the city, and shall likewise, in addition to the powers herein vested in them, have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify, amend and repeal all such ordinances, rules, resolutions and by-laws, for the government and good order of the city, for the suppression of vice, for the prevention of crime, and for the benefit of trade, commerce and health thereof, and so enforce as they shall deem expedient, declaring and imposing penalties, Control and management of finances.

and so enforce the same against any person or persons who may violate any of the provisions of such ordinances, rules and by-laws; and 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:

Power to grant licenses.

1st. To license, regulate, suppress and prohibit the exhibition of common showmen or shows of any kind, or the exhibition of caravans, circuses, or theatrical performances, billiard tables, bowling saloons, nine or ten pin alleys, and to provide for the abatement and removal of all nuisances under the ordinances of said city, the laws of the state or at common law. And may grant licenses for, and regulate groceries, taverns, victualing-houses, and all persons vending or dealing in spirituous, vinous, malt, or fermented liquors, and may prohibit and suppress the same; provided, that the license for so dealing in or vending spirituous, vinous, malt or fermented liquors, shall not be less nor more than the amount fixed by the laws of this state or acts hereafter passed.

Gambling and fraudulent devices.

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

Riots.

3d. To prevent any riots, noises, disturbances or disorderly assemblages, suppress and restrain disorderly houses or groceries and houses of ill-fame, and to authorize the destruction of all instruments used for the purpose of gaming. No person shall be incapacitated or excused from testifying touching any offense committed against any of the provisions of this act, or any ordinance of the city of Cumberland, by reason of his or her being implicated in any such offense, but the testimony of such witness shall in no case be used against such witness.

4th. To compel the owner or occupant of any

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

Unwholesome places.

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

Slaughter-houses and gunpowder.

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

Incumbering of streets.

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

Racing and immoderate driving.

8th. To restrain the running at large of cattle, mules, horses, swine, sheep, poultry, and geese, and all other animals and birds, and to authorize the distraining, impounding and sale of the same for the penalty incurred and the cost of proceeding.

Restrain cattle.

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

Dogs.

10th. To prevent any person from bringing, depositing or having within said city any putrid carcasses or other unwholesome substances, and to require the removal of the same by any person or persons who shall have upon his premises any such substance, putrid or unsound beef, or fish, hides, skins or substances of any kind, and in default, to authorize the removal thereof by some competent officer, at the expense of such person or persons.

Putrid carcasses.

11th. To make and establish public pounds, pumps, wells, cisterns and reservoirs, and to provide for the erection of water-works for supplying of water to the inhabitants; to erect lamps and to regulate, license and suppress omnibus drivers, hackmen, coachmen, cartmen, draymen, and the charges of hackmen, coachmen, omnibus drivers,

Pound, hacks and lighting streets.

cabinen, cartmen, draymen and all others who may pursue like occupations in this city, and to provide for lighting the streets, public grounds and public buildings with gas or otherwise.

**Boards of health.**

12th. To establish and regulate boards of health, provide hospitals, pest-houses and cemetery grounds, regulate the burial of the dead, and the return of the bills of mortality, and to exempt burial grounds set apart for public use from taxation.

**Bread.**

13th. To regulate the size and weight of bread, and to provide for the seizure and forfeiture of bread baked contrary thereto.

**Driving on sidewalks.**

14th. To prevent all persons riding or driving any ox, mule, horse, cattle or other animal on the sidewalk in said city, or in any way doing damage to such sidewalks.

**Shooting of fire-arms.**

15th. To prevent the shooting of fire-arms or fire-crackers, and to prevent the exhibition of any fire-works in any situation which may be considered by the council dangerous to the city or any property therein, or annoying to any inhabitant thereof.

**Restrain drunkards.**

16th. To restrain drunkenness or obscenity in the streets or public places in said city, and to provide for arresting, removing and punishing any person or persons who may be guilty of the same.

**Runners and solicitors.**

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

**Public markets.**

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

**Markets.**

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

**Hay and fuel.**

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

**Removal of snow and rubbish.**

21st. So compel the owners and occupants of buildings and grounds to remove snow, dirt or rubbish from the sidewalks, streets or alleys oppo-

site thereto, and to compel such owners or occupants 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 officers of the city, at the expense of such owners or occupants.

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

Infectious or contagious diseases.

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

Auctions.

24th. To appoint watchmen and prescribe their duties.

Watchmen and their duties.

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

Weights and measures.

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

Protect monuments.

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

Sewers.

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

Highways.

29th. To alter or change the name of any street in said city.

Change the name of streets.

30th. 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.

Ordinances and police regulations.

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

License breweries.

SECTION 4. 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, within fifteen days after their passage, respectively, be published in the official paper, or papers of said city once,

Ordinances—how passed.

before the same shall be in force, and within fifteen days thereafter they shall be recorded by the city clerk in books to be provided for that purpose; but before any of the said laws, ordinances, by-laws or regulations shall be recorded, the publication thereof, respectively, within the said time shall be proved by the affidavit of the foreman or publisher of such newspaper and said affidavit shall be recorded therewith and at all times shall be deemed and taken as sufficient evidence of the time and manner of such publication; and such record of such law, ordinance regulation or by-law and the proof of such record certified by the clerk under the seal of the city, or any printed book containing the same, purporting to have been published under the sanction of the mayor and council, shall be *prima facie* evidence of the due passage and publication of such law, ordinance, regulation or by-law. No appropriation shall be made without a vote of a majority of the members of the common council in its favor.

Shall not bar  
or hinder suits.

SECTION 5. 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 twenty-five pounds of gunpowder are deposited, stored or kept at any one time, gambling houses, houses of ill-fame, disorderly taverns and houses or places where spirituous, vinous, malt or fermented liquors are sold without license as required therefor, within the limits of said city, are hereby declared and shall be deemed public or common nuisances.

Examine and  
adjust ac-  
counts.

SECTION 6. The common council shall examine audit and adjust the accounts of the clerk, treasurer, marshal and all other officers or agents of the city, at such times as they may deem proper, and also at the end of each year and before the time for which the officers of the said city are elected or appointed, shall have expired. And the common council shall require each and every such officer and agent to exhibit his books, funds and moneys, accounts and vouchers for such examination and settlement; and if any such officer or agent shall refuse to comply with the orders of said council in the discharge of his said duties, in pursuance of this section, or shall neglect or re-

fuse 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.

SECTION 7. The corporate authority of said city shall be vested in one principal officer, styled the mayor; in one board of aldermen, consisting of two members from each ward, who, with the mayor, shall be denominated the common council, together with such other officers as may be created under this act.

Corporate authority in whom vested.

## CHAPTER VI.

### CITY FUNDS AND ORDERS.

SECTION 7. 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 orders of the mayor and clerk, duly authorized by a vote of the common council; and all orders drawn upon the treasurer shall specify the purpose for which they were drawn, and shall be payable out of any funds in the treasury belonging to the city. 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 the principal or interest of any outstanding indebtedness, of said city, which shall be collected in money or in orders drawn upon such fund respectively, and all orders shall be payable to the persons or to the order of the persons in whose favor they may be drawn, or bearer.

City funds and orders.

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

Annual tax levy.

SECTION 3. The common council of said city shall not have power to issue any bonds or other evidences of debt, payable at day subsequent to

Regarding bonds.

the date of the issue thereof, except in cases specially authorized by law and duly authorized by a majority vote of the electors of the city, nor shall the common council issue, in any one year, orders upon the city treasury 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 build or repair bridges, a special tax may be levied for such purpose, not exceeding five hundred dollars in any one year, and the said taxes, when so levied, shall be collected at the same time as other city taxes are collected.

Outstanding debts to be paid.

SECTION 4. Taxes may be levied by the common council at any regular meeting for the purpose of paying outstanding indebtedness of the village of Cumberland and also for the payment of any bonds or any other evidence of debt hereafter issued or created in accordance with the provisions of this act or by authority of law. Said taxes when so levied shall be collected at the same time other city taxes are collected.

Accounts to be verified.

SECTION 5. No account shall be allowed by the common council unless the same is verified by the owner thereof or some person in his behalf.

Duty of city clerk.

SECTION 6. When the claim of any person against the city shall be disallowed in whole or in part by the common council, such person may appeal from the decision of such council to the circuit court for the county of Barron by causing a written notice of such appeal to be served on the clerk of said city within thirty days after the making of such decision and executing a bond to said city with sufficient surety to be approved by said clerk, county judge or court commissioner, conditioned for the faithful prosecution of such appeal and the payment of all costs that shall be adjudged against the appellant by the court.

Claims to be first presented before action can be maintained.

SECTION 7. The city clerk, upon such appeal being taken, shall immediately give notice thereof to the mayor and common council or shall take such measures as by ordinance or resolution of said common council he may be required to do and shall make out a brief return of the proceedings in the case before said council with their 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 Barron, and such appeal shall be entered, tried and determined in the same manner as appeals from justices of the peace and costs shall thereupon 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 of appeal 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.

SECTION 8. No action shall hereafter be maintained by any person against the city of Cumberland upon any claim or demand other than a city bond or order, unless such person shall first have presented his claim to the common council of said city, and neither the said city, nor any ward thereof, nor officer within said city shall be liable for any damage that may happen by reason of any defect in any sidewalk in said city unless the street committee, mayor or common council shall have first had actual notice of such defect and reasonable time thereafter to repair the same, or unless the same shall have existed for so long a time that notice may be presumed.

Regarding actions against city.

SECTION 9. The determination of the common council disallowing in whole or in part any claim of any person shall be final and conclusive and a perpetual bar to any action in any court founded on such claim unless an appeal shall be taken from the decision and determination of such council as hereinbefore 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 claim duly presented to them, this chapter shall not be construed as to prevent the institution and maintenance of an action by said claimant against said city.

Determination of board to be final.

## CHAPTER VII.

## OPENING OF STREETS AND ALLEYS.

Opening of  
streets and  
alleys.;

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

What such notice shall state.

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

Twelve freeholders to be appointed as jury.

SECTION 3. Upon the presentation of such application, and upon proof of the publication or service of the notice hereinbefore required, the said judge or court commissioner, shall thereupon appoint twelve reputable freeholders, residents of said city, but not residents of the ward in which said premises may be, nor interested in the result of such application. The said judge or court commissioner shall thereupon issue his precept,

directed to said jurors, requiring them within ten days to view the premises, to be specified in said precept, and to make returns under their hands to the common council whether in their judgment it is necessary to take said premises for the purposes specified in such application, and the said jurors, before entering upon the discharge of their duties, shall take and subscribe an oath, faithfully and impartially to discharge their duties as such jurors in the premises, which oath may be administered by any person authorized to administer oaths, which shall be filed in the office of the city clerk.

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

City marshal to serve precept.

**SECTION 5.** If any of the jurors so appointed cannot be found or shall be disqualified from acting, or shall refuse to act, the judge or court commissioner shall appoint others in their places and a memorandum of such substitution shall be endorsed on the precept.

New jurors may be substituted.

**SECTION 6.** The said judge or court commissioner, or any justice of the peace shall thereupon administer an oath to said jurors, that they are freeholders of said city and not interested in the premises proposed to be taken, and that they will faithfully and impartially discharge the trust reposed in them.

Oaths.

**SECTION 7.** The said jurors at such time as they shall agree upon, shall proceed in a body to view the premises in question, and shall hear such testimony as shall be offered by any party interested, which testimony shall be reduced to writing by one of the jurors, and either of the jurors shall be authorized to administer the necessary oaths to the witnesses. After viewing the premises in question and hearing such testimony as may be offered, the jurors shall make a report of their proceedings, which shall be signed by them respectively, and which shall state whether in their judgment it is necessary to take the premises in question for public use, which said report, testimony and precept, shall be returned to the

Jurors to proceed in a body to view premises.

common council within the time limited in said precept. Should the jurors report that it is necessary to take the premises, the common council shall enter an order among their proceedings, confirming said report, and directing the same jurors within twenty days thereafter, or at such future time as shall be necessary, to again view said premises for the purpose of ascertaining and determining the amount of the damages to be paid to the owner or owners of said property proposed to be taken and to assess and return, within the time limited, such damages to the common council. And after the jurors shall have made their report as to the taking any lands or premises under this act, and the same shall have been confirmed, the common council shall have power to appoint new jurors in the place of any who shall neglect or refuse to serve in ascertaining the amount of compensation as above, and all the jurors, before entering upon the discharge of their duties in the premises, shall severally take an oath before some competent officer, that they are freeholders in said city, and are not interested in the premises to be taken, and that they will faithfully and impartially discharge the trust reposed in them.

In case there is a building on premises.

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

Notice to be given.

SECTION 9. At least ten days' personal notice of such determination, shall be given to the owner or his agent if known, and a resident of the city, or left at his usual place of above. If not known, or a non-resident, notice to all parties interested shall be given by publication in the official paper or papers of said city, three successive weeks. Such notice shall specify the building and the award of the jurors. It shall require the parties interested to appear by a day therein named, or give notice of their election, to the common council, either to accept the award of the jurors and allow the building to be taken, with the land appropriated, or their intention to remove such

building. He shall have such time for this purpose as the common council may allow.

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

In case owner refuses to take building.

SECTION 11. The said jurors, within the time limited, shall view and examine the premises proposed to be taken, and all such premises as will, in their judgment, be injured or benefited thereby. After hearing such testimony as may be offered by any party interested, which shall be reduced to writing by one of said jurors, they shall proceed to make their assessment and to determine and appraise to the owner or owners, the actual value in money of the real estate so proposed to be taken, and the injury arising to them respectively in consequence of the taking thereof which shall be awarded to such owners respectively as damages. In the estimates of the damages to the lands, the jurors shall include the value of the building or buildings (if the property of the owners of such lands) as estimated by them as aforesaid, less the proceeds of the sale thereof, or if taken by the owner at the value to remove; in such case they shall only include the difference between such value and the whole estimated value of such building or buildings, according to section 8, of this chapter.

The jurors shall determine the damages.

SECTION 12. If the lands or buildings belong to different persons, or if the land be subject to lease, judgment or mortgage, or if there be any estate, in it less than an estate in fee, the injury done to such persons or interests respectively, shall be awarded to them by the jurors.

If the lands or buildings belong to different parties.

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

Award to be signed by jurors.

SECTION 14. Any person whose property is taken or against whom any assessment is made, may, within ten days from the return of the jurors to the common council, appeal from said assessment of damages to the circuit court of

Appeal may be made within ten days.

Barron county, by causing a written notice of such appeal to be served on the clerk of said city, and executing a bond in the manner prescribed in section 6, of chapter 5, of this act, and such appeal shall be tried by the court and jury as in ordinary cases. The common council shall also have the right to appeal by filing with the clerk a notice thereof within ten days as aforesaid.

Damages to be first tendered.

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

To be paid within one year.

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

City may deposit within the year amount awarded.

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

Contracts to be absolutely discharged.

SECTION 18. When the whole of any tract or lot or other premises under lease or other contract shall be taken by virtue of this act, all the covenants, contracts or engagements between landlord and tenant, or any other contracting parties touching the same or any part thereof, shall, upon the confirmation of such report respectively cease and be absolutely discharged.

In case part of premises are under lease.

SECTION 19. When only part of a lot or tract of land or other premises so under lease or other

contract shall be taken for any of the purposes aforesaid, all the covenants, contracts or agreements respecting the same, upon the confirmation of such report, shall be absolutely discharged as to the part thereof taken, but shall remain valid as to the residue thereof; and the rents, considerations and payments reserved, payable and to be paid for or in respect to the same, shall be so proportioned that the part thereof justly and equitably payable for such residue thereof, and no more, shall be paid or recoverable for or in respect to the same.

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

In case of infant or legal disability.

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

Accurate survey authorized.

## CHAPTER VIII.

### ASSESSING, LEVYING AND COLLECTING TAXES.

SECTION 1. All property, real or personal, within the city, except as may be exempt by the laws of this state, shall be subject to taxation for the support of the city government, its schools, and the payment of its debts and liabilities, and the same shall be assessed in the manner hereinafter provided; and the assessor elected under this act shall have and possess the same powers that are or may be conferred upon township assessors, except so far as they may be altered by this act; provided, however, that the common council may prescribe the form of assessment rolls, and more fully define the duties of assessor and make such rules and regulations in relation

All property subject to taxation shall be assessed.

to revising altering or adding to such rolls as they may from time to time deem advisable,

One week's notice shall be given in official paper.

SECTION 2. When the assessment roll shall be completed, the assessor shall give one week's notice thereof in the official paper or papers, and shall fix a time and convenient place where he will hear any objections of parties deeming themselves aggrieved by such assessment, and after hearing the same the assessor shall make such alteration or reduction as justice or equity shall require; provided, the time of hearing such objections shall not be more than one week from the expiration of such notice.

Return of assessment roll.

SECTION 3. Within one week after the time limited for the hearing of such objections the assessor shall return the assessment roll to the board of equalization of the city. The board of equalization may supply omissions in said roll, and for the purpose of equalizing the same may alter and add to, take from and otherwise revise and correct the same; provided, however, the board of equalization shall not have the power to increase the amount of said roll except by the value of such real or personal property as may have been omitted by the assessor.

In case of omission in the roll.

SECTION 4. If it shall appear to the assessor that any lot or parcel of land was omitted in the assessment roll of either or both of the preceding two years, and that the same was then liable to taxation, he shall, in addition to the assessment of that year, assess upon the lot or tract so omitted for such year or years that it shall have been so omitted, the just value thereof, noting the year when such omission occurred, and such assessment shall have the same force and effect as it would have had if made the year when the same was omitted, and the common council shall direct, in addition to the tax for the current year, such tax to be levied upon such lot or tract as the same would have been chargeable with, had not the same been so omitted, and such tax shall be collected as other taxes or assessments for the current year. All lands shall be subject to taxes that may have been omitted in whosoever hands they may have come. Should the tax or assessment upon any parcel of land be set aside or declared void, by reason of any defect or informality in the assessing, levying, selling or conveying the same,

but not affecting the equity and justice of the tax itself, the common council shall cause the tax or assessment so set aside or declared void to be (relieved) in such manner as they shall, by ordinance, direct; provided, that if the defect was in the assessment, the same shall be again assessed at such time as the common council shall direct, and the said tax or assessment so assessed shall be levied and continue a lien upon such lot or tract and shall be collected as other taxes and assessments are collected under this act.

SECTION 5. The mayor, city clerk, city treasurer and the assessor shall constitute the city board of equalization and shall meet on the first Monday of July each and every year at 9 o'clock in the forenoon, and shall proceed in all respects as town boards are by law required to proceed so far as the same is applicable, reviewing, correcting and equalizing the assessment roll of the city. The mayor shall be president of the board of equalization and the city clerk the clerk thereof.

Board of equalization by whom constituted.

SECTION 6. When the assessment roll shall have been revised and corrected the same shall be filed with the clerk. Thereupon the common council shall, by resolution, levy such sum or sums of money as may be sufficient for the several purposes for which taxes are herein authorized to be levied, but not exceeding the authorized percentage, particularly specifying the purpose for which the same are levied.

Revised roll to be filed with the clerk.

SECTION 7. All changes of assessment roll by the board of equalization shall be duly recorded by the city clerk.

Changes to be recorded.

SECTION 8. All taxes and assessments, general or special, levied under this act, shall be and remain a lien upon the lands and tenements upon which they may be assessed from the delivery of the warrant for the collection thereof until such taxes shall be paid.

Taxes to remain a lien.

SECTION 9. It shall be the duty of the city clerk immediately upon the reception of the corrected assessment roll and a certificate of the amount of state, county and school tax apportioned to said city, to calculate and carry out the total amount of such taxes, together with all the city and other local taxes, adding thereto five per cent. for the expense of collection in an additional column prepared for that purpose in the assess-

City clerk to carry out tax

ment roll, setting down opposite 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.

Duplicate copies to be made.

SECTION 10. The said city clerk shall immediately make out a duplicate copy of such assessment roll when thus completed, and deliver the same to the treasurer on or before the second Monday in December in each year.

A warrant to accompany roll.

SECTION 11. To each assessment roll so delivered, a warrant under the hand of the city clerk and the corporate seal of said city, shall be annexed substantially in the following form:

Form of warrant.

The state of Wisconsin, to the city treasurer of the city of Cumberland, in the county of Barron:

You are hereby commanded to collect from each one of the persons and corporations named in the annexed assessment roll, and of the owner of the real estate described therein, the taxes set down in such roll opposite to their respective names, and to the several parcels of land therein described, and in case any person and corporation upon whom any such tax is imposed, shall refuse or neglect to pay the same, you are to levy and collect the same by distress and sale of the goods and chattels of the person or corporations so taxed, and out of the moneys so to be collected, after deducting your fees, you are first to pay the treasurer of said county on or before the last Monday in January next, the sum of — for state taxes, and the further sum of — for county taxes, and the balance of said money you are required to retain and pay out according to law, and in case said taxes and assessments shall not be paid the fourth Monday of February next, you are required to return the same to the county treasurer of the said county of Barron.

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

\_\_\_\_\_  
City Clerk.

Shall be prima facie evidence of genuineness.

SECTION 12. The said assessment roll and warrant thereto attached shall be *prima facie* evidence in all courts that the lands and persons

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

SECTION 13. All the general laws of this state which are 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, and the city treasurer shall proceed to collect the taxes and all assessments of said city in the same manner as is required by law of the town treasurer to collect taxes, except as herein provided.

General laws shall govern.

SECTION 14. Upon the receipt of any tax roll and warrant by the treasurer he shall give public notice in a newspaper published in said city, that such tax list, describing for what purpose such taxes are levied, has been committed to him for collection, and that he will receive payment for taxes at his office for the term of thirty days next ensuing the date of said notice. If the taxes are not paid within said time he shall then proceed to collect the same by distress and sale of the goods and chattels of the persons charged, giving at least six days' notice of the time and place of such sale, by posting up not less than three written or printed notices in as many public places in said city.

Public notice to be given by treasurer.

SECTION 15. The treasurer shall be entitled to receive and collect as fees for the collection of taxes, two per cent. on all taxes collected by or paid to him prior to the 10th day of January in each year, and five per cent. upon all taxes or assessments paid to or collected by him after the said 10th day of January, and in case of a distress or sale made by him, of goods and chattels for the payment of any tax, he shall be entitled to receive such fees as are allowed constables on sales of goods upon execution. The city treasurer shall collect the fees hereinbefore prescribed, and shall keep in a book to be provided for that purpose, a true account and statement of all fees by him received as city treasurer, from any source whatever, and such book shall be open at all reasonable times to the inspection of any person, and the city treasurer shall, when required, make a report to the common council, duly certified upon oath, of all fees or other moneys received by him as treasurer, and he shall receive no other or further compensation for his services as treasurer, than

Treasurer's fees.

as hereinbefore provided, except that the common council shall provide him all necessary books, blanks and stationery requisite to the discharge of his duties.

State tax when to be paid.

SECTION 16. The treasurer shall, on or before the third Monday in January in each year, pay to the county treasurer, the state tax assessed upon the lots and tracts of land and personal property of said city.

Directions only directory.

SECTION 17. All the directions hereby given for the assessing of lands and the collecting of taxes and assessments shall be deemed only directory, and no error or informality in the proceedings of any of the officers intrusted with the same, not affecting the substantial justice of the tax itself, shall vitiate or in any wise affect the validity of the tax or assessment.

How proceedings may be instituted.

SECTION 18. No person shall be permitted to institute any proceedings to set aside any assessment or special tax hereafter levied or assessed upon any lot or tract, or to set aside or to set up or interpose any objections to the title derived by virtue of any tax deed executed in consequence of the non-payment of such taxes, and of the sale of the premises therefor, unless such persons shall first pay or tender to the proper party, or deposit for his use with the city treasurer the amount of all state, county and city taxes that remains unpaid upon such lot or tract, together with the interest and charges thereon.

In case treasurer be unable to collect.

SECTION 19. In case the city treasurer is unable to collect any tax assessed upon any personal property, and payable by any person named in the tax list, he shall proceed in all things according to chapter 49, of the revised statutes, of this state, and the acts amendatory thereto, in bringing such delinquent person before some justice of the peace, and such proceedings shall be had as are provided by said chapter 49, and as are prescribed by chapter 198, of the general laws of 1860, and any act that may be hereafter passed amendatory to said acts or in addition thereto.

## CHAPTER IX.

### FIRE DEPARTMENT.

Fire department; fire limits.

SECTION 1. The common council, for the purpose of guarding against the calamities of fire,

shall have the power to prescribe the limits within which wooden buildings or buildings of other materials that shall not be considered fire-proof, shall not be erected or repaired, and to direct that all and every building within the limits prescribed shall be made and constructed of fire-proof materials, and to prohibit the repairing or rebuilding of wooden buildings within the fire limits, 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 damage, and to prescribe the penalties for the violation of any resolution or ordinance passed under this section.

**SECTION 2.** The common council shall have the power to prevent the dangerous construction and condition of chimneys, fire-places, hearths, stoves, stove pipes, ovens, boilers and apparatus used in and about any building, and to cause the same to be removed or placed in a safe condition when considered dangerous; to prevent the deposit of ashes in unsafe places, to require inhabitants to provide as many fire buckets, and in such manner and time as they shall prescribe, and to regulate the use of them in time of fire; to regulate and to prevent the carrying on of manufactories dangerous in causing or promoting fires, to regulate and prevent the use of fire-works and fire-arms, to compel the owners and occupants of buildings to have scuttles in the roof, and stairs or ladders leading to the same; to authorize the mayor, aldermen, fire wardens and other officers of the city to keep away from the vicinity of a fire all idle and suspected persons, and to compel all bystanders to aid in the extinguishment of fires and in the preservation of property exposed to danger thereat, and generally to establish such regulations for the prevention and extinguishment of fires as the common council may deem expedient; and to provide penalties for the violation of any resolution or ordinance passed under this section.

**SECTION 3.** The common council shall have full power to purchase fire-engines and other fire apparatus, and to authorize the formation of fire-engine, hook and ladder, and hose companies, and to provide for the due and proper support and regulation of the same, and to order such companies to be disbanded and their meetings to be pro-

Dangerous construction of buildings, etc.

Purchase of fire engines, etc

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

Firewardens.

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

Penalties to whom paid.

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

Penalty for refusal to obey lawful order of fire officers.

SECTION 6. When any person shall refuse to obey the lawful order of any engineer, firewarden or alderman of the city, the mayor or city marshal at any fire, it shall be lawful for the officer giving such order to arrest, or to direct orally the marshal, constable, watchman or any citizen to arrest such person, and to confine him temporarily in any safe place until such fire shall be extinguished; and in the same manner such officer, or any of them, may arrest or direct the arrest and confinement of any person at such fire who shall be intoxicated or disorderly; and any person who shall refuse to arrest or aid in arresting any person so refusing, shall be liable to such penalty as the common council may prescribe, not exceeding twenty dollars.

Sack company.

SECTION 7. The common council shall have the

power to organize a sack company or to countenance any such company now organized, which shall be known by such name as they may select, and shall consist of not more than thirty members. Such company shall constitute a part of the fire department, and at fires shall be subject to the control of the engineer. The members of said company, either collectively or individually, are hereby authorized and empowered to act as a special police in and for said city of Cumberland, and are hereby vested with all the power and authority which is now or may hereafter be vested in any other 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 shall not be entitled to any compensation for any service rendered in their official capacity. They shall, in case of riot or disturbance 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.

SECTION 8. The treasurer of the fire department shall receive and pay out of 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 only be paid out on orders signed by the chief engineer or acting chief engineer, and countersigned by the clerk of said department.

Treasurer to pay out all money.

SECTION 9. There shall be elected by the members of each company aforesaid, annually, at their annual meetings, a clerk or secretary, and a treasurer, who shall, on or before the first Monday of May in each year, return to the city clerk a list containing the name of each member of their respective companies, and when any member of either of said companies shall cease to be a mem-

Officers of each company.

ber thereof by resignation, expulsion or otherwise, notice thereof shall be given to the city clerk.

City clerk to keep a record of members.

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

## CHAPTER X.

### ACTIONS TO RECOVER PENALTIES, ETC.

Actions to be brought in corporate name of city.

SECTION 1. All actions brought to recover any penalty or forfeiture under this act or the ordinances, by-laws or police or health regulations, made in pursuance thereof, shall be brought in the corporate name of the city. It shall be lawful to declare generally in debt for such penalty or forfeiture, stating the chapter and section of this act or the section of the ordinance, by-law or regulation under which the penalty or forfeiture is claimed, and to give the special matter in evidence under it.

First process to be a summons.

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

Form of summons.

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

County of Barron, )  
 City of Cumberland. ) ss

The State of Wisconsin, to the sheriff or any constable of said county, or to the marshal of the city of Cumberland.

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

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

C. D., Justice of the Peace.

SECTION 4. 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 this state for the commencement of actions before justices of the peace by summons; and all proceedings in the action, except as hereinafter provided, shall be governed by the laws of the state for the time being, relative to actions commenced by summons, and triable before justices of the peace.

When summons shall be made returnable.

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

Form of complaint.

The City of Cumberland )  
 against )  
 A. B. )  
 In Justice Court.  
 Before C. D.,  
 Justice.

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

SECTION 6. In all cases where oath is made for a warrant for the complaint it shall be made on the oath of the complainant and no other affidavit shall be necessary, which last mentioned com-

Form of complaint.

plaint may be substantially in the following form:

The city of Cumberland against A. B.

In justice court, before C. D., justice.

County of Barron -- ss.

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

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

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

Form of warrant.

County of Barron, city of Cumberland — ss.

The state of Wisconsin, to the sheriff or any constable of said county, and to the marshal of the city of Cumberland, 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 said section —, of chapter —, of this act (or section — of an ordinance, or by-law, or regulation of said city, describing it by its title) which said — is now in full force, as the complainant believes; therefore you are commanded to arrest the body of the said A. B. and bring him before me forthwith to answer to the city of Cumberland on the complaint aforesaid.

Dated this — day of —, 18—.

C. D., Justice of the Peace.

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 surety, to be approved by the court, for his, or her, or their appearance, in such sum as the court shall direct, or in default thereof, may be put in charge of the officer who made the arrest, or be committed to the common jail of Barron county. The complaint made as aforesaid, shall be the only complaint required, and the plea of not guilty shall put in issue all subject matter not embraced in the action.

SECTION 7. A printed copy of an ordinance, by-law or regulation, passed by the common council and published in a newspaper, or in a pamphlet, or book form, purporting to be published by authority of the common council, shall be *prima facie* evidence of its due passage and publication, and shall be received in evidence on the trial of all cases cognizable before any court of this state.

Printed copy  
to be *prima*  
*facie* evidence  
of genuineness.

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

Witnesses and  
jurors shall at-  
tend without  
fees.

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

Findings of  
court.

County of Barron, )  
City of Cumberland. ) SS.

The state of Wisconsin, to the sheriff or any

Form of execu-  
tion.

constable of said county, and to the keeper of the common jail of said county, greeting:

Whereas, the said city of Cumberland, on the — day of —, 18—, recovered a judgment before the undersigned, one of the justices of the peace in and for said city, against — — for the sum of — dollars and — cents, costs of suit for the violation of (section —, of chapter — of this act, or section — or 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 sum, together with your fees, and twenty-five cents for this writ, and the same return to me in thirty days; and for want of such goods and chattels whereon to levy, to take the body of said — —, and him to convey and deliver to the keeper of the common jail in Barron county and the 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., Justice of the Peace.

**Commitment.**

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

**Defendant may appeal.**

SECTION 10. In all cases where judgment is rendered against a defendant for the recovery of fines or penalties mentioned in this act, or the ordinances, now in force or hereafter to be ordained, the defendant may appeal from such judgment to the circuit court of the county of Barron; provided, such defendant within twenty-four hours enter into a recognizance with one or more sufficient sureties, to be approved by such justice, conditioned to appear before said court and abide the judgment of the court therein. The justice from whose judgment an appeal shall be taken shall make a special return of the proceedings had before him, and shall forthwith cause the summons and 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.

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

Said appeal to stand for trial.

SECTION 12. If the judgment of the justice shall be affirmed, or if upon the trial the defendant shall be convicted, the court shall inflict the penalty provided by this act, or the ordinance, resolution, or by-law or resolution 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.

In case the judgment shall be affirmed.

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

Shall not be an incompetent witness.

SECTION 14. All ordinances and regulations now in force in the village of Cumberland, 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.

Village ordinances shall remain in force until repealed.

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

Village rights to be vested in city.

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

Copy of process to be left with the mayor.

SECTION 17. All penalties and forfeitures, recovered and collected under and by virtue of this act, shall be paid into the city treasury for the use

Penalties to be for the use of the city.

and benefit of said city, except as provided in chapter 9, of this act.

City property  
to be exempt  
from taxes

SECTION 18. All fire-engines, hose carts, hooks and ladders and wagons therefor, and all other apparatus and implements used to extinguish fire, and all houses or buildings owned or occupied by said city for such engines, hose, hose carts, hooks and ladders, and other apparatus and implements, shall be exempt from attachment or execution issued in any action or on any judgment wherein the said city shall be a party.

Individual  
property can-  
not be attached  
for city debts.

SECTION 19. No real or personal property of any inhabitant of said city or of any individual or corporation shall be levied on or sold by virtue of any attachment or execution issued to collect or satisfy any contract, debt, or obligation of said city, or on any judgment against said city.

Pardons and  
commutations.

SECTION 20. The mayor shall have power to grant pardons or commutations after conviction for all offenses against the ordinance of the city upon such condition as may deem proper. He shall communicate any such actions to the council at its next meeting with the reason therefor.

## CHAPTER XI.

### IMPROVEMENT OF STREETS AND SIDEWALKS.

Improvement  
of streets and  
sidewalks.

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

Power to estab-  
lish grades.

SECTION 2. The common council of the city of Cumberland shall have power to establish the grades of the streets of said city and to change and

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

SECTION 3. It shall be the duty of the city marshal to see that all the ordinances of the city relating to the obstruction and cleansing of sidewalks, streets, alleys, public grounds, reservoirs, gutters, sewers, water and water-courses, in said city are duly observed and kept. The committee on streets shall have a general supervision over all work let by contract for the improvement of all streets or sidewalks in said city, unless the common council shall otherwise provide.

Enforcement of  
ordina-nces.

SECTION 4. Sidewalks shall be constructed, reconstructed or repaired upon the proper established grade of any street of said city, of such width, in such manner, of such materials, and in such time as the common council, by ordinance, resolution or order shall direct, by the owner or owners of any such lot or piece of ground in front of which such sidewalk shall be ordered. If the owner or owners of any such lot or piece of ground shall not construct such sidewalk as aforesaid in the manner, of the material, or at the time as so directed, the common council may cause the same to be constructed forthwith at the expense of such owner or owners. The contract for the construction of any such sidewalk shall be let to the lowest, reasonable, responsible bidder, and notice shall be given by publication in the official paper of the city at least for three days, of the time, and place, and manner of receiving such bids. The common council shall levy a special tax upon each lot or piece of ground in front of which any sidewalk shall be constructed by contract, sufficient to pay the cost of constructing the same; provided, that no such contract shall be let until twenty days after notice shall have been given to such owner or owners of the ordinance, resolution or order requiring the construction of

Proper estab-  
lished grade.

such sidewalk by the publication of the same at least five days in the official paper of the city; provided, further, that lands used exclusively for farm purposes, not platted, shall not be liable for, nor the owner or owners thereof be required to build or maintain sidewalks along or fronting such lands under the provisions of this chapter.

Building and  
repair of side-  
walks.

SECTION 5. The common council shall have power by a vote of two-thirds of all the members of the common council to order the building, construction, reconstruction or repair of sidewalks in the city of Cumberland in such manner as they may deem proper. The city clerk shall receive all proposals for constructing or repairing sidewalks, and shall open them in the presence of the council, which shall award the contract to the lowest responsible bidder, provided such bid is a reasonable one, subject to such provisions in the case of violations of contract and to such other particular provisions as the council may prescribe. The proceedings for ordering the repair of sidewalks and levying and collecting special taxes on the respective lots to pay for the same, shall be the same as herein provided, as in the case of constructing a new sidewalk, except as otherwise provided in this section. No contractor for building or repairing sidewalk shall receive any pay therefor from the city under any circumstances until the tax levied for that purpose shall have been paid to the city or county. Whenever a sidewalk shall be out of repair and so remain for a space of twenty-four hours, which in the opinion of the street committee will not cost to exceed the amount of five dollars in front of any one lot to repair the same, they shall be authorized, and it is hereby made their duty to cause the same to be immediately repaired, and when the same is completed they shall make out an itemized bill of the costs of such repairs, specifying the lot and block, or piece or parcel of land, in front of which said work was done, duly verified by his oath, and shall deliver the same to the city clerk and said clerk shall forthwith present the same to the owner of such lot, piece or parcel of land if a resident of the city of Cumberland, for payment, and if the owner of such lot, piece or parcel of land shall refuse or neglect to pay the same for ten days, then the clerk shall report the

fact to the council, and the council shall thereupon levy a special tax upon such lot, piece or parcel of land, to pay the same in the same manner as special taxes are levied for the construction of sidewalks. In case the owner of such lot, piece or parcel of land does not reside in the city of Cumberland, the said committee shall return said account to the common council, with their certificate stating that fact, and the council shall thereupon levy a special tax to pay the same in the manner in this section provided.

SECTION 6. The common council of said city shall have power, and may in its discretion by a vote of a majority of its members, advertise and let to the lowest responsible bidder, whose bid it shall deem reasonable and proper, the construction of any sidewalk or gutter, or the making of improvements on or along any street or highway in said city limits which shall have been ordered, and levy a tax upon each lot or piece of land, in front of which said sidewalk, gutter or improvement shall have been ordered and constructed under such contract sufficient to pay the cost of (constructing) the same without giving notice requiring the owner or owners of such lot or lots, or pieces of grounds to construct the same.

Work to be let to the lowest bidder by advertising.

SECTION 7. The common council of the city of Cumberland shall have power by an affirmative vote of two-thirds of all its members, to order and contract for the making, grading and paving and repairing and cleansing of streets and parts of streets, alleys, public grounds, reservoirs, gutters and sewers in the manner hereinafter mentioned, and direct and control the persons employed thereon.

Regarding streets.

SECTION 8. The cost and expenses of surveying streets, alleys, sewers and gutters, and of estimating work thereon in the execution of any public improvement, shall be chargeable to and payable by the city. The cost and expenses of opening, grading or graveling, planking or paving of streets and alleys, shall be chargeable to the lots of land, except farming lands fronting on such street or alley, so that each lot or parcel of land, except farming lands, shall pay for work between the front of each lot or parcel of land to the center of such street or alley; provided, that the common council may order such cost and expenses to be

Cost and expenses of surveying to be paid by city.

paid by the lots or land, except farming lands fronting on such streets or alleys, by a *pro rata* tax, based upon the last assessment made prior to such order by the common council. Sewers and gutters may be ordered by the common council and built at the expense of the lots or parts of lots benefited thereby and fronting upon the side of the street along which said sewer or gutter shall be constructed; provided, however, that when sewers or gutters are constructed through alleys, no lot shall be assessed therefor, except those situated in the block through which such sewers or gutters may be constructed, and provided further, that in all cases when improvements or work of any kind are chargeable, by virtue of this section, upon lots benefited, all such improvements across streets, alleys and public grounds shall be made and paid for by the city in proportion to the width of the street, alley or public ground. Lots shall be liable as in this chapter provided for the improvement of streets to the center of the street on which they abut or join, and corner lots for all sidewalks up to the crossings or cross walks.

Estimate of cost to be made before work is commenced.

SECTION 9. Whenever the common council shall determine to make any public improvement as authorized by this chapter, they shall cause to be made an estimate of the whole expenses thereof, and of the amount thereof to be assessed and charged to each lot and parcel of land, and in case of grading of the number of cubic yards to be filled in or excavated in front of each lot, and the proportion thereof across each street, alley or public ground aforesaid, and such estimate shall be filed in the office of the city clerk for the inspection of parties interested before such work shall be ordered to be done. The common council may authorize the letting of such work by contract to the lowest bidder, at the expense of the lots upon which such work is chargeable in whole or in part, as aforesaid; all bids for doing the same to be approved by the council, and the said council shall have power to reject any or all bids, and may require such contractors to perform such contract within such time and under such conditions, and to give such security for the performance of such work as they shall direct, such contract, when approved by the council, to be ex-

executed on the part of the city by the mayor and countersigned by the city clerk, notice of the time and place of receiving such bids to be published for ten days in the official paper of said city, the common council instead of letting such work by contract to the lowest bidder, may by an affirmative vote of two-thirds of the members of the council, order the grading, repairing or improving of any street, or the making of any public improvements to be done directly by and under the supervision of the street committee at the uniform expense in whole or in part of the lots or parcels of land abutting or fronting on such street or public improvement.

SECTION 10. Whenever the general interests of the city require deep cutting or extraordinary filling in any street, and the owners of the lots and land fronting on such deep cutting or filling shall deem themselves aggrieved thereby and shall represent to the council in writing that the expense of such excavation or filling will exceed the proportion that should be justly or equitably charged upon the property assessed therefor, the council shall require the marshal to summon five freeholders not residents of the ward nor interested in said lots or lands, who, after being sworn faithfully and impartially to discharge the trust reposed in them, shall examine the premises within five days therefrom, and if in their opinion the cost of such work will exceed the amount that should be justly and equitably chargeable to such lots or parcels of land it shall be their duty to determine what portion of such work shall be chargeable to such lots or parcels of land respectively, and what lots and parcels of land on the streets so to be improved would be benefited by such deep cutting or filling, and how much or what portion shall be chargeable to them, and to make a report thereof in writing as soon as practicable; but within ten days after such examination, to the common council; and such proportion as shall be reported as properly chargeable to the lots or parcels first mentioned, shall be assessed upon and collected from the same in the same manner as herein provided in case such owners shall not do such work; the remainder shall be assessed upon the lots benefited by such improvements in proportion to their respective benefit as

*In case of deep cutting and excavating.*

determined by said jury. The sum so assessed shall become a lien upon the premises assessed, and shall be collected therefrom as a special assessment in the same manner as other special assessments for improvements are collected; provided, that should said jury find that said petitioners were not entitled to any division of the expenses so assessed upon their lots or parcels of land, then the expenses of all proceedings under this section shall be paid by said petitioners; and the common council may require a bond for the payment of the same upon the filing of the petition; provided, also, that the petition of no owner feeling himself aggrieved shall be received unless the same be presented within twenty days after the publication of the notice requiring the same to be done; and provided further, that when it shall appear to the council that any such lands belong to non-residents, infants or persons laboring under legal disability, who shall not be represented by an agent or guardian, or not to be benefited by the making of streets in front of such lots or lands to the amount of the costs and expenses thereof, it shall then be the duty of the said council to cause to be summoned a jury as herein provided.

Work to be done under supervision of street committee.

SECTION 11. All work provided for in this chapter shall be done under the supervision of the street committee, and shall be approved by them before it shall be accepted by the council; provided, that whenever, upon complaint made to, and the common council shall deem any lots injurious to public health by reason of stagnant water or from any other cause, they may order that such nuisance be abated by draining or filling such lot, or in any other manner, by the owner or occupant of such lot, and upon their failure so to do the street committee, by order of the common council, may abate or cause to be abated at the expense of such lot, by taking the same proceedings as are required for the building of a sidewalk.

Certificate to be given to contractor.

SECTION 12. Whenever any work has been done under contract as provided in this act and the work shall have been approved by the mayor, street committee and city surveyor, such contractor shall be entitled to a certificate therefor, stating the amount of work done by such contractor and the nature thereof and the description of the lot

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

**SECTION 13.** The common council of the city of Cumberland shall, on or before the first Monday of May in each year, determine and levy the amount of highway tax in said city for the ensuing year for the purpose of constructing and repairing streets, highways and bridges in said city, which amount shall not be less than one nor more than five mills on the dollar upon all of the taxable property in said city, as the same shall appear by the last assessment roll of said property.

Highway tax to be levied annually.

**SECTION 14.** The city clerk shall, within fifteen days after said highway tax shall be so levied, make out and deliver to the city treasurer a list of all persons liable to pay highway taxes in said city, which list shall also contain a statement of all the taxable personal property and descriptions of all lots or parcels of land within said city, with the value of each lot or parcel set opposite to such description, as the same shall appear on the assessment roll of the previous year, and if such lot or parcel was not separately described in such roll, then in such proportion to the valuation which shall have been affixed to the whole tract of which such lot or parcel forms a part, and the amount of such tax shall be carried out in a separate column opposite the name of each person or persons, corporation or corporations to whom

Tax list to be made out by city clerk.

each item of taxable property upon said list is to be assessed.

Duplicate copies to be made.

SECTION 15. The city clerk shall make a duplicate of such list, both of which shall be signed by the mayor and countersigned by the city clerk, one of which lists shall be filed in the office of the city clerk and the other shall be delivered to the city treasurer.

Warrant to be annexed.

SECTION 16. The city clerk shall annex to each such tax list a warrant signed by the mayor and city clerk, which shall be in substance in the following form:

Form of warrant.

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

You are hereby required to collect from the several persons and corporations named in the annual tax list, and from the owners of the real estate described therein, the taxes set opposite to such persons, corporations and property within the time limited by law, and to apply the taxes by you so collected, and make due return thereof as required by law.

Dated \_\_\_\_\_ day of \_\_\_\_\_, 18—.

\_\_\_\_\_, City Clerk.  
\_\_\_\_\_, Mayor.

City treasurer to collect road tax.

SECTION 17. The city treasurer shall have the same powers and proceed to collect said taxes in the same manner as in the collection of general taxes, and in case the said treasurer shall be unable to collect any portion of said tax he shall, on or before the third Monday in November in each year, make out and deliver to the city clerk of said city a list of all such unpaid taxes, which list shall contain the names of all persons, corporation or corporations, and the description of all real estate or personal property included in said tax roll, and the amount of such tax against each of such description or items so uncollected, which said list shall be sworn to by said city treasurer, before some officer authorized to administer oaths.

To be put into a separate column by treasurer.

SECTION 18. Upon the receipt of such list the city clerk shall, at the time of making out the general annual tax roll of said city for that year, place in a separate column on said roll the amount of said delinquent tax against the proper description of real estate and personal property which shall be collected or returned in the same manner as general taxes are collected or returned by law.

## CHAPTER XII.

## MISCELLANEOUS PROVISIONS.

SECTION 1. All work for the city or either ward, including all printing and publishing, may, in the discretion of the council unless otherwise ordered, be let by contract to the lowest bidder, and due notice shall be given of the time and place of letting the contract.

Work to be let to lowest bidder, including printing.

SECTION 2. No money shall be appropriated for any purpose whatever, except such as are expressly authorized by this act.

Appropriations to be authorized.

SECTION 3. 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.

Remission of penalties.

SECTION 4. The common council may at any time cause a new and accurate survey to be made of the lines and boundaries of all the streets, alleys, sidewalks, public grounds, wharves and blocks, and may cause to be established such permanent landmarks as they may deem necessary, and to cause an accurate plat or plats thereof to be made and certified to by the surveyor, which shall be filed in the office of the city clerk and recorded in the office of the register of deeds of the county of Barron.

New surveys may be made.

SECTION 5. 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.

Surveys and landmarks prima facie evidence of lines.

SECTION 6. The common council may, at such times as they may deem proper, establish the grade of all streets, alleys and sidewalks of said city, or any or either of them, and shall cause accurate profiles thereof to be made, one of which shall be filed in the office of the register of deeds of Barron county; and should the grade so established be at any time thereafter altered, all damages, costs and charges therefor shall be paid by the city to the owner of any lot or parcel of land, or tenement, which may be affected or injured in consequence of the alteration of such grade; provided, however, that nothing in this section contained shall be construed as to prevent the street

Grades of streets may be established.

committees of the several wards of the said city from ordering or causing to be done the grading of any street within their ward to a temporary grade, to be established by such committee.

City may hold real estate.

SECTION 7. The city may have, purchase, and hold real and personal estate sufficient for the convenience of the inhabitants thereof, and may sell and convey the same; and the same while owned, occupied or held by said city, shall be exempt from taxation.

All real estate subject to taxation.,.

SECTION 8. Real estate exempt from taxation by the laws of this state shall be subject to special taxation as other real estate under this act.

Deeds.

SECTION 9. When the city of Cumberland 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 Cumberland, and the person or persons authorized to execute such deed or lease need not be named in the body thereof.

Mayor may execute deed when authorized.

SECTION 10. The mayor of said city is hereby authorized, when the common council shall, by ordinance or resolution for that purpose describe the real estate and interest to be conveyed under, and direct him so to do, to execute a deed or lease of such real estate or interest therein belonging to the said city. The said deed or lease shall be signed by the mayor of the city and countersigned by the city clerk, and sealed with the corporate seal of said city and duly witnessed and acknowledged as is provided for the execution of deeds and conveyances.

Ordinance to be attached to deed.

SECTION 11. 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 be in all courts of this state, *prima facie* evidence of the authority of the mayor to make and execute such deed or lease.

Failure to hold election shall not invalidate.

SECTION 12. If any election by the people for common council shall for any cause not be held at the time or in the manner herein prescribed, or if the council shall fail to organize as herein prescribed, it shall not be considered reason for arresting, suspending or absolving said corporation; but such election or organization may be held at

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

SECTION 13. No general law of this state contravening the provisions of this act shall be considered as repealing, annulling or modifying the same, unless such purpose be expressly set forth in such law as an amendment to this chapter.

No general law shall annul or modify.

SECTION 14. The common council shall have power to appropriate a sum not exceeding three hundred dollars to any public purpose they may deem proper, but no such appropriation shall be made unless ordered by a two-thirds vote of all the aldermen elect.

Appropriations.

SECTION 15. Every male inhabitant in the city of Cumberland, over twenty-one years of age and under fifty, except active members of the fire department, and those otherwise exempted by the general laws of this state, shall pay into the city treasury annually, one dollar and fifty cents each, as a poll tax. It shall be the duty of the assessor of the city of Cumberland, during the month of April of each year, to make out duplicate lists of all persons liable to said tax in the city of Cumberland, and said assessor shall on the last Monday of April of each year, deliver one of said lists to the city clerk and one to the treasurer of said city of Cumberland. The said treasurer shall thereupon immediately proceed to collect the same, and all persons liable to pay such tax, who shall not have paid the same after demand either personal or by written notice, left at their usual place of abode, on or before the 1st day of June of each year, shall be liable to, and shall pay a penalty of two dollars in addition to said poll tax, together with the costs of prosecution, to be prosecuted for by said treasurer in the name of the city of Cumberland. The process in each case shall be by warrant as provided for in chapter 9, of this act, entitled actions to recover penalties, etc., and in case judgment shall be rendered against the defendant in such action, and he shall refuse or neglect to pay such judgment, he shall be imprisoned in the county jail ten days. The moneys

Poll tax, who are liable for.

collected as herein provided for, shall be kept as a distinct fund, and shall be expended for the benefit and improvement of the streets of the city of Cumberland. The mayor, city clerk and treasurer shall constitute a board to determine the liability of persons to pay such tax, and all persons claiming to be exempt from such tax must apply to said board within twenty days from the time when said lists shall be delivered to the treasurer as aforesaid; the city treasurer shall receive the same fees for collecting said taxes as he does for collecting taxes assessed upon real and personal property; provided, that if any person shall desire to, he shall be permitted to perform one day's work upon the streets of the city in the ward in which he resides, and the certificate of the street committee that such person has performed one full day's labor, shall be received by the treasurer of said city in full discharge of such tax.

**Jurisdiction of police justice.**

SECTION 16. The jurisdiction of the police justice of the city of Cumberland shall be co-extensive with the county of Barron, and the said police justice shall have exclusive jurisdiction to try all criminal cases and conduct all examinations within said city, in which the city is a party, under the laws in which justices of the peace have jurisdiction, and according to this act. And the police justice shall have and possess all the rights, powers and privileges of said justices of the peace, and all the laws of this state concerning justices' courts shall apply to the police court of the city of Cumberland, except so far as the said law conflicts with the provisions of this act.

**Actions may be brought by any electors.**

SECTION 17. In all cases where an action might be brought by the city of Cumberland against any person, company or corporation, such action may be commenced and prescribed in the name of the city by any electors of said city; provided, that the complaint is made by any person other than a police officer of said city, sheriff of Barron county or any officer of said city. The justice may, in his discretion, require seventy-five cents as in civil courts before justices of the peace.

**Ornamental trees.**

SECTION 18. The common council shall have power to require the owner of any lot or grounds in said city to set out ornamental trees in the street or streets fronting on the same, and in default thereof, to cause the same to be done, and

to levy a special tax upon such lot or grounds to pay the expenses of the same.

SECTION 19. The right of the citizens of the town of Cumberland and the rights of the citizens of the city of Cumberland to the use of the town cemetery for burial purposes shall not be impaired, anything in this act to the contrary notwithstanding, and the citizens residing within the said city shall always have and enjoy the same rights and privileges in said cemetery as the citizens of the town of Cumberland, and the said city shall contribute its just share of the expenses of maintaining said cemetery. Cemetery.

SECTION 20. Whenever the town board of supervisors of the town of Cumberland, in the county of Barron, may deem it for the convenience and interests of the legal voters of said city, they are hereby authorized and empowered to select a place for the polls of any general or special election or town meeting at any suitable place within the limits of the city of Cumberland; provided, however, that such polls shall not be nearer to any poll of election in any ward of said city than three hundred feet, and notice of such elections, and the place where the same is to be held, shall be given, as provided by the laws of the state. Town elections may be held in the city.

SECTION 21. It shall be lawful for the supervisors of said town to hold their meetings for the transaction of town business at any proper place within the city of Cumberland, and the town board may authorize and empower the town clerk and town treasurer of said town, to keep the books and papers of their respective offices, at some suitable place within the limits of the said city; provided, that the said city shall not be chargeable with, nor liable for any of the expenses arising or growing out of any of the provisions of this or the preceding section; and provided further, that the place of meetings and a place for the town clerk and the treasurer of the town, mentioned in this and the preceding section, shall not be at any place or places of meeting of the common council, or of officers of the city without consent first being obtained of the common council. Town officers authorized to do business in city.

SECTION 22. The said city of Cumberland shall maintain and support the poor and indigent persons within the city limits, and the laws of the Poor.

state for the relief and support of the poor in towns shall apply to said city, and the common council shall make such rules, regulations, ordinances and provisions in relation to the same as they shall deem proper.

**Public act.** SECTION 23. This act is hereby declared a public act, and shall be liberally construed in all courts of this state.

**Repealing act.** SECTION 24. All acts or parts of acts inconsistent and conflicting with the provisions of this act are hereby repealed, but the repeal of said acts or parts of acts shall not in any manner affect, injure or invalidate any contracts, claims, penalties or demands that may have been entered into, performed, commenced or that may exist under, or by virtue or in pursuance of the said act, or any former act incorporating the village of Cumberland or any of them; but the same shall exist and be enforced, and carried out and be completed as fully and effectually, to all intents and purposes, as if this act had not been passed.

SECTION 25. This act shall take effect and be in force from and after its passage and publication.

Approved March 27, 1885.

[No. 281, A.]

[Published April 8, 1885.]

## CHAPTER 148.

AN ACT to amend the city charter of the city of Kewaunee relating to the construction of bridges and sidewalks.

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

Authorized to build a draw-bridge.

SECTION 1. The city of Kewaunee is hereby authorized to build and maintain a draw-bridge across the Kewaunee river at either of the following described points:

First. To cross said river at right angles to the thread of the stream thereof, at a point where the line between lots fifteen and sixteen, of block twelve in said city, intersects with said river, according to the plat and survey of said city, made