

[No. 316, A.]

[Published March 26, 1887.]

CHAPTER 124.

AN ACT to revise, consolidate and amend the act to incorporate the city of Sheboygan, and the several acts amendatory thereof.

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

TITLE I.

CITY AND WARD BOUNDARIES.

Corporate
name.

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

Corporate
limits.

SECTION 2. The territory included within the following limits and boundaries shall constitute the city of Sheboygan, to wit: Beginning on the shore of lake Michigan where it is intersected by the east and west quarter line of section fourteen (14) of township fifteen (15) north, of range twenty-three (23) east, in said county of Sheboygan, running thence west along said quarter section line and the continuation thereof, to the center of section fifteen (15), of the township aforesaid; thence south on the north and south quarter line of section fifteen (15), twenty-two (22) and twenty-

seven (27), in the same township, to the south line of section twenty-seven (27); thence east along the south line of sections twenty-seven (27) and twenty-six (26) and the continuation thereof, to the east boundary of said county; thence north on said east boundary of said county to a point due east of the place of beginning, and thence west to the place of beginning.

SECTION 3. The said city shall be divided into eight (8) wards numbered and bounded as follows, to-wit: The First ward shall embrace all that part of said district, which lies north of the center of the alley between Niagara and Ontario streets, and east of the center of Eighth street. The Second ward shall embrace all that part of said district between the channel of the Sheboygan river on the south and the southern boundary of the First ward on the north, which lies east of the center of Eighth street. The Third ward shall embrace all that part of said district which lies within the following boundaries, to-wit: Commencing at the point of intersection of the center of Eighth street with the center of the alley between Niagara and Ontario streets, running thence west along the center of said alley and the continuation thereof to the channel of the Sheboygan river; thence down the channel of said river to a point opposite to the center of Eighth street and thence north along the center of Eighth street to the place of beginning. The Fourth ward shall embrace all that part of said district which lies within the following boundaries, to-wit: Beginning at the mouth of the Sheboygan river, running thence up the channel of said river to a point opposite the center of Walnut street; thence south on the center of Walnut street to the center of the right-of-way of the Chicago & Northwestern Railway Company; thence west along the center of said right-of-way to the center of Spruce street; thence south to the southern boundary of said city; thence east along said southern boundary to the east boundary line of said city, and thence north to the place of beginning. The Fifth ward shall embrace all that part of said district which lies west of the center of Spruce street, and south of the center of the right-of-way of the Chicago & Northwestern Railway Company. The Sixth ward shall embrace

Ward boundaries.

all that part of said district west of the center of Walnut street, which lies between the channel of the Sheboygan river and the center of the right-of-way of the Chicago & Northwestern Railway Company. The Seventh ward shall embrace all that part of said district which lies west of the Eighth ward and north of the channel of the Sheboygan river. The Eighth ward shall embrace all that part of said district which lies within the following boundaries, to-wit: Beginning at a point in the north line of said city, due north of the center of Eighth street, running thence due south to the intersection of the center of Eighth street with the center of the alley between Niagara and Ontario streets; thence west along the center of said alley, and the continuation thereof, to the channel of the Sheboygan river; thence up the channel of said river to a point due south of the center of Thirteenth street; thence north along the center of Thirteenth street to its intersection with the center of the Calumet plank road; thence northwest along the center of said plank road to its intersection with the center of Kinzie street; thence north along the center of Kinzie street to the north boundary line of said city, and thence east along said north boundary line to the place of beginning.

TITLE II.

OFFICERS AND ELECTIONS.

Elective and
appointive
officers.

SECTION 1. The elective officers of said city shall be a mayor, a supervisor, and two aldermen from each ward, a city treasurer, a city comptroller, a city clerk, a city attorney, a city assessor, a municipal judge, three justices of the peace, and one school commissioner from each ward, constituting the school board for said city. The appointive officers of said city shall be a city engineer, a superintendent of poor, a city physician, a sealer of weights and measures, a board of cemetery commissioners, a board of public works, a harbor-master, and as many bridge tenders, firemen, policemen and such other officers and agents as may be provided for by this act, or as the common council may deem necessary.

SECTION 2. The municipal elections in said city shall be held on the first Tuesday in April, 1887, and on the first Tuesday in April annually thereafter, at such place or places in each ward as the common council shall designate, at which time shall be elected by the qualified electors of said city, in the manner hereinafter provided, all city officers required to be elected at a general municipal election. The polls of said election shall be opened and closed at the same hours which are or may be prescribed by law for opening and closing the polls at general elections in the state of Wisconsin. Ten days' previous public notice of the time and place of such election, and of the officers to be elected, shall be given by the city clerk by publication in the official papers of said city.

Annual election, when held.

SECTION 3. The mayor, treasurer, clerk, attorney, comptroller, assessor and justice of the peace shall be elected on the first Tuesday in April, 1887, being the first municipal election under this act, and biennially thereafter. The officers so elected shall enter upon the duties of their respective offices on the third Tuesday of April in the year of their election, and shall hold their offices for the term of two years, and until their successors shall be elected and qualified.

First election.

SECTION 4. Each ward in said city, created by this act, shall be represented in the common council by two aldermen, who shall be residents of the ward which they represent, and shall hold their office, except as in this section otherwise provided, for the term of two years from and after the third Tuesday in April in the year of their election. The first common council under this act shall be organized and enter upon its duties on the third Tuesday of April, 1887, and shall be composed as follows, to-wit: The present aldermen, whose term of office expires on the third Tuesday of April, 1888, shall represent the wards in which they respectively reside, and at the said first municipal election, the qualified electors of each of the remaining wards of said city, created by this act, shall elect one alderman for the term of one year, and at said first municipal election, and annually thereafter, the qualified electors of each ward of said city shall elect one alderman for the term of two years.

Representation of wards.

SECTION 5. If any alderman shall remove from

What constitutes a vacancy.

the ward represented by him, or shall engage in any service, employment or business causing a continuous absence from the city of more than two months, his office shall thereby become vacant, and when any vacancy shall in any manner occur, in the office of alderman, the common council shall within ten days after the occurrence thereof, order a new election to fill such vacancy, of which due notice shall be given as hereinbefore provided; provided, that more than three months of the term of office shall remain unexpired.

Election of justices of the peace.

SECTION 6. At the said first municipal election, and biennially thereafter, there shall be elected by the qualified electors of the first and second wards of said city, one justice of the peace, who shall be a resident of and hold his office in one of said wards. At said first municipal election, and biennially thereafter, there shall be elected by the qualified electors of the Fourth, Fifth and Sixth wards of said city one justice of the peace, who shall be a resident of and hold his office in one of said wards. And at said first municipal election and biennially thereafter, there shall be elected by the qualified electors of the Third, Seventh and Eighth wards of said city, one justice of the peace, who shall be a resident of and hold his office in one of said wards. The term of office of all the justices of the peace so elected shall be two years. The justices of the peace now in office shall continue in office until the expiration of his term of office.

School commissioner, how elected.

SECTION 7. At said first municipal election, the qualified electors of each of the even numbered wards of said city, shall elect one school commissioner, whose term of office shall expire on the third Tuesday of April, 1889, and at the municipal election to be held on the first Tuesday in April, 1889, and every fourth year thereafter the qualified electors of each of said even numbered wards shall elect one school commissioner, and at said first municipal election, and every fourth year thereafter, the qualified electors of each of the odd numbered wards of said city shall elect one school commissioner. The term of office of each of said school commissioners shall, except as above provided in this section, be for four years from and after the third Tuesday in April in the year of

their election. The school commissioners shall be residents of the ward from which they are elected, and freeholders of said city.

SECTION 8. All officers of said city not declared Appointed officers. elective by this act, and all other officers necessary for the proper management of the city affairs, shall be appointed by the mayor, subject to confirmation by the common council. All appointments made by the mayor shall be in writing and filed in the office of the city clerk.

SECTION 9. All elections by the people shall be Elections to be by ballot. by ballot, and a plurality of votes shall constitute an election. Whenever 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 casting lots in the presence of the common council, at such time and in such manner as the common council shall direct. All persons entitled to vote for county and state officers shall be entitled to vote in the ward in which they reside for any officer to be elected under this act, and, except as herein otherwise provided, shall be entitled to hold any office hereby created, and all officers shall hold their office until their successors are elected and qualified.

SECTION 10. Whenever the total number of Election precincts. votes polled at any election shall exceed five hundred (500) in any ward created by this act, the common council may, by ordinance, divide such ward into two election precincts, by such geographical boundaries and divisions as they may think proper, and each voter shall deposit his ballot in the election precinct wherein he resides,

SECTION 11. The inspectors of election shall be Inspectors. appointed by the mayor at the time and in the manner prescribed by the general laws of the state of Wisconsin.

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

the clerk shall forthwith give notice of his election to each officer elected.

What shall be a vacancy in office.

SECTION 13. In case of the dismissal of any officer or in case of the removal of any officer from the city, or when any officer elected or appointed in and for or from any ward or division of the city shall remove his residence without the limits of such ward or division, or when any officer shall refuse or neglect for twenty days after notice of his election or appointment, to qualify and enter upon the discharge of his duties of office, his office shall be deemed vacant, and whenever a vacancy shall occur in such manner or in any other manner, in any office to be filled by an election by the people, the common council shall order a new election, upon a public notice, as required in section 2, of this title, and when any vacancy shall occur in any office to be filled by the common council, the same proceedings shall be had to fill such vacancy as are required for the election in the first instance. When any vacancy shall occur in any appointive office the same shall be filled by nomination by the mayor, and confirmation by the council, in the same manner as required by section 8, of this title.

Special elections to fill vacancies.

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

TITLE III.

GENERAL POWERS AND DUTIES OF OFFICERS.

General powers and duties of officers.

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

ties of his office, execute to the city of Sheboygan a bond with two or more sureties, who shall make affidavit that they are worth in the aggregate double the sum named in such bond as the penalty, over and above all their debts, exemptions and liabilities; and such bond shall contain such penal sum and conditions as the common council shall deem proper, and shall be subject to the approval of said council. And the common council may, from time to time, require new or additional bonds, and remove from office any officer refusing or neglecting to give the same. The bonds of the city treasurer and clerk, and all other officers who may be charged with the collection, safe-keeping, disposition or distribution of any funds of said city, or may have the control of the same at any time, shall be duly witnessed and acknowledged, and recorded in the office of register of deeds of Sheboygan county. The bond of the city clerk shall be filed with the city treasurer.

SECTION 2. The mayor shall, when present, Duties of the mayor defined. 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 the officers of the city discharge their respective duties. He shall from time to time give the common council, in writing, such information and recommend such measures as he may deem advantageous to the city. He shall be the chief executive officer of the city, and the head of the police and fire departments, and when in his judgment occasion requires, he may appoint as many special or temporary policemen as he may deem necessary; but the appointments shall not continue beyond the next meeting of the common council, unless authorized by the council. The mayor, at the first regular meeting of the common council in each year, shall appoint all officers required by this act to be appointed, and announce all standing committees required by this act or by ordinances, rules or regulations of the common council. The mayor shall decide all matters upon which the common council is equally divided.

SECTION 3. The common council shall, at their first meeting for organization, after each charter election, choose by ballot one of their number as president, who shall, in the absence of the mayor, Election of president of the council.

preside over their meetings for the ensuing year. In case of a vacancy in the office of mayor, or his being unable to perform the duties of the office, by reason of sickness or absence, the president of the council shall have and exercise all the powers and discharge all the duties of mayor, until the mayor shall resume his office or the vacancy shall be filled; provided, that the president or other presiding officer of the council shall do or perform no act which the mayor shall have refused to do or perform. In case the mayor and president shall be absent from any meeting of the common council, the council shall proceed to elect a temporary presiding officer, who for the time being, shall have all the powers and perform all the duties of the mayor. The president or temporary presiding officer, while performing the duties of mayor, shall be styled acting mayor, and all acts performed by the acting mayor shall have the same force and validity as if performed by the mayor.

Duties of the city clerk defined.

SECTION 4. The city clerk shall keep his office at the place designated by the common council, where he shall be in attendance during such reasonable hours as the common council may require. He shall keep the corporate seal, and all papers and records of the city. He shall attend all meetings of the common council, and keep a full record of its proceedings. He shall draw and sign all orders on the treasury, except as otherwise provided in this act, in pursuance of an order or resolution of the common council, and shall keep a full and accurate account thereof, in books provided for that purpose. Copies of any and all books, papers, instruments or documents, duly filed and kept in his office, and copies of the endorsements thereon and transcripts from the records and proceedings of the common council, certified by him under the corporate seal of the city, shall be evidence in all courts and places, of the contents thereof, and of such endorsements, in like manner and of the same force and effect as if the originals were produced. He shall have power to administer oaths and affirmations authorized by law to be taken. He shall take care that all ordinances, orders, resolutions, regulations notices and other matters, requiring publication, are promptly and correctly published in the proper papers, and that proof thereof be made and re-

corded. And he shall perform such other duties as may be required of him by the common council and by the general laws of the state and the provisions of this act, all without extra compensation.

SECTION 5. It shall be the duty of the city comptroller to make out and report to the common council, at its first regular meeting in the month of September, in each year, a statement in detail of all the expenses of the city and the condition of its funds and revenues for the preceding year, and an estimate of the city expenses, the amounts required for the several city and ward funds, and the revenue necessary for the current year. He shall make out a list of all the outstanding bonds and coupons, the date of issue and maturity thereof, where and to whom payable, the rate of interest, and the purposes for which they were issued, and recommend to the common council such action as will best secure the punctual payment of the principal and interest of such bonds. He shall make out or cause to be made out estimates of the expenses of any work to be done by the city and shall examine all estimates of work to be done by the board of public works, and countersign all contracts entered into by the city, or any ward thereof, and countersign all orders, contracts and certificates of work entered into by the board of public works, and unless they be so countersigned they shall have no validity. And no money shall be drawn from the city treasury for work done on any contract before it was countersigned by him. He shall countersign all orders drawn upon the city treasury and keep a correct record thereof. He shall, in no case countersign contracts for the expenditure of money by the city, until the means of paying for the same shall have been provided by the common council and for a violation of his duty in this respect he and his bail shall be liable for all damages resulting to the city or any individual. Duplicate receipts shall be given by the treasurer for all moneys received into the treasury, one of which shall be deposited with the comptroller, and the other countersigned by him. He shall keep a full account of all the separate funds of the city and the wards thereof, and the several amounts received to the credit of the same respectively, and

Duties of the
city comptroller defined.

the amounts severally paid from the same. He shall countersign no draft or order on the treasury unless the same shall specify the particular fund from which it shall be paid, and the fund so specified shall be good for the amount of such draft or order. He shall make copies of the assessments of the property of the city, when required, and make and complete all tax rolls. He shall audit all claims and demands against the city before the same are acted upon by the common council, and keep a full account thereof. He shall keep a full account of all receipts into the treasury, and the disbursements therefrom, and of all contracts countersigned by him, and claims for damages against the city. He shall report to the common council, at its first meeting in each month, the amount of all contracts which have been entered into chargeable to the general fund of said city, the bills, claims and demands that have been audited, and against what fund, and the balance in each fund. He shall keep a record of his acts and doings, which shall be open to the inspection of all parties interested. He shall not be directly or indirectly interested in any contract or job to which the city or any ward thereof shall be a party. He shall perform such other duties as the common council, by ordinance or resolution, may direct.

Duties of the treasurer defined.

SECTION 6. The treasurer shall receive all moneys belonging to the city, and keep a detailed and accurate account thereof, together with an account of all disbursements, in such books and in such manner as the common council may direct; he shall collect all licenses, duties and moneys, all taxes and assessments which may be levied or assessed upon the real and personal property in the city, and exercise the same powers, when not otherwise prescribed by this act, as control and govern town treasurers, and shall be subject to the same liabilities; provided, that he shall receive no fees for his services except such salary as he shall be paid by the city. He shall pay all orders, which specify the fund out of which they are to be paid, drawn upon the treasury, by order of the common council, or as may be otherwise directed and authorized by this act, out of the proper fund; he shall report quarterly to the comptroller, a full and detailed account of all receipts and expendi-

tures since the date of his last quarterly report, and he shall at the same time report as to the condition and balances of the separate funds thereof, which reports shall be filed with the city clerk. He shall at the end of each month deposit at the bank or places of deposit selected by the common council, the balance in the treasury over fifteen hundred (1,500) dollars.

SECTION 7. The city attorney shall conduct all the law business of the city, and of the departments thereof, and all other law business in which the city shall be interested, when so ordered by the common council. He shall when required, furnish written opinions upon subjects submitted to him by the mayor, or the common council, or any of its committees, or any of the departments of the municipal government. He shall keep a docket of all the cases in which the city is a party, in any court of record, in which he shall briefly enter all steps taken in each case, and the date thereof, which docket shall, at all times, be open to the inspection of the mayor, comptroller or any committee of the common council. He shall draft all ordinances, bonds, contracts, leases, conveyances, and such other writings and written instruments as the common council may require. He shall perform such other duties as may be required of him by ordinance or resolution of the common council. He shall be the attorney of record in all cases for and against the city; provided that the common council shall have power to appoint any other attorney to transact any business or to assist the city attorney in the transaction of any business.

Duties of city attorney defined.

SECTION 8. The city engineer shall be a practical surveyor and engineer. He shall keep his office at some convenient place within the city. He shall perform all duties required of him by this act and by resolution or ordinance of the common council. He shall, when required, make surveys, profiles, plans, specifications and estimates for the grading of any street, alley or public grounds, for the building and construction of reservoirs, sewers and public drains, and for the establishment of dock and wharf lines. He shall make such written recommendations to the common council, to the aldermen of any ward, and to any committee of said city, as he may deem

Duties of city engineer defined.

proper. He shall, when requested, examine any public work or improvement, done under any contract with the city or any ward thereof, and make true reports of such examination to the common council. He shall, when requested, attend any meetings of the common council, or any committee thereof, or of the city. He shall sit with the board of public works, when requested so to do by any member of said board. All surveys, profiles, plans and estimates for the city, or any ward thereof, shall be the property of the city and safely kept and preserved in his office, open to the inspection of all parties interested. He shall, when required by the common council, file with the city clerk duly certified copies of any plans, surveys, profiles and estimates. He shall deliver to his successor in office all books and papers appertaining to his office. All surveys, profiles, plans and estimates made by him by order of the common council or any committee of the city shall be prima facie evidence in all courts in this state. His compensation shall be fixed by the common council, and may be allowed either in the form of a per diem, fees, or a stated salary.

Board of cemetery commissioners.

SECTION 9. The board of cemetery commissioners shall consist of three commissioners, to be appointed by the mayor, at the time and in the manner prescribed in section 8, of title 2, of this act. The term of office of cemetery commissioners shall be six years from the third Tuesday of April in the year of their appointment; provided, that the cemetery commissioners now in office shall hold their offices until the expiration of the term for which they were appointed; and, provided further, that the commissioners first to be appointed under this act shall be appointed and hold their office for such length of time as will make the expiration of their several terms of office two years apart, and thereafter one commissioner shall be appointed every second year. The commissioners so appointed, or holding over, shall organize by the election of a president and clerk from their own number. Such board shall have the supervision and care and charge of the cemetery of the city, under the direction of the common council. They shall draw all orders on the cemetery fund, which when countersigned by the

comptroller, shall be paid out of that fund by the city treasurer. The common council shall, by ordinance establish such rules and regulations in relation to their duties and supervision as said council shall from time to time deem proper. They shall have the power to appoint a sexton and employ such assistance and workmen as they shall deem necessary, subject to the approval of the common council. The executive powers and duties of said board may be performed by any member thereof, to be designated by the board, who shall receive such compensation, to be paid out of the cemetery fund, as said board shall prescribe, when approved by the common council. Each of said commissioners and the sexton shall have full police powers within all cemetery grounds of said city, to preserve the peace and protect the property therein, and it shall be their duty to arrest any person or persons found in said grounds in a state of intoxication or acting in a boisterous and indecent manner, and for such purposes all cemetery grounds shall be deemed and taken to be a part of said city.

SECTION 10. The chief of police shall attend all meetings of the common council, and shall perform such other duties as shall be prescribed by the council, for the preservation of the public peace, and the collection of licenses and fines, and he shall receive such compensation as the council may prescribe. He shall possess all the powers of constables of towns, and be subject to the same liabilities. He shall execute and return all writs and processes to him directed, and, when necessary in criminal cases, or for the violation of any ordinance of said city or law of the state, may pursue and serve the same in any part of the state. He shall suppress all riots, disturbances and breaches of the peace, and abate all nuisances in said city. He shall apprehend all persons in the act of committing any offense against any ordinance of said city or law of this state, and within a reasonable time bring such persons before the municipal judge or other competent authority for examination or trial. He shall, under the supervision of the mayor, have the control and supervision of all policemen of said city, and he shall from time to time make a report to the common council as to the efficiency of the po-

Duties of chief
of police.

lice force of said city, and the number of arrests made by the police department, and the occasion therefor, and he shall make such other reports and perform such other duties as the common council may require.

Duties of chief engineer defined.

SECTION 11. The chief engineer of the fire department, shall, under the mayor, have the control and management of all fire-engines, hose carts, and other apparatus belonging to the fire department of said city, and full control of all fire companies of said department. He shall see that all ordinances of the city in relation to the fire department and to protection against fire are duly enforced. He shall have all the powers of a fire warden to prevent the construction of improper and dangerous chimneys, fire places, stoves and stove pipes. He shall make quarterly reports to the common council, of the condition of the fire department of said city, and recommend the purchase of such supplies and apparatus for the fire department as he shall deem necessary, and perform such other duties as may be required of him by the common council.

Duties of city physician.

SECTION 12. The city physician shall medically treat and provide medicines for all the poor of said city, on the direction of the mayor or superintendent of poor, and perform all surgical services necessary to be performed. He shall furnish the board of health, the mayor and the common council of said city, such written information in regard to the public health of said city as may be required of him, and recommend such cautionary or preventive measures, in case of threatened epidemic as public health may require, and he shall perform such other duties as may be required of him by the common council.

Duties of superintendent of poor.

SECTION 13. The superintendent of the poor shall have the care and management of the poor of said city. He shall make all notices required to be made, and perform all duties in relation to the poor of said city, that the supervisors of towns are required by law to do or make. And he shall perform such other duties as the common council may by ordinance require.

Duties of sealer of weights and measures.

SECTION 14. The sealer of weights and measures shall perform such duties as the common council may require, and in addition to his duties as sealer of weights and measures, he may be re

quired to act as inspector of boilers and engines, and to superintend the weighing of coal, wood, hay and such other commodities as the common council may require.

SECTION 15. All officers elected or appointed under this act, except as in this act otherwise provided, shall hold their office for the term of two years and until their successors are duly elected, appointed and qualified, and all elections or appointments to fill vacancies shall be for the expiration of the term of office in which the vacancy to be filled occurs. The salaries of all officers under this act shall be fixed before the term of office begins, and the same shall be neither increased nor diminished during the term of office for which the salary was fixed.

Officers to be elected for two years.

SECTION 16. The common council at their first meeting in each year, or as soon thereafter as may be, shall designate two newspapers printed in said city, one in English and the other in German, which shall be the official papers, and in which shall be published all ordinances, notices and other proceedings, required by this act, or by resolution or ordinance of the common council, to be published in a newspaper. The city printer or printers immediately after the publication of any notice, ordinance or resolution, which by this act is required to be published, shall file with the city clerk, a copy of such publication, with his or their affidavit, or the affidavit of his or their foreman, of the length of time the same has been published; and such affidavit shall be conclusive evidence of the publication of such notice, ordinance or resolution.

Official newspapers.

SECTION 17. If any person having been an officer in said city, shall not, within ten days after notification and request, deliver to his successor in office, all property, books, papers and effects of every description, in his possession, belonging to said city, or appertaining to the office he may have held, he shall forfeit and pay to the use of the city one hundred dollars, besides all damages caused by his neglect or refusal so to deliver, and such successor may recover the possession of such books, papers and effects in the manner prescribed by the laws of this state.

Penalty for failure to deliver to successor.

TITLE IV.

GENERAL POWERS OF THE COMMON COUNCIL.

Municipal gov-
ernment, in
whom vested.

SECTION 1. The municipal government of said city shall be vested in the mayor and common council, and the style of all ordinances shall be, "the mayor and common council do ordain." The common council shall meet on the Third Tuesday of April after each municipal election, and shall hold their stated meetings at such times and places as they shall appoint, and the mayor or the president of council may call special meetings thereof by notice, of at least twenty-four hours, to each of the members, to be served personally, or left at his usual place of abode. The common council shall determine the rules of their own government and proceedings, provided such rules are consistent with the provisions of this act. Three-fifths of the members elect shall constitute a quorum for the transaction of business, but a smaller number may adjourn; their meetings shall be open and public, their proceedings shall be recorded, and all their papers and records, and all election returns shall be deposited with the city clerk, and each member of the common council shall be entitled to one vote and no more, on any one question. The ayes and noes may be required by any member, and on all questions, ordinances or resolutions for assessing and levying taxes, or for the appropriation or disbursement of money, or creating any liability or charge against the city, or any ward thereof, the vote shall be taken by ayes and noes, and every vote by ayes and noes shall be entered upon the journal at length. The common council shall be the judge of the election and qualification of its own members, and may punish its members or other persons present, by fine, for disorderly behavior, and may compel the attendance of its members upon its sessions, and employ the police of said city for that purpose, and may fine or expel any member for neglecting his duty as such member, or for unnecessary absence from the sessions of the council.

SECTION 2. The common council shall have

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

Management and control of finances.

1. To regulate taverns, groceries, victualing houses, saloons, gardens and all other places within said city where wines and other liquors are sold to be drank on the premises; and to license, regulate and restrain tavern keepers, keepers of restaurants, saloons, or other houses or places for the selling or giving away of spirituous, vinous or fermented liquors, and to restrain any person from vending, giving away or dealing in spirituous, vinous or fermented liquors, unless duly authorized by the common council; provided, that the amount charged for such licenses shall in no case be less than the minimum amount, at the time of issuing the license, fixed by the general laws of this state.

Issue of licenses.

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

Billiard halls, etc.

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

Shows and showmen.

Gaming and
fraudulent de-
vices.

4. To restrain and prohibit all descriptions of gaming and fraudulent devices and practices, and all playing of cards, dice and other games of chance, for the purpose of gaming, in said city, and to restrain and prohibit the keeping open of groceries, shops, stores, saloons and other places of amusement or business on Sunday in said city, and to prohibit the performance of secular business on that day.

Riots, noise
and gaming.

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

Nauseous
houses.

6. To compel the owner of any grocery, cellar, tallow-chandler 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 deemed necessary for the convenience, health and comfort of the inhabitants of said city.

Breweries,
slaughter
houses, etc.

7. To regulate the management and location of breweries, taneries and packing houses, and to direct the location, management and construction of, and regulate, license, restrain, abate or prohibit, within the city, and the distance of one mile therefrom, distilleries, slaughtering houses, establishments for steaming or rendering lard, tallow, offal, and such other substances as can or may be rendered, and all establishments or places where any nauseous, unwholesome or offensive business may be carried on.

Markets.

8. To establish and regulate public markets, determine their location, and make rules and regulations for the government of the same; to appoint suitable officers for overseeing and regulating such markets, and to restrain all persons from interrupting or interfering with the observance of such rules and regulations.

Sale of provis-
ions.

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

10. To direct or prohibit the location and man-

- agement of houses for the storing of gunpowder or other combustible materials within the city. Combustible materials.
11. To regulate the keeping and conveying of gunpowder and other combustible and dangerous materials, and the use of candles and lights in barns, stables and outhouses. Candles, lights.
12. To prevent the shooting of fire-arms and fire-crackers, and to prevent the exhibition or use of any fire-works, at any time or in any situation which may be considered dangerous by the common council to the city, or to any property therein, or annoying to the citizens thereof. Shooting fire-arms, etc.
13. To prevent the encumbering of the streets, alleys, public grounds, sidewalks, wharves and docks with carriages, wagons, carts, sleds, wheelbarrows, boxes, lumber, fire-wood, timber, posts, signs, awnings, or any other substance or material, or in any manner whatever. Encumbering streets.
14. To prevent horse racing, immoderate riding or driving in the streets, and to authorize any person to stop persons immoderately riding or driving as aforesaid; to prohibit and punish the abuse of animals, and to compel persons to fasten their horses, oxen or other animals attached to vehicles or otherwise, while standing or remaining in any street, alley or public ground. Horse racing, etc.
15. To regulate the times and places of bathing and swimming in the river, harbor or other waters in or adjoining said city, and to prevent any obscene or indecent exposure, exhibition or conduct. Bathing and swimming.
16. To restrain and punish vagrants, mendicants, street beggars and prostitutes, and to restrain drunkards, immoderate drinking or obscenity in the streets or public places, and to provide for arresting, removing and punishing any person or persons who may be guilty of the same. Punish vagrancy.
17. To restrain, regulate and prohibit the running at large of any cattle, horses, swine, mules, sheep, goats, poultry and geese, and to authorize the distraining, impounding and sale of the same for the penalty incurred and the cost of the proceedings; and also to impose penalties on the owners of any such animals for a violation of any ordinance in relation thereto. Restrain cattle.
18. To prevent the running at large of dogs in said city, and to authorize the destruc- Restrain dogs.

tion of the same in a summary manner, when at large contrary to the ordinances.

Suppress hackmen.

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

Games in streets.

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

Infectious diseases.

21. To regulate, control and prevent the landing of persons from boats and vessels wherein are contagious or infectious diseases or disorders, and to make such disposition of such persons as to preserve the health of said city, and also to make regulations to prevent the introduction of contagious diseases into the city, or their spread therein, and to make quarantine laws and regulations and enforce the same within the city.

Abate nuisances.

22. To abate all nuisances which are or may be injurious to the public health, in any manner they may deem expedient for the preservation of health and the suppression of disease.

Cemetery grounds.

23. To provide for and hold cemetery grounds for the burial of the dead, and to improve, protect and regulate the same; to provide by ordinance or resolution for the punishment by fine and imprisonment of any person or persons for injuring in any manner the fences, ornaments, trees, shrubbery, plants, grave-stones, monuments, railings, buildings, or other fixtures or improvements on the same, or for violation of any ordinance or regulation of the common council enacted for the protection of such cemeteries against trespassers, and for that purpose all cemetery grounds owned by the city shall constitute and be held to be a part of the territory of the city, and to be within the jurisdiction thereof. To regulate the burial of the dead and the registration of births and deaths; to direct the returning and keeping of bills of mortality and to impose penalties on physicians, sextons and others for any default in the premises; also to provide for, hold and regulate grounds for interment of dead animals.

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

Removal of all nuisances.

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

Decomposing substances.

26. To erect or establish pest houses and to control and regulate the same.

Pest houses.

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

Unpleasant noises.

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

Whistles.

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

Sprinkling streets.

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

Removal of snow, rubbish, etc.

31. To control, regulate, repair, amend and clean the streets and alleys, bridges and side and cross walks, and open, widen, straighten streets and alleys, and to vacate the same, and alter the grade thereof, and to prevent the encumbering of

Control and repair of sidewalks.

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

Driving on sidewalks.

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

Public pounds.

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

Lighting streets.

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

Size and weight of bread.

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

Weights and measures.

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

Hay, wood, etc.

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

Public auctions and vendues.

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

License auctioneers.

39. To tax, license and regulate auctioneers, distillers, brewers, and pawnbrokers and all

keepers or proprietors of junk shops and places for the same or purchase of second hand goods, wares and merchandise, and to tax, license, regulate and restrain hawkers and peddlers, and runners or solicitors for steamboats, vessels, cars, railroads, stages, public houses and other establishments; and other runners, including runners or solicitors for merchantile houses from other cities and towns, for the sale of goods, wares and merchandise by sample or otherwise; and keepers or proprietors of gift book stores, gift concerts and other gift enterprises, and to fix and regulate the amount of licenses under this subdivision, and to prescribe the time for which such license shall be granted, and to provide and enforce penalties for the carrying on of either of said trades, kinds of business or employments, without license; provided, that no such license shall be granted for a less term than three months, nor for a longer term than one year, and that the amount to be paid for any such license shall not be less than at the rate of twenty dollars per year, nor more than fifty dollars per year, for the carrying on of either of said trades, kinds of business or employments.

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

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

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

43. To regulate the inspection of whiskey and other liquors, to be sold in barrels, hogsheads and other vessels. Inspector of whiskey.

44. To provide for the inspections and regulation of stationary steam engines and boilers. Boilers.

45. To appoint inspectors, weighers and gaugers, and to regulate their duties and prescribe their fees. Weighers and gaugers.

46. To regulate and prohibit the use of locomotive engines within the city, and to require railroad cars to be propelled by other power than that of steam; to direct and control the location of railroad tracks, and to require railroad companies to construct, at their own expense, such Regulate locomotives.

bridges, viaducts, tunnels or other conveniences at public crossings, as the common council may deem necessary; also to regulate the running of horse railway cars, the laying down of tracks for the same, and the transportation of passengers thereon, and the kind of rail to be used.

Watchmen and policemen. 47. To appoint watchmen and policemen, and regulate the police and prescribe their duties.

Numbering houses. 48. To compel the owners and occupants of all houses, stores, and other buildings within the city to number the same in such manner as the common council may from time to time prescribe.

Fines and penalties. 49. To impose fines for all violations within the limits of said city, of the general laws of this state, when in their judgment it is necessary for the peace, good order or health of said city.

Trees. 50. To direct and regulate the planting and preserving of ornamental trees in the streets and public grounds.

Defiling waters. 51. To preserve the harbor; to prevent any use of the same, or any act in relation thereto, inconsistent with or detrimental to the public health, or calculated to render the waters of the same, or any part thereof, impure or offensive, or tending in any degree to fill up or obstruct the same; to prevent and punish the casting or depositing therein of any earth, dead animals, ashes, or other substance or filth, logs or floating matter; to regulate and prescribe the mode and rate of speed of entering and leaving the harbor, of passing the bridges, and of coming to and departing from wharves and streets of the city, by steamboats and other crafts and vessels, and the disposition of sails, yards, anchors and other appurtenances thereof, while entering, leaving or abiding in the harbor; and to regulate and prescribe, by such ordinances, for the carrying on of either of said trades, kinds or through their harbor-master or other authorized officer, such location of every steamboat, or other vessel or craft afloat, and such changes of stations in, and use of the harbor, as may be necessary to promote order therein, and the safety and equal convenience, as near as may be, of all such steamboats, vessels, crafts and floats; and to impose penalties, not exceeding one hundred dollars, for any offense against any such ordinance; and by such ordinance to charge such penalties, together with such expenses as may be incurred by the

city in enforcing this section, upon the steamboat or other vessel, craft or float.

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

Piers and wharves.

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

Lease wharfing privileges.

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

Educate destitute children.

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

Vagrants.

persons who go about for the purpose of gaming or watch stuffing or who shall have in their possession any article or thing used for obtaining money under false pretences, or who shall disturb any place where public or private schools are held, either on week days or Sunday, or places where religious worship is held.

Concealed
weapons.

56. To prevent or prohibit any person from carrying or wearing under his clothing, or concealed about his person, any pistol, revolver, slung-shot, cross-knuckles, knuckles of lead, brass or other metal, bowie-knife, dirk knife, dirk, dagger, or any other dangerous or deadly weapon, and to provide for the confiscation and sale of such weapons.

Construction of
chimneys.

57. To control the construction of buildings, chimneys and smoke-stacks, and to prevent the erection or maintenance of any insecure or unsafe buildings, smoke-stacks, walls or chimneys, in said city, and to declare them to be nuisances, and to provide for their summary removal or abatement.

Safety of public
buildings.

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

Public
grounds of the
city.

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

How ordinances
shall be
passed.

SECTION 3. All ordinances, rules, regulations and by-laws shall be passed by an affirmative vote of a majority of the members present of the common council, and shall be signed by the mayor or presiding officer of the council, and shall be published in the official papers of said city before the same shall be in force, and within fifteen days after such publication, they shall be recorded by the city clerk, in books to be provided for that

purpose; but, before any of the said ordinances, laws, rules, regulations or by laws shall be so recorded, the publication thereof respectively, within the said time, shall be proved by the affidavit of the foreman or publisher of each of said papers, and said affidavits shall be recorded therewith, and at all times and in all courts and places, shall be deemed and taken as conclusive evidence of the time and manner of such publication. No ordinance shall be passed, nor appropriation shall be made, and no act, regulation, resolution or order which may create a debt or liability against said city or a charge upon any fund thereof, shall be passed or adopted without a vote in favor thereof by a majority of all the members entitled to seats in the common council, which vote shall be taken by ayes and noes, and recorded among the proceedings of the common council; and when the grade of any street shall have been established by ordinance and such street shall have been actually made to conform to such established grade, under the direction of the proper authorities of said city, such grade shall not thereafter be changed except by a vote of two-thirds of all the members elect of the common council, including the unanimous vote of all the members elect of said council from the ward or wards in which the proposed change is to be made, in favor thereof; and the vote in every such case shall be taken by ayes and noes, and shall be entered upon the journal of the common council.

SECTION 4. All ordinances, petitions and communications to the common council, and all accounts and regulations appropriating money or creating any charge against any of the funds of said city shall be referred to appropriate committees, and shall only be passed or acted upon by the common council at a subsequent meeting, not held on the same day, on the report of the committee to which the same was referred. Action upon any report of a committee to the common council shall be deferred to the next regular meeting of the same, on the request of any three members of the council, when the report shall be acted upon.

Committee on accounts.

SECTION 5. No vote of the common council shall be reconsidered or rescinded at a special meeting, unless at such special meeting there

When vote can not be rescinded.

shall be present as many members of the council as were present when the vote was cast.

Certificate of clerk needed.

SECTION 6. Every act, ordinance, by-law, regulation or appropriation which shall have been duly passed by the common council, before it shall take effect, and within ten days after its passage, shall be duly certified by the city clerk, and presented to the mayor for his approval. If the mayor approve the same he shall sign it, if not, he shall return it within ten days with his objections thereto stated in writing, to the city clerk, who shall submit such objections to the common council at their next regular meeting thereafter, and the said objections shall be entered upon the journal, and the common council shall proceed to reconsider the matter; and if, after such reconsideration, two-thirds of all the members elect shall vote to pass the said act, ordinance, by-law, regulation, resolution or appropriation, it shall take effect and be in force as a law of the corporation; otherwise it shall be null and void. All such votes after receiving the objections of the mayor, shall be taken by the ayes and noes, and entered upon the journal of the common council. If the mayor shall not return any act, ordinance, by-law, resolution, regulation or appropriation, so presented to him, within ten days after receiving the same, it shall take effect in the same manner as if he had signed it.

Shall not bar or hinder suits.

SECTION 7. The powers conferred upon the common council to provide for the abatement or removal of nuisances, shall not bar or hinder suits, prosecutions or proceedings in the courts, according to law. Depots, houses or buildings of any kind, wherein more than twenty-five pounds of gunpowder are deposited, stored or kept at one time, gambling houses, houses of ill-fame, disorderly taverns and houses or places where spirituous, vinous or fermented liquors are sold without a license, within the limits of said city, are hereby declared public or common nuisances.

Council to examine and audit accounts.

SECTION 8. The common council shall examine adjust and audit the accounts of the clerk, treasurer, board of public works, and all other officers and agents of the city, at such times as they may deem proper, and also at the end of each year, and before the term of office for which they were elected shall have expired. And the common

council shall require each and every officer and agent to exhibit his books, accounts and vouchers for examination and settlement, and if any such officer or agent shall refuse to comply with the orders of the common council in the discharge of their duties under this section, or shall neglect or refuse to render his accounts or present his books, accounts and vouchers to said council, or to any authorized committee thereof, it shall be the duty of the common council to declare the office of such person vacant. The common council shall order suits and proceedings at law against any officer or agent of said city, who may be found delinquent or defaulting in his accounts, or in the discharge of his duties, and they shall make a full record of all settlements and adjustments.

TITLE V.

BOARD OF PUBLIC WORKS.

SECTION 1. There shall be in the city of Sheboygan an executive department, to be known as the board of public works, to consist of three members, who shall be styled the commissioners of public works. They shall annually elect from their own number a president and a clerk, who are severally hereby authorized to administer all oaths required by this act. The members of said board shall be appointed by the mayor of said city, by and with the approval of the common council. Their term of office shall be three years, and shall commence on the third Tuesday of April. On the third Tuesday of April, 1887, the mayor shall appoint three commissioners; one for the term of three years, one for the term of two years and the other for the term of one year, and annually thereafter the mayor shall appoint one commissioner for the full term of three years to succeed the commissioner whose term of office then expires, and as often as a vacancy shall occur in said board, whether by death, resignation or otherwise, such vacancy shall be filled by the mayor in the manner above provided, for the unexpired term. The members of said board shall be residents of said city as follows, to-wit: One shall be appointed from and be a resident free-
Commissioners
of public
works.

holder of that part of the city south of the Sheboygan river; one shall be appointed from and be a resident freeholder of that part of said city north of said river and east of Eighth street, and the other shall be appointed from and be a resident freeholder of that part of said city north of said river and west of Eighth street.

Employment
of assistants.

SECTION 2. The said board of public works are authorized to employ, from time to time, such superintendents, clerks, agents, assistants and workmen as they may deem necessary in the discharge of their duties; and may adopt by-laws for the regulation and conduct of all persons in their employ or under their supervision, subject, however, to such regulations respecting the number of persons employed and their compensation and duties, as the common council may prescribe by ordinance or resolution. The said commissioners of public works shall receive such salary, per diem or fees, as the common council may fix, and the same may be increased, diminished or changed at any time by said council.

Members to
take and sub-
scribe oath.

SECTION 3. Each of the members of the board of public works shall, upon entering upon the duties of his office, take and subscribe the oath of office prescribed by the constitution of this state, and shall give a bond to the city, with two or more sureties to be approved by the common council, in such penal sum, not less than two thousand dollars, as said council may require, conditioned for the faithful discharge of his duties. Said board shall keep their office at some place to be fixed by the common council, and shall fix certain days and hours when they, or a majority of them will be in attendance, to hear complaints and transact business. No estimate, contract or other official paper shall be signed or executed by said board (except) at the office so designated by the common council.

A majority to
be a quorum.

SECTION 4. A majority of said board shall be a quorum to do business. They shall keep a record of all their acts and doings, and keep and preserve all contracts, plans, estimates and profiles, which at all times shall be open to the inspection of the common council or any member thereof, or of any committee appointed by said council. They shall report their acts and doings to the common council on or before the first day

of March of each year, and oftener when required by the council.

SECTION 5. It shall be the duty of said board to take charge and special superintendence, subject to the ordinances and resolutions of the common council, of all streets, alleys, highways, sidewalks, bridges, docks, wharves, public grounds, engine and public school-houses, and all other public buildings and grounds belonging to said city or any ward thereof, except as otherwise especially provided in this act; and also of all work for the deepening, widening or dredging of the rivers in said city, of all sewers and the works pertaining thereto, and of all public works commenced or undertaken by the city or any ward thereof, except as otherwise provided in this act. They shall have power to make contracts in the name and on behalf of the city for the purpose and in the manner and under the limitations prescribed by this act. They shall perform all the duties required by this act, and such other duties as the common council may from time to time require.

Special superintendent of streets to be had.

SECTION 6. All repairs and alterations in the school buildings and in the premises thereto attached shall, except as otherwise provided in title 11, of this act, be made by the board of public works in the same manner as the board is authorized to do other work, and whenever any such repairs or alterations are deemed necessary by the school board, it shall be their duty except in the cases provided in title 11, of this act, to report the same to the council for further order and direction in the premises.

Repairs and alterations to be made by the board.

SECTION 7. The said board of public works shall have exclusive power to grant permits, subject to such regulations and restrictions as may be prescribed by the ordinances of the city, for the moving of houses along or across streets, alleys or walks, and to regulate the building of vaults under streets, alleys or sidewalks. No building material or obstruction of any kind shall be placed on the streets, walks or other grounds of the city without the written consent or permit of said board. They shall have power to regulate and control the manner of using streets, alleys or walks, for laying down gas or water pipes and sewers, and to determine the location and depth

Power to grant permits exclusive.

thereof, and to cause the prompt repair, in such time and manner as they shall direct, of streets, alleys or walks, whenever such pipes or sewers may be taken up or altered, and in case any corporation, company or individual shall neglect to repair or restore to its former condition, any street, alley or sidewalk so excavated, taken up or altered, within the time and in the manner directed by said board, the said board shall cause the same to be done at the expense of such corporation, company or individual.

Shall advertise
for proposals.

SECTION 8. Whenever any public work or improvement shall be ordered by the common council, the said board shall advertise for proposals for doing the same. A plan or profile of the work to be done, accompanied with specifications for doing the same, or other appropriate and sufficient description of the work required to be done, and of the kinds and quality of materials to be used, being first placed on file in the office of said board for the information of bidders and others. Such advertisement shall be published for at least one week in the official papers of said city, and shall state the work to be done and the time for doing the same, which shall in all cases be such reasonable time as may be necessary to enable a contractor with due diligence to perform and complete the work. All proposals shall be in writing and sealed and directed to said board, and shall be accompanied with a bond to said city of Sheboygan in such penal sum not less than thirty per cent. of the estimated cost of such work, as the board in such advertisement may direct, which bond shall be signed by the bidder, and two or more responsible sureties, who shall each make affidavit that he is worth the penal sum of such bond over and above all his debts and liabilities, in property in said city subject to execution, and such bonds and sureties shall be approved by said board before opening the bids or proposals which they respectively accompany, and said bond shall be conditioned that such bidder shall execute and perform the work for the price mentioned in his proposal, and according to the plans and specifications on file, in case the contracts shall be awarded to him. And in case of default on his part to execute a contract with satisfactory

sureties, and to perform the work specified; said bond may be prosecuted in the name of the city and judgment recovered thereon for the full amount of the penalty thereof, as liquidated damages, in any court having jurisdiction of the action.

SECTION 9. All contracts shall be awarded to the lowest bidder who shall have complied with the foregoing requisitions; provided, that no contract shall be entered into by the board of public works unless the same shall be executed by two or more sureties for the contractor, guaranteeing to the satisfaction of said board the performance of such contract or work by the contractor, under the superintendence and to the satisfaction of said board, each of which sureties shall make an affidavit, endorsed on or attached to such contract, that he is worth the estimated amount of money to be paid on such contract, over and above all his debts and liabilities, in property in said city liable to execution; and provided, further, that whenever the lowest bid for any work to be let by said board shall appear to said board to be unreasonably high, the said board may reject all bids therefor and relet the work anew; and whenever any bidder shall be, in the judgment of said board, incompetent or otherwise unreliable for the performance of the work for which he bids, the said board shall report to the common council of said city a schedule of all the bids for such work, with a recommendation to accept the bid of the lowest competent and reliable bidder or to relet the same anew, and the failure to let such contract to the lowest bidder, in compliance with this provision, shall not invalidate such contract, or any special assessment thereunder, or for the work done in virtue thereof.

Contracts to be let to lowest bidder.

SECTION 10. Whenever said board shall let any work or improvement which shall require the digging up, use or occupation of any street, alley, highway or public grounds of said city, there shall be inserted in the contract therefor substantial covenants requiring such contractor, during the night time, to put up and maintain such barriers and lights as will effectually prevent the happening of any accident in consequence of such digging up, use or occupancy of said street, alley, highway or public grounds for which the city might be lia-

Precautions be taken by contractor.

ble; and also such other covenants and conditions as experience has proved or may prove necessary to save the city harmless from damages, and in case of failure or neglect of such contractors to put up such barriers and lights, or to do any other thing which may be lawfully required of them by said board, for the purpose of providing against accident, the same shall be done by said board, and the cost thereof shall be charged to such contractors and deducted by said board from any amount due them on their contract, And it shall also be provided in such contracts, that the party contracting with the city shall be liable for all damages occasioned by the digging up, use or occupancy of such street, alley, highway or public grounds, or which may result from the same, or from the carelessness of such contractor, his agents, employes or workmen.

Sureties to be given.

SECTION 11. Whenever any work or improvement shall be let by contract to any person or persons, firm or corporation, covenants shall be inserted in such contract, binding such person or persons, firm or corporation, and their sureties, to save and indemnify, and keep harmless the said city against all liabilities, judgments, costs and expenses which may in any wise come against said city in consequence of the granting of such contract, or which may in any wise result from the carelessness or neglect of such person or persons, firm or corporation, or his or its agents, employes or workmen, in any respect whatever; and in every such case where judgment is recovered against the city by reason of the carelessness or negligence of such person, persons, firm or corporation so contracting, his or their agents, employes or workmen, and when due notice has been given of the pendency of such suit, such judgment shall be conclusive against such person, persons, firm or corporation, and his, their or its sureties on such bond, not only as to the amount of damages, but also as to their liability to said city.

Contracts to be countersigned.

SECTION 12. All contracts entered into, and all public notices required by law to be given by the board of public works of said city, in letting contracts, shall be countersigned by the comptroller of said city, and shall have no force unless so countersigned. All contracts entered into by said board, and all bonds taken by them, shall be en-

tered into in the name of, and shall be executed to the city of Sheboygan, and all such bonds or contracts when executed, shall be examined and approved as to form and execution by the city attorney.

SECTION 13. The said board of public works shall have no power, by contract or otherwise, to exceed in the doing of any work, in any one year, the sum appropriated for such work by the common council, or by law, for such year.

Can not exceed appropriation.

SECTION 14. It shall be the duty of the said board of public works to deliver to the comptroller of said city, with each contract to be countersigned by him, as accurate an estimate as can be made of the aggregate cost of the work to be let by such contract; and it shall be the duty of the comptroller to keep a record of such estimates applicable to such fund, and to refuse to countersign any contract, the amount of which shall exceed the balance in the fund to which such contract is chargeable.

Accurate estimate to be made.

SECTION 15. All work, except as otherwise provided in this act, chargeable to any of the several ward or city funds, including incidental printing, shall be let by contract to the lowest bidder, in the manner in this title above provided; and all supplies or materials, exceeding in amount one hundred dollars, shall, when practicable, be purchased by said board by contract, which shall be let after due notice inviting proposals, in the manner provided for the letting of contracts for the doing of public work; all accounts for such work or for the furnishing of such materials, shall before being allowed by the common council, be audited by the comptroller and all such accounts for work done or materials furnished under the supervision of the board of public works shall be certified by them before being audited.

Work to let to lowest bidder.

SECTION 16. Whenever the board of public works shall deem it for the interest of the city, or whenever in the prosecution of any public work, said board shall be of the opinion that the proposed work can be better and more cheaply done without the intervention of a formal contract, they shall report the same to the common council with their reasons therefor, and the common council may, by resolution, authorize the said board to procure the necessary materials therefor,

How work may be prosecuted.

and to employ workmen to do such work; provided, that such authority shall not be given, unless approved by the votes of at least two-thirds of all the members of the common council, and in case of ward work, by the vote of all the members from the ward in which the work is to be done. And further provided, that such authority shall not be exercised unless the comptroller shall, as provided in the next section, advise the board that there are sufficient funds available for the proposed work.

Statement in writing to be first made before proceeding with work.

SECTION 17. It shall be the duty of the said board of public works before causing such work to be done, to deliver to the comptroller a statement in writing of the work authorized and proposed to be done as provided in the preceding section, showing the nature and estimated cost thereof, and the fund to which the same is chargeable, and it shall be the duty of the comptroller to enter such statement in the record mentioned in section 14, of this title, and in case the comptroller shall be satisfied that the cost of such proposed work will exceed the amount available for that purpose, in the fund out of which the same is to be paid, it shall be his duty to so advise said board, and the resolution of the common council passed as in the last preceding section shall be inoperative.

Right to determine a contract reserved.

SECTION 18. The said board shall reserve in every contract the right to determine, all performances of such contract, or the doing of the work specified therein; and the right, in case of the improper or imperfect performance thereof, to suspend such work at any time, or to order the entire reconstruction of the same, if improperly done, or to re-let the same to some other competent party; and also the right, in case such work shall not be prosecuted with such diligence, and with such number of men as to insure its completion within the time limited in the contract, to suspend such work and re-let the same to some other competent party, or employ men and secure materials for the completion of the same, and charge the expense thereof to the contractor. And the power is hereby given to said board to adjust and determine all questions as to the amount earned under any contract according to the true intent and meaning of the contract; and

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

SECTION 19. All cases wherein the contractor or contractors shall proceed properly and with due diligence to perform his or their contract, the said board may, in their discretion, from time to time, as the work progresses, grant to him or them an estimate of the amount already earned (reserving fifteen per cent. thereon) which shall entitle the holder to the amount due thereon, when the amount applicable to the payment of such work shall have been collected, and the condition if any, annexed to such estimate or contract shall have (been) complied with; provided, that said board shall have no authority to extend or enlarge the time limited by the terms of the contract for the performance thereof, or to grant any such estimates to any such contractor when he is in default, and no certificate or estimate shall be given by said board to any contractor for any material which was not actually put in the work embraced in his contract. Any contractor entering into any contract with the city and who agrees to be paid from special assessments, shall have no claim upon the city in any event, except from the

Partial payments may be made on contract.

collection of the special assessments made for the work contracted for, and no work proper to be paid for by special assessments shall be let except to a contractor who shall so agree.

Duty of board of public works when contract or fails.

SECTION 20. In case the prosecution of any work shall be suspended by, or in consequence of, the default of any contractor, it shall be the duty of the board of public works to report that fact immediately to the common council, with a statement of the condition of the work, and an estimate of the probable cost of completing the same, in the manner required by the contract.

TITLE VI.

PUBLIC IMPROVEMENTS AND TAKING PRIVATE PROPERTY THEREFOR.

Power to lay out public parks, etc.

SECTION 1. The common council shall have the right to lay out public parks, squares, grounds, streets and alleys, and to widen, change and extend the same as follows: Any twenty-five or more freeholders residing in any ward may, by petition, represent to the common council, that it is necessary to take certain lands, within the ward where such petitioners reside, for public use, for the purpose of laying out public parks, squares, grounds, streets and alleys, or to widen, change, extend or enlarge the same, setting forth in such petition the courses and distances of the same, and the metes and bounds of the lands proposed to be taken, together with the names and residences of the owners of such lands, if the same shall be known to the petitioners; and praying that such lands may be taken for such purposes, as authorized by law. Every person signing such petition shall write after his signature thereto, a brief description of his real estate which makes him such freeholder, or of some part thereof, and of his place of residence in the city and shall make and annex to such petition his affidavit that he is a resident and freeholder of the said ward; and such signer making such affidavit shall thereupon be taken to be such resident and freeholder, although it should afterwards appear that in fact he was not such resident or freeholder. Persons in actual possession of real

estate under a valid contract for the purchase thereof from the owner, shall be deemed to be freeholders within the meaning and for the purpose of this section before such petition shall be acted upon by the common council. The petitioners shall cause to be executed to the city of Sheboygan, and delivered to the treasurer thereof, for the use of said city, a bond in the penal sum of one thousand dollars, with sureties to be approved by the comptroller, conditioned that they will prosecute their petition to effect, and pay all costs and charges which the city or any ward thereof, may sustain in consequence of such application.

SECTION 2. Such bond having been executed and delivered as above provided, the common council shall thereupon cause notice of such application to be given to the occupant or occupants of such lands, if any there be, by publishing a notice thereof, in the official papers, once in each week, for four successive weeks, which notice shall state that, on a certain day therein named, not less than five weeks from the first day of publication, application will be made to the judge of the county court of Sheboygan county, for the appointment of twelve jurors to view said premises, and to determine whether it will be necessary to take said lands for the purposes specified in said petition, at which time and place any person interested in the lands proposed to be taken may appear before said judge and state the ground of his objections. Upon the presentation of such application, and the proof of the publication of the notice herein required, the said judge shall appoint twelve reputable freeholders, residents of the city, and not interested in the result of such application. The said judge shall thereupon issue his precept, directed to said jurors, requiring them within thirty days to view said premises, which shall be described in said precept, and to make return thereon under their names to the common council, whether in their judgment it is necessary to take said lands for the purposes specified in said application. If any of the jurors so appointed shall be disqualified to act, or shall refuse to act, the said judge shall appoint others in their places, and a memorandum of such substitution shall be endorsed by him on the precept.

Notice to be given to the occupants.

SECTION 3. The jurors so appointed shall, before they proceed to view the premises in question, severally take and subscribe the oath or affirmation, which shall be filed with the city clerk, that they will faithfully and honestly discharge the duty imposed upon them, and determine whether it is necessary to take said lands for the public use, and it shall be the duty of every person appointed as such juror to act, unless excused for reasonable cause by the judge appointing him, and every person so appointed and duly summoned or notified to act as required by law, who shall, without being so excused, neglect or refuse to perform his duty as such juror, shall be liable to a penalty of fifty dollars, to be recovered in an action brought in the name and behalf of the city, before any court having jurisdiction, and it shall be the duty of the officer summoning such jurors, to notify the city attorney of any violation of this section, and it shall be the duty of the city attorney to prosecute any person so offending.

Jurors to view
the premises.

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

Jurors may
summon wit-
nesses.

SECTION 5. Should the jury report that it is necessary to take the lands, the common council shall enter an order in their proceedings, confirm

ing the whole or any part of said report, and the common council shall direct the board of public works, within one month thereafter, or such further time as may be deemed proper, to view said lands at such time as the board may agree upon, of which at least three days' notice shall be given by publication in the official papers, for the purpose of ascertaining and determining the amount of damages to be paid to the owner or owners of the lands proposed to be taken, and also what lands or premises will be benefited by such taking, and to make report of their assessment of such damages and benefits to the common council. Said board may obtain the testimony of witnesses as to the facts in the case, in the same manner as provided in section 4, of this title, and shall hear such testimony as may be offered by any party interested, which testimony shall be reduced to writing by one of the members of the board; and said board shall determine and assess, and return such damages and benefits, in the manner hereinafter directed. In case either member of said board of public works shall be interested in the premises, or in any property affected by such proceedings, it shall be the duty of the common council to appoint some disinterested person to act in his stead.

SECTION 6. Whenever it shall have been determined by the report of the jury that it is necessary to take certain lands for the public use, for the purpose of laying out public parks, grounds, squares, streets or alleys, or of enlarging, widening or extending the same, and such report or any part thereof, shall have been confirmed by the common council, and referred to the board of public works, the board of public works shall have power, in their own discretion, or upon the written request of the aldermen of the ward in which such lands to be taken are situated, to view the premises with such aldermen, to determine whether the costs thereof should be chargeable as benefits to the lots or lands subject to special assessments therefor, or whether any and what portion of such costs should be chargeable to and paid out of the ward fund of the ward in which such lots or lands are situated; and if the said board of public works shall determine that any portion of such costs should be paid out of such

In case jury report it necessary to take the lands.

ward fund, they shall so report in writing to the common council, stating in their report what proportion should be so paid, and thereupon the common council shall have power, by resolution duly passed by an affirmative vote of two-thirds of all the members thereof, to order the proportion of such costs so reported by said board, or any greater or less proportion thereof, to be charged to the ward fund of the proper ward, which shall accordingly be done, and thereafter the lots or lands benefited shall not be assessed for more than the remaining proportion of such cost; provided, nevertheless, that no such resolution shall be passed or have any effect so as to charge the ward fund of any ward, unless the aldermen of such ward shall sign such report, and vote in favor of such resolution.

Board of public works shall examine premises.

SECTION 7. The board of public works within the time limited by the common council, shall view and examine the premises proposed to be taken, and all other premises that, in their judgment, shall be injured or benefited thereby, and after hearing such testimony as they may obtain, or as may be offered by any interested party, they shall proceed to make such assessment, and to determine and appraise the value of the real estate so proposed to be taken, and the injury arising to the owners thereof respectively, in consequence of the taking thereof, which shall be awarded to the owners thereof respectively as damages, after making due allowance therefrom for any benefit which such owners may respectively derive from such improvement.

In case damage be greater than the benefits.

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

In case there is a building on the land.

SECTION 9. Whenever there is a building upon the land to be taken, and the land and the building belong to different persons, or if there be any estate in the land less than an estate in fee, the

injury done to such person or estate respectively may be awarded to them by the board, less the benefits to them resulting from the proposed improvements.

SECTION 10. Having ascertained the damages and expenses of the proposed improvement as aforesaid, the board shall thereupon apportion and assess the same, or such proportion thereof as shall have been determined to be chargeable to the lots and lands benefited in accordance with section 4, of this title, together with the costs of the proceedings, upon the real estate by them deemed benefited, in proportion to the benefits resulting thereto from the proposed improvement, as nearly as may be, and shall describe the real estate upon which their assessments may be made.

Damages to be apportioned and assessed.

SECTION 11. It shall be the duty of the board of public works, after such assessment has been made, and before the same shall be reported by the board to the common council, to give public notice of not less than one week in the official papers of the city, that such assessment has been made, and that the same will be open for review and correction by the board of public works, at the office of the board, for not less than ten days after the publication of said notice, during certain hours of each day, not less than two, and that all persons will be heard by the said board of public works in objection to such assessments, and generally in the matter of such review and correction. It shall be sufficient to state in such notice in brief, for what such assessment has been made, and in what locality.

Public notice of not less than one week to be given.

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

Complaints to be heard in the mean time.

Should the time originally limited for making such report prove insufficient, the common council may in their discretion, from time to time, enlarge or extend the same.

Assessment to be laid before the common council.

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

When a person may appeal.

SECTION 14. Any person or persons owning or having any interest in any property affected by such assessment, may, within twenty days after the confirmation of such assessment by the common council, appeal therefrom to the circuit court of Sheboygan county by filing with the clerk of said court his notice of appeal, together with a bond to the city of Sheboygan, in the penal sum of five hundred dollars, conditioned for the payment of all costs that shall be adjudged against him on such appeal; which bond shall be signed by at least two sureties, each of whom shall make affidavit, endorsed upon such bond, that he is worth one thousand dollars over and above all his debts, in property in said city not exempt from execution; and said bond and sureties, if objected to by the city attorney, shall be approved by the judge of said court. Such appeal shall be ineffectual unless

the appellant, shall also, within twenty days, serve a copy of his notice of appeal and bond upon the city attorney. In case of an appeal under the provisions of this section, the city clerk shall send to the clerk of said court a certified copy of the assessment of damages and benefits made and reported by the said board of public works to the common council, as confirmed by said council, and of all the proceedings of the common council in relation thereto. The appeal shall be tried as all issues of fact are tried in said circuit court; the form of the issue shall be subject to the direction of the court; and the court shall permit any person or persons interested in such damages or benefits to become parties to such appeal, upon their petition setting forth the nature and extent of their interest. If on such trial the benefits assessed by the board of public works shall be diminished, or the damages so assessed shall be increased, then and in either case, the appellant shall recover costs on such appeal, otherwise the city shall recover costs. When the jury shall by their verdict award damages to the owner of any lot or part of lots, and judgment shall have been rendered upon such verdict, the city shall pay the amount of such judgment and costs, or make provision for the payment thereof, within one year after the same shall have been rendered; provided, that in case of an appeal from such judgment to the supreme court, the time of the pendency of such appeal shall not form any part of such year.

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

Appeal to the circuit court to be the only remedy.

SECTION 16. Whenever the damages awarded to the owner by the report of the board of public works, as confirmed by the common council, for any property condemned by the city for public use, shall have been paid or tendered to such owner or his agent, or when sufficient money for that purpose shall be provided in the hands of the city treasurer, and ready to be paid over to such owner, and ten days' notice thereof shall have

When money shall be paid, or tendered work to commence.

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

Covenants and contracts to cease, when.

SECTION 17. When the whole of any lot or tract of land or other premises, under lease or other contract, shall be taken by virtue of this act, all the covenants, contracts or engagements between landlord and tenant, or any other contracting parties, touching the same or any part thereof, shall, upon confirmation of such report, respectively cease and be absolutely discharged. When only a part of a lot or tract of land, or other

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

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

In case of an infant or other disability.

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

Accurate survey to be made.

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

Damages to property already taken to be assessed.

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

Proceedings legalized.

SECTION 22. All the foregoing directions given in this title shall be deemed directory only; and no error, irregularity, or informality in any of the proceedings under the provisions of this title, not

Directions only directory.

affecting substantial justice, shall in any way affect the validity of the proceedings.

Power to order streets, alleys, etc., to be vacated.

SECTION 23. The common council shall have power and are hereby authorized to vacate, in whole or in part, such highways, streets, alleys and public walks within the corporate limits of the city, as in their opinion the public interest may require; provided, however, the necessity of vacating any such highway, street alley or public walk, or any part thereof, shall first be established by a verdict or report of a jury, in like manner as is provided for laying out public squares, grounds and streets in this title.

School-house sites included.

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

Platting new streets.

SECTION 25. In all cases where lands in said city shall hereafter be subdivided into lots and blocks, or where streets, alleys or public grounds shall be donated to the public, the owner or owners thereof shall, in platting the same cause the streets and alleys in such plat to correspond in width and general direction to the streets and alleys of said city as originally platted, so as to continue and preserve the general plan and regularity of the entire plat of said city, and where the regularity of the entire plat of said city has been interrupted or broken by plats heretofore made, and plats hereafter made shall correspond with the original plat of said city and not with the plats so interrupting or breaking it. And the person or persons so platting said lots, blocks, streets, alleys or public grounds, donated to the public, shall submit the maps or plats thereof to the board of public works and the common council of said city for their approval; and if such map or plat shall be approved by said board and common council, it shall be lawful for the person or persons making such plat to record the same and the evidence of such approval, in the manner prescribed in chapter 101, of the revised statutes of this state; but except such plat or map shall be approved by written endorsement subscribed by the board of public works, and by resolution of the common council, a copy of which, duly certified by the city clerk, shall be

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

SECTION 26. Whenever the said common council, with the concurrence of three-fourths of the members elected thereto, shall declare by resolution, that it is necessary for the public interest to open a public street or alley, or to take land for any public purpose authorized by this act, the said common council shall have power to open such public street or alley, or to take land for such public purpose, as the case may be, without any petition therefor, and to proceed thereafter in that behalf in case of petition therefor duly made; and in such case no bond shall be required; provided, that in case of streets and alleys such resolution shall also be approved by the aldermen of the ward or wards in which the land proposed to be taken is situated. The resolution mentioned in this section shall state why it is necessary for public interest so to proceed; and no resolution shall be passed by the common council at the same meeting at which it is offered, but the same shall lay over to the next stated meeting, and the ayes and noes on the passage of such resolution shall be taken and duly entered in the journal of the common council.

Opening public
streets or
alleys.

TITLE VII.

CITY IMPROVEMENTS AND SPECIAL ASSESSMENTS.

Board of public works to report.

SECTION 1. The board of public works of said city shall, on or before the first day of May of each year, determine for each ward, upon a general system of improvements for the ensuing year, and report the same to the common council, mentioning in said report the most necessary improvements first, and the others in the order of their necessity; and after the same shall have been approved by the common council, the said system shall be carried out, and not materially deviated from except in case of necessity.

What expense shall be chargeable to the lot owners.

SECTION 2. The grading, graveling, planking, macadamizing or paving to the center of any street or alley, and the paving of any gutter, and the construction of crosswalks where there is no intersection of streets, shall be chargeable to, and payable by the lots fronting or abutting upon such street, alley or gutter, to the amount which such grading, graveling, macadamizing, planking or paving, shall be adjudged by said board to benefit such lots. The expense of all such improvements or works across streets at their intersection with streets and alleys, and across public grounds, and to the middle of the streets and alleys adjacent to the public buildings, shall be paid out of the ward fund of the ward in which such improvements are made or such works are done; and the expenses of maintaining, renewing, keeping in repair and cleaning of all streets and the pavements of other surface thereof, in all cases where such streets shall have been constructed to the grade established by the common council, and graveled, planked, macadamized or paved, as required by the common council, at the expense of the lots fronting or abutting upon such streets, and of the ward fund as hereinbefore provided, shall be paid out of the general fund of said city; provided, that when a street which has been graveled is ordered to be paved, planked or macadamized, the expense of such paving, planking or macadamizing shall be chargeable to, and payable by the lots fronting or abutting upon said

street, as hereinbefore provided for the first improvement of a street. And further provided, that when a change in the grade of any street shall be ordered, the expense of cutting or filling incurred by such change of grade shall be chargeable to and paid by special assessments on the lots or property fronting or abutting on the street of which the grade shall be so changed.

SECTION 3. The construction and keeping in repair of docks in front of lots or parcels of land along the bank of the river in said city, and the dredging and re-dredging, from time to time, of said river, to a width of thirty feet from the dock lines thereof towards the center of the river, shall be chargeable to and payable by the lots or parcels of land so fronting on said river; and the said board shall have the same authority over said river and lots or lands fronting thereon as they have over streets and lots or land fronting thereon, and shall be governed by the same rules in respect thereto as in cases of improvements upon streets.

Expense of
constructing
and repairing
docks.

SECTION 4. The docking and dredging of the Sheboygan river in said city opposite any street or public grounds abutting thereon, and the dredging of the middle part or ground of said river further than thirty feet from either dock line, shall be done by the city. The board of public works, subject to the approval of the common council, shall have power and are hereby authorized, and it shall be their duty when ordered thereto by the common council, without petition thereto in that behalf, to cause the said river or any portion thereof to be docked and dredged, and to proceed therein in like manner as in case of grading and improving streets, and to make so much of the expense as is not chargeable to the city a lien and charge upon the lots and parcels of land extending to and abutting on said river respectively.

Docking and
dredging.

SECTION 5. Whenever the board of public works shall deem it necessary to grade or otherwise improve any street, alley or public ground, or to dredge or dock any part of the river, they shall cause to be made an estimate of the cost of such work, and shall put the same on file in their office; and such estimate shall be open to the inspection of any party interested. Thereupon the said board shall make to the common council such recommen-

Estimate of
cost to be made
of work
needed.

dations in relation to the proposed work as they may deem proper; and upon the same being adopted by the common council in whole or in part, the said board may order so much of the work to be done as shall have been adopted; provided, that no such work, chargeable to lots or parcels of land fronting thereon or abutting on the same, except repairs and docking and dredging, shall be ordered, unless a petition therefor shall have first been presented to the common council, signed by the residents of the city owning a majority of the feet in front of all the lots fronting upon such proposed improvements, owned by residents of the city; or unless in the absence of such petition, the resolution of the common council ordering such work shall be carried by a vote of three-fourths of all the members elect, and shall declare why it is necessary for the public interest to proceed without such petition; but no such resolution ordering work without a petition therefor, shall be passed at the same meeting in which it was first considered, but the same shall lay over until a future meeting of the common council, and the vote on its passage shall be taken by ayes and noes, and duly entered in the journal. However, in case the majority of the feet in front of all the lots in any one block fronting on the proposed improvement are owned by non-residents of said city, then such work may be ordered upon the petition of the resident owners of the majority of feet in front of any adjoining block, or of the opposite block; provided, such owners of lots so petitioning for such work shall have petitioned for or shall have done similar work in front of the lots owned by them respectively in such adjoining or opposite block. Every person in actual possession of real estate in said city, under a valid contract in force for the purchase thereof from the owner, shall be held in virtue thereof to be a freeholder within the meaning of this section, and to be the owner of such real estate for the purpose of petitioning as owner thereof. Each person signing such petition as a resident or as the owner of the property, shall be required to write after his signature thereto, a brief description of the property owned by him, and the place of his residence in said city, and to annex thereto an affidavit that he is such resident or owner, or

both, in the city or ward, as the case may be, and thereupon he shall be taken to be such resident or owner, or both, and such petition shall be as valid and have the same effect as if such person were the owner of such property, or a resident of the city or ward, as stated in his affidavit, although in fact it should thereafter appear that he was not such resident or owner.

SECTION 6. Before ordering any work to be done by the owners of lots or lands fronting on the same, said board shall view the premises, and consider the amount proposed to be made chargeable against the said several lots or pieces of land and the benefits which in their opinion will actually accrue to the owner of the same in consequence of such improvement, and shall assess against the several lots or pieces of land, or parts of lots or pieces of land, which they may deem benefited by the proposed improvement, the amount of such benefit which those lots or pieces of land will severally, in the opinion of the board, derive from such improvement when completed in the manner contemplated in the estimate of the cost of such work, made as provided in the foregoing section, taking into consideration in each case any injury, which, in the opinion of the board, may result to each lot or piece of land for such improvement; and in case the benefits, in their opinion, amount to less than the cost of the improvement, the balance shall be paid out of the ward fund of the ward or wards in which such improvement is to be made; the said board shall indorse their decision and assessment in every case on the estimate of the cost of such improvement filed in their office.

Board to view premises and consider the amount.

SECTION 7. As soon as the assessment of benefits or damages, or of both, shall be made, as in the foregoing sections of this title provided, the said board shall give notice to all parties interested, by advertisement for not less than one week in the official papers of said city, that such assessment has been made and is ready for inspection in their office, and that the same will be open for review and correction by the said board at their office for not less than ten days after the publication of said notice, during certain hours, and not less than two, of each day, and that all persons interested will be heard by the board in objection

Notice to be given after assessments are made.

to such assessment, and generally in the matter of such review and correction. It shall be sufficient to state in such notice, in brief, for what such assessment has been made, in what locality, and no further notice or publication of such assessment shall be necessary. During the time mentioned in such notice the board shall hear objections and evidence, and they shall have power to review, modify and correct such assessments in such manner as they shall deem just, at any time during such review, and for three days thereafter; and thereupon said board shall endorse such corrected and completed assessment upon the estimate of the cost of such improvement, made and filed in their office as provided in section 5, of this title, and shall file a duplicate of such assessment and estimate in the office of the city clerk, who shall lay the same before the common council at their next meeting; and after one week from that time the common council may confirm or correct said assessments, or any of them, or may refer them back to the board of public works; and the said common council and the said board of public works shall respectively have the like powers and perform the like duties in relation to such assessment, and any subsequent assessment made pursuant to such reference by the common council, as are prescribed and confirmed in cases of lands condemned for the public use, in and by title 6, of this act.

Notice of determination to be given.

SECTION 8. Thereupon, as soon as the common council shall have confirmed such assessment of benefits and damages, the said board shall give notice for ten days in the official papers of said city to the owners of any lot or parcel of land, fronting upon any such improvement to be made, requiring him or them to do the work mentioned in such notice within a reasonable time to be therein specified; and if such work shall not be done within such time, the said board shall contract for the doing of the same as herein provided. Such contract shall require the contractor to receive certificates upon or against the several lots, or parts of lots or parcels of land, which may be assessed with benefits on account of the same to apply in payment of the contract price. Provided, that in case where the contract price of the work to the center of the street or

alley, done opposite to any lot or parcel of land, shall exceed the benefits assessed to such lot or parcel of land, the excess shall be paid out of the ward fund of the ward in which such lot, part of lot or parcel of land shall be situated; and provided further, that the said city shall in no case be liable for the payment of, or in any way liable on account of such certificates so issued to such contractor until they have actually collected the same as in this act provided. In fixing the time within which any such work is required to be done, the board shall take into consideration the amount of work to be done, and the convenience and facilities of the parties for doing the same.

SECTION 9. The owner of any lot or tract of land or tenement who feels himself aggrieved by such assessment as confirmed by the common council as to the amount or benefits thereby adjudged to accrue to him, by reason of any improvements charged against his lot or parcel of land, or of the amount of damages, costs and charges arising to him from any alteration of grade, may, within twenty days after such confirmation by the common council, appeal therefrom to the circuit court of Sheboygan county; and such appeal shall be taken, tried and determined, and bonds or the costs shall be given, and costs awarded therein in like manner as in cases or appeal to the said court provided for in title 6, of this act. Such appeal shall not affect the rights of the contractor, or the proceedings in reference to his contract, but the certificate against the lot or parcel of land in question shall be given as if no appeal had been taken, and in case the appellant shall succeed, the difference between the amount charged in the certificate and the amount finally adjudged shall be paid by the city out of the proper ward fund to the appellant, but not until he shall have done the work in question, or have paid the certificate issued for doing the same. The amount assessed by the board of public works, or finally determined on appeal for damages and costs, shall be paid by the city to the person or persons thereto entitled, out of the fund of the proper ward, within one year after the confirmation of the assessment by the common council, or after final judgment therefor rendered by the court

Appeal may be made within twenty days.

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

Appeal to be the only remedy.

SECTION 10. The appeal given by the last section from the assessment of the board of public works as confirmed by the common council, to the said circuit court shall be the only remedy for the recovery of any damages, costs or charges arising from any alteration of grade by the city, or sustained by reason of any proceedings or acts of the said city, or its officers, in the matter to which such assessment of damages or benefits relates; and no action at law shall be maintained for such damages or injury, whether for an alteration in the grade or otherwise.

Certificate to be given to the contractor after completion of contract.

SECTION 11. After the completion and performance of any contract entered into by the board of public works for work chargeable to the lots or lands fronting thereon, or to the lots upon which such assessments for benefits have been made therefor by virtue of this act, they shall give to the contractor or contractors a certificate, signed by the president thereof, and countersigned by the comptroller, stating the amount of work done by such contractor, the nature thereof, and a description of the lot or parcel of land upon which the same is chargeable. It shall be the duty of the comptroller to keep a register of all certificates issued by the board of public works against lots, and countersigned by him, which said certificates may be paid by the owner or owners of such lots at any time before the sale of such lots for the non-payment of taxes to the city treasurer, who shall receive the amounts paid on such certificates and hold the same for the benefit of the owners of such certificates, and such owners shall be entitled thereto on producing and surrendering such certificates to be cancelled. And if the amount thereof shall not be paid before the time of making out the annual tax list, the same shall be assessed upon said lots or parcels of land respectively, and collected for the use and benefit of the holders of such certificates, as other taxes on real estate are collected as provided by law, and if the notice to do the work required shall have been given as herein provided, no informality or error in the proceedings shall vitiate

such assessment. All certificates issued under and in pursuance of any of the provisions of this title shall be liens upon the lots or parcels of land against which the same shall respectively be chargeable from and after the time when such certificate shall be countersigned and registered by the city comptroller. Such certificates shall draw interest at the rate of twenty-five per cent. per annum upon the amounts named in the same, from the time when such lots or lands shall be sold by law, for and on account of such certificate liens; such certificates may be transferred by the person to whom the same are issued, by the indorsement of his name thereon; and such transfer shall in no way affect or impair the lien given by this act, but shall transfer to the assignee all the rights of the assignor.

SECTION 12. In all cases where the board of public works shall have issued a certificate for work done on any street, sidewalk or alley, chargeable to lots or lands, according to the provisions of this act, and the lots or tract of land described in such certificate shall have been subdivided prior to the date of such certificate, then the work certified to in such certificate shall be chargeable to the subdivision of such lot or tract of land which fronts on the streets, sidewalks or alley, on which such work shall have been done according to law, and it shall be lawful for the treasurer, in collecting the special taxes assessed by reason of the issue of such certificates, to collect the amount named in such certificates, from that subdivision of such lot or tract of land which fronts on the streets, sidewalk or alley named in such certificates, and on which said work was done according to law.

Subdivision of contract, how made.

SECTION 13. No person shall build any sidewalk in said city where none now exists without the written consent or permission therefor, of the board of public works first had and obtained, and said permit of said board shall specify the kind and material to be used in such walk, and the width and grade of the same, and any person who shall violate any of the provisions of this section, or who shall build any such sidewalk of different materials, width or upon a different grade than that specified in such permit, shall forfeit to the city of Sheboygan for each such violation not less

Permission to build sidewalks to be secured.

than twenty-five nor more than fifty dollars. This section shall not apply to sidewalks built by contractors under the direction of the board of public works.

When board of public works may order construction of sidewalks.

SECTION 14. The board of public works upon petition therefor or upon their own motion, shall have power and authority to cause the sidewalk in front of any premises in said city to be built, upon specifications and notice first given to the owners or occupants of such premises as in this city provided; provided, that said board shall not exercise such power until authorized by the common council, and they shall let contracts therefor and issue certificates for the work done in the same manner as hereinbefore provided.

Cleaning walks of snow.

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

Shall keep streets in repair.

SECTION 16. It is hereby made the imperative duty of the board of public works, unless otherwise provided by ordinance of the common council to cause the streets, alleys and sidewalks in the city to be kept in proper repair, and in a clean and wholesome condition at all times, and for this purpose they may employ the necessary labor or contract pursuant to law, for such cleaning and repairing as they may deem necessary for the safety and health of the people of the city; the expense of such cleaning, except of alleys and sidewalks, shall be chargeable to and paid out of the general fund of said city; and said board are also hereby empowered to cause sidewalks to be repaired, or to be taken up and relaid, with part new and part old materials, of the kind previously laid down, and to assess the expense thereof against the lot or piece of land in front of which the work may be done, in the manner hereinafter provided; provided, however, that before causing

any such work of repairing or relaying sidewalks, said board shall make an order particularly describing the work to be done, and shall give public notice for at least six days in the official papers to all persons interested, that such repairs or relaying are necessary, and that the specifications for the same are on file in their office where they can be examined, and that such person so interested can make such repairs, or relay such sidewalks at any time within twenty days from the first publication of such notice, after which time all such repairs or relaying remaining undone, will be done under the direction of the board of public works, and the expense thereof assessed against the lots or parcels of land respectively in front of such repairs and relaying, shall be done by said board; and said board is hereby empowered to cause such unfinished work to be done by contract or by men in their employ; and no further order for any such repairs or relaying, and no further notice for doing such work shall be necessary; provided, that in all cases in which notice is required under this section, if the lots, parts of lots or parcels of land affected, have any building or buildings thereon, actually occupied, the board of public works shall first cause written or printed notice, stating the necessary repairs and requiring such repairs to be made within ten days after the service thereof to be given to the occupants of such building or buildings, by leaving the same at such occupied buildings, and only such repairs as shall not be made within the said time, by such occupants, shall the board of public works have power in such cases, to procure the same to be made as provided in this section.

SECTION 17. Whenever any sidewalk or part of sidewalk shall, in the judgment of said board, declared by resolution to that effect, be in a dangerous condition to persons passing over it, for want of being repaired or remade, the said board shall have power to order the same to be forthwith repaired or remade, and thereupon to employ fit persons to repair or remake the same for a fair price, and charge the expense thereof to the lots, parts of lots or parcels of land abutting thereon, by a special assessment; and such assessment shall be a valid charge and lien upon such lots,

Sidewalks which are in a dangerous condition.

parts of lots or parcels of land, without any estimate, notice, letting or other proceeding preliminary to the doing of such work, except the resolution of the board declaring such sidewalks to be dangerous.

Cleansing nuisances.

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

When expense shall be paid out of the ward fund.

SECTION 19. In all cases mentioned in sections 15, 16, 17 and 18, of this title, or in either of said sections, wherein the board of public works are authorized to do any work or cause the same to be done, and to charge or assess the expense thereof, upon the lots, parts of lots, or parcels of land upon in front, or in the rear of which such work may be done, the expense of such work shall, in the first place, be defrayed and paid out of the ward fund of the proper ward. It shall be the duty of the said board to keep a strict account of the labor expended upon such work in front or in the rear of each lot, part of lot or parcel of land, and the cost thereof, and to make a report to the comptroller monthly on the first of each month for each ward in said city, stating and certifying the description of the several lots parts of lots or parcels of land, in the front, or in the rear of, or upon which such work chargeable thereto under either of said sections, shall have been done by said board and under the authority thereof during the preceding month; the nature of the work, and the amount actually expended therefor, and the comptroller shall at the time of making his annual report to the common council of said city of the lots or parts of lots or parcels of land

subject to special tax or assessment required by section 5, title 3, of this act, include therein the said lots or parcels of land so reported to him by said board of public works, with the aggregate amount chargeable thereto, according to said reports, for work done during the preceding year, under said sections 15, 16, 17 and 18 of this title; and such amounts shall be levied upon the several lots or parcels of land respectively to which they are chargeable in like manner as other special taxes are levied in said city; and when collected the same shall be credited to the account of the ward fund of the ward in which such property is situated.

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

If commissioner be interested, then disinterested person to be appointed.

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

Removal of noxious weeds.

TITLE VIII.

HARBOR AND RIVER.

SECTION 1. The harbor of Sheboygan shall include the Sheboygan river from Lake Michigan to the city limits, and Lake Michigan along the east side of said city to a distance of one mile from the shore thereof.

Harbor limits.

SECTION 2. The common council of said city shall have power, by ordinance, to establish dock and wharf lines upon the banks of the Sheboygan

Dock and wharf lines may be established.

river; to restrain and prevent encroachments upon said river, and obstructions thereto; and to construct, alter and maintain, or cause to be constructed, altered and maintained, at the expense of the city, docks or wharves along the bank of said river, where the same are not required by law to be constructed and maintained at the expense of the owners of the lots bounded on said river.

Construction
of breakwaters
against encroachments
of the lake.

SECTION 3. The board of public works, under the direction of the common council of said city, may cause the construction of breakwaters, paralled pilings, sheet pilings, piers, or such other protection as they may plan or devise for the purpose of protecting the shores of said city against the encroachments of Lake Michigan, and defray the cost thereof by levying city and ward taxes and special assessments upon the real estate deemed to be specially benefited by such protection. Whenever lots, lands, streets or other property are being washed away or encroached upon by said lake, the board of public works may cause the construction of such protection as may be necessary to prevent such washing away or encroachments, in the manner hereinafter provided, and no petition shall be necessary therefor. Whenever the said board shall deem it necessary to construct any of the protections named in this section, they shall cause plans and specifications, and an estimate of the cost thereof to be made and filed in their office, and give notice thereof by publication in the official papers of said city, for one week, that a plan for such protection is open at their office for inspection. Any person owning real estate on the shore of said lake at the place where said protection is proposed to be made may file with said board written objections to such plans, specifications and estimates, stating therein the nature and reason for his objections, and he may also suggest improvements to such plans; and the said board may reconsider and modify said plans and report the same to the common council, and if the common council shall adopt said plans, specifications and estimates, the said board shall apportion the cost of such protection to the lots benefited thereby, and to the general fund of said city, in the same manner as is pro-

vided in section 6, of title 6, of this act, for the assessment of benefits.

TITLE IX.

SEWERS.

SECTION 1. The said board of public works of said city, shall, during the year 1887, make or cause to be made, a plan for a general sewerage system for said city of Sheboygan, dividing the said city into as many sewerage districts as will afford the most efficient and economical system. They shall cause surveys and diagrams thereof to be made for each district, and such plans and surveys shall contain, as nearly as practicable, the lots, blocks and tracts of land, the main sewers, to be constructed, the branch and minor sewers, the size and material of the sewers, and all other data deemed by them necessary for information. On the completion of such plan and diagram, said board shall give notice in the official papers of said city, for at least two weeks, that a plan of sewerage for said city is open at their office for inspection. Any freeholder of said city may file with said board written objections to said plan, stating therein the nature and reason of his objections, and the improvements which he may think necessary.

Plan for general sewerage system to be made.

SECTION 2. The said board may reconsider and modify said plan, and then at the expiration of ten days from the time said notice shall have been given, they shall report their plan to the common council for its approval.

Plan may be modified.

SECTION 3. The common council shall take such plan into consideration, and within thirty days after receiving the same shall return it to the board approved, or if objected too, with a statement in writing of such objections, or of any alteration or improvement thereof which they may deem desirable.

Adoption or rejection of plan.

SECTION 4. The said board may, on the return of such plan by the common council, modify or change the same in accordance with the suggestions of the common council, or may prepare a different plan which shall be again submitted to the common council, and may generally modify

After return of plan.

and change their action in the premise until a plan shall be mutually agreed upon by the board and common council; provided, that no plan shall take effect until approved by the common council, and no plan after it has been approved and work or improvements done thereunder, shall be deviated therefrom except on the two thirds vote of the common council.

Board to report
work neces-
sary, first day
of Mar.h.

SECTION 5. On or before the first day of March of each year, the board of public works shall report to the common council the sewers necessary to be built in each district during the current year, in accordance with the plan, stating the premises, extent and location of the same, and the kind of material of which they should be composed. The common council shall take such report into consideration, and may approve the same, or make such additions to or alterations in it in any respect as to them may seem best and return the same to the board; and it shall be the duty of the board to carry out the work as described and directed in the report thus returned by the common council. The board may also, from time to time during the year, as may be necessary, recommend to the common council the construction of other sewers than those contained in the report; which recommendations the common council shall take into consideration and return to the board approved, negatived or altered, as may to them seem best, and the board shall carry out the work as prescribed in the action of the common council; provided, that no sewer shall be built or contracted for by the board, until the same has been authorized by the common council.

Advertising for
bids.

SECTION 6. After the common council shall, by resolution or otherwise, have ordered the construction of any sewer, the board shall advertise for bids to do the work so ordered, having first procured to be carefully prepared and put on file in their office for the examination and guidance of bidders, plans and specifications describing the particular work to be done, and the kinds and quantities of materials to be used, as directed by the common council, and shall let the contract to the lowest responsible and reliable bidder, subject however, to the provisions of title 5, of this act.

Contractors to
receive certifi-
cates.

SECTION 7. Such contract shall require the contractor to receive as payment for so much of

the work as has been assessed against the lots opposite to the front of which any sewer shall extend, certificates against such lots respectively, and the residue of such contract shall be paid out of the proceeds of the general sewerage tax, to be levied on the real and personal property within the sewerage district by the common council on the recommendation of the board of public works.

SECTION 8. After any contract for work under this act, to be paid for in whole or in part by special assessments, shall have been entered into, the board of public works shall make or cause to be made, an assessment against all lots, parts of lots and parcels of land fronting or abutting on the work so contracted to be done on each side of the same for the whole length thereof, and which have not before been assessed for sewerage purposes, at the rate of eighty cents per lineal foot of the entire frontage of each lot, part of lot or parcel of land fronting or abutting on either side of such sewer, except corner lots, which shall be assessed therefor as follows: Corner lots not subdivided in ownership and subdivisions of corner lots, constituting the actual corner of corner lots, subdivided in ownership, shall be entitled to a deduction in making such assessment of one-third from the aggregate of the street lines of such corner lots or corner subdivisions thereof, in all streets in front thereof, such deduction to be made in the assessment of the longest street line of such corner lots or corner subdivisions thereof, or in case of equal street lines, then in the assessment of the second sewer for which they are liable; provided, however, that when the actual cost of any such sewer shall not exceed one dollar and sixty cents per lineal foot, then, and in that case, the assessment shall be for the actual cost of such sewer per lineal foot, one-half thereof to be chargeable against the property fronting or abutting thereon on each side thereof. Whenever any lot which, as originally platted, fronts or abuts on any sewer, is subdivided, and the divisions thereof are owned by different persons, no subdivision of such lot, not fronting or abutting on such sewer, and not owned by the same person who owns the subdivision of such lot fronting or abutting on such sewer, shall be assessed for the cost of such sewer.

How assessments shall be made.

Subdivision of lots—how assessments are to be divided.

SECTION 9. Whenever any lot or parcel of land shall be subdivided by sale or any other contract, after the assessment for the cost of such sewer shall have been made, and before such sewer shall have been fully carried out and extended to such lot (and the assessment actually paid), any party interested may give said board notice of such subdivision, and in such case, or when the board shall in any other way become cognizant of the fact of such subdivision, they shall make an equitable apportionment of such assessment for the cost of such sewer between the different parcels of it, but if, by any neglect of the owners of the different parcels of the lots so divided, no such apportionment shall be made, then the entire lot shall be liable for the entire tax or cost of such sewer fronting thereon.

Excess of charges, how paid.

SECTION 10. The cost of all sewers in street and alley crossings, and of all sewers in excess of one dollar and sixty cents per lineal foot, chargeable to lots and lands as provided in section 8, of this title, of all catch-basins for receiving the water from the gutters, and of the overflow pipes connecting them with the sewers, and of all expenditures for temporary work necessary to be done to carry out the system of sewerage herein provided for, and all other costs for constructing sewers not herein provided for by special assessment shall be paid out of the fund of the proper sewerage district; and all cleaning and repairing of sewers and catch-basins, and all temporary work necessary to be done as above stated, shall be done by the authority of the board of public works as may be necessary.

Amount of money to be reported first Monday in September.

SECTION 11. The board of public works shall report to the common council on or before the first Monday in September of each year, as accurately as may be, the amount of money required for sewerage purposes for the ensuing year, in each district, in addition to all special assessments to be made therein as hereinbefore required: and the common council are hereby authorized to levy and collect a tax for sewerage purposes in each of said districts, of such amount of money as may be necessary for such sewerage purposes, not exceeding in any one year the sum of five mills on the dollar on all the property, real and personal, subject to taxation within each sewerage district

which tax so levied shall, when collected, be paid into the city treasury and placed in the fund of the sewerage district in which the same was collected; and the city comptroller is hereby directed and required to keep a separate and distinct account with each sewerage district.

SECTION 12. Any person to whom a contract is awarded for the construction of a sewer shall receive in payment certificates against the lots, parts of lots or parcels of land so as heretofore required to be assessed, so far as the same will go in liquidation of the amount of such contract, and shall be entitled to receive the city orders for the balance due, payable only out of the fund of the proper district; and it shall be the duty of the board of public works, after the completion of any contract and the acceptance of the work, to issue such certificates on the request of the person entitled to the same, and where any sum is found to be due a contractor over and above the amount of such certificates so to be issued and received in part payment, to certify the same to the common council, which may direct an order to be drawn on the proper fund for the payment of the same. All special assessments for building sewers shall be made by the board of public works and signed by the board or the president thereof, and countersigned by the comptroller of said city, and delivered by said board to the person entitled to the same, in the same manner as certificates of assessments for other work in said city.

Certificates for construction of sewers.

SECTION 13. All contracts entered into by the board of public works under this title shall be approved as to form and execution by the city attorney, and before taking effect, shall be signed by the president of the board and countersigned by the comptroller, and all bonds taken by them shall be entered into in the name of, and shall be executed to the city of Sheboygan, and shall be approved by the board. All contracts entered into under this title shall be expressly subject to the powers given to said board by title 5, of this act and in case any work shall be suspended in consequence of the default of any contractor, or in case the bids shall be deemed excessive, or the parties making them shall not be deemed responsible or proper parties to be entrusted with the

Contracts to be approved as to form by city attorney.

performance of the work, then the said board shall proceed as in said title 5, provided.

Grade of sewers to be fixed by board of public works.

SECTION 14. The grade of sewers to be constructed shall be fixed by the board of public works, with the approval of the common council, and the said board shall make or cause to be made a profile of such grades upon the plans of the sewers to be constructed giving a sufficient number of bench marks, and their elevation, and such other data as may be necessary to make future surveys, and in all cases the work shall be subject to the superintendence and direction of said board, and no contractor shall be entitled to recover compensation for any work executed by him in any form of action, unless such work shall have been approved by said board; provided, that said board may, from time to time, as the work progresses, at their discretion, grant to any contractor for a sewer an estimate of the amount and proportionate value of the work already done, withholding in all cases twenty-five per cent. of such estimate, which shall entitle the holder to receive the amount thereof, less such twenty-five per cent., from the public fund.

Water and gas service pipes.

SECTION 15. Whenever the common council shall order the paving or repairing of any street in said city, in which water and gas mains and sewers, or either of them, shall have been previously laid and constructed, they may also, by resolution, require the board of public works to cause water and gas service pipes and house drains to be first laid in such streets at the cost of the property fronting on such street, from the main sewer and water and gas mains in such street to the curb line on either side of such street, at intervals not less than twenty feet, along the whole length of said street, except at street and alley crossings; and the board of public works shall thereupon give notice to the owners or occupants of the property adjoining such street, by publication thereof for two weeks in the official papers, requiring them to do such work opposite their respective lots, according to a plan and specifications to be before prepared and on file in their office, showing the location and size and the kind and quality of such lateral sewers and drains, and the water and gas service pipes; and if such owners or occupants shall refuse or neglect to do

the same before the paving or repairing of the streets so ordered to be paved or repaired, and within twenty days after the publication of such notice, the board may procure the same to be done, and charge and assess the expense thereof to the lots or parts of lots fronting upon such work, in the manner provided in and by section 17, of title 7, of this act; and the same shall be levied and collected as other special assessments are levied and collected in said city; provided, that no street shall be paved or repaired by the common council, unless the water and gas mains and service pipes, and necessary sewers and connections shall, as required by the common council, be first laid and constructed in that portion of such street so to be paved or repaired.

SECTION 16. It shall be the duty of the said board to see that proper drains or sewers are constructed from every lot in said city, which in their judgment requires it; and that such private drains or sewers are made to communicate with the public sewers in a proper manner; and they shall have power to require such number of private drains and sewers to be constructed as they may deem expedient.

Drains and
sewers.

SECTION 17. The said board shall prescribe the location, arrangement, form, materials and construction of every drain and sewer, for every lot in the city, emptying into the public sewers, and shall determine the manner and plan or the connection of the same; the work of construction shall, in all cases, be subject to the superintendence and control of said board, and shall be executed in compliance with their orders, but the cost of such private sewers shall not be included in the estimate of the cost of the general plan of sewerage in any district, and shall be charged upon the lot or lots for the benefit of which such private sewers shall be constructed.

Board to pre-
scribe size,
location, etc.,
sewers, drains.

SECTION 18. The said board shall have at their office, ready for examination of the parties interested, the specifications of any private drains or sewers so ordered to be constructed, and they shall give to the lot owners two weeks' notice in the official papers to construct the same, designating therein a reasonable time within which the work shall be done, and in case any lot owner neglects to do the work required of him to be

Specifications
of private
drains.

done within the time specified in said notice, said board shall advertise for proposals and let the same by contract and at the completion of the contract shall give to the contractor a certificate or certificates against such lot or lots, which shall be proceeded with and shall have the like effect as other certificates given for work chargeable to lots.

Contractor to build sewer to have right of way.

SECTION 19. Any person who has taken such contract from said board to construct a private sewer or drain from any lot, shall be and is authorized to enter upon such lot, and construct thereon such drain or sewer, and shall have free ingress and egress upon the same with men and teams for that purpose, and to deposit all the necessary building materials, and generally to do and perform all things necessary to a complete execution of the work.

Private drains.

SECTION 20. No private drain shall be connected with any public sewer without the order of said board therefor first issued; and there shall be paid for such order into the general fund of the sewerage district, by the owner of any lot from which a private drain is connected with the public sewer, an amount to be fixed by the said board, proportioned to the size of such private drain, but not less than two and one-half, and not more than five dollars; and in case such amount is not paid, it shall be a lien upon such lot, and shall be collected as other special assessments and taxes on real estate are collected; provided, that no charge shall be made for such order when such private drain shall be so connected with the public sewer before the same is finished in front of such lot.

Breaking open sewers, penalty.

SECTION 21. No person shall break open or make any connection with any public sewer, except by the consent and under the direction of the board of public works; and any person who shall so do, or shall wilfully or maliciously obstruct, damage or injure any public or private sewer or drain in said city, or injure any of the materials employed or used in said city for sewerage purposes, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than five hundred dollars, or imprisoned in the county jail not more than three months.

SECTION 22. Any contractor or other person acting under the direction of the board of public works may lay sewers in and through any alleys and streets of the city, and through any break-water into Lake Michigan, and also in any highways of Sheboygan county, whether within the limits of said city or not; provided, that it shall be the duty of such contractor to repair such streets, alleys, breakwaters and highways, and to restore the same to their former condition, upon the completion of such sewers.

Further, re-
garding the
cons truction of
sewers.

TITLE X.

WATER WORKS.

SECTION 1. Whenever the American Water-Works and Guarantee Company, limited, or other corporation, company or individual, holding a franchise from said city for supplying the same with water, shall, under their franchise or by special agreement, sell said water-works to said city, the vendor shall deliver the possession thereof and of all the property relating thereto and all its records, contracts, transactions, reports, accounts, surveys, maps, plats, estimates, profiles, plans and documents of whatsoever nature thereto belonging and appertaining, to the board of public works of said city, who shall thereupon assume and have the exclusive charge and superintendence, subject to the direction of the common council, of the water-works of said city so assigned to it. And all the property, real, personal and mixed so acquired shall be the property of the city of Sheboygan.

Water-works.

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

Supply the city
with water.

SECTION 3. The said board of public works shall have power to construct jets and fire hydrants for public use, and fountains at such places in said city as the board with the approval of the common council, shall determine, and also to lay water pipes in and through all streets, alleys and public grounds in said city, and generally to do all such

Jets and fire
hydrants.

work as may be found necessary or convenient, from time to time, for the purpose of this title.

Examinations
and surveys.

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

Land for water
purpose.

SECTION 5. Whenever any real estate or easement therein or use thereof shall, in the judgment of said board, be necessary for said extension or maintenance, and for any cause an agreement for the purpose thereof, cannot be made with the owner of the same, they shall report that fact to the common council; and thereupon the said council shall proceed to take such real estate, easement or use as provided in title 6, of this act, except that no bond shall be required.

Creation of
water fund.

SECTION 6. There is hereby created for said city a separate fund, to be called the water fund. There shall belong to such fund all bonds and proceeds thereof, given to said city by the grantees of any franchise for water-works, all proceeds of all taxes levied for the maintenance of said water-works, and for the payment of rental or hydrants during the term of said franchise. And all water rates which may hereafter be assessed and collected for the use of water from said works, and all other proceeds, revenues and income of said water-works, and all moneys appropriated by the common council in aid of or towards the same, and the said fund is hereby exclusively devoted to the maintenance of said water-works and to the payment of hydrant rental while the water-works are not owned by the city. The said water fund shall be kept in the city treasury in the custody of the city treasurer, and shall be disbursed by him on vouchers drawn for the same in the manner provided by this act, and the said city treasurer and the sureties on his official bond shall be liable for the safe keeping and disbursement of the same.

SECTION 7. It shall be the duty of said board of public works to report to the common council once in three months all their doings under this title, and the state of the said water fund and the general condition of the said water-works; and such report, after being submitted to the common council, shall be filed in the office of the controller of said city.

Report of public works.

SECTION 8. It shall be the duty of the controller of said city to keep separate accounts of all the receipts and payments made on account of said water-works, and a separate account of all contracts made by said board touching said water-works, and of estimates of the costs of such contracts, and generally to keep separate books for the said water-works and water fund, as he is or may be by law required to keep of other property, funds and interests of said city.

Duty of controller.

SECTION 9. The said water-works, and all the grounds, buildings, fixtures, machinery and other things appertaining thereto, shall be under the control of said board, who shall have power to regulate and control and have a general supervision over the same, subject to the authority of the common council.

Water-works to be under control of board.

SECTION 10. The said board shall have power, from time to time, to make and enforce by-laws, rules and regulations in relation to the said works, fixing uniform water rates to be paid for the use of the water furnished by said water-works, and fixing the manner of distributing and supplying water for use or consumption, and for withholding or shutting off the same for cause, and they shall have power, from time to time, to alter and modify or repeal such by-laws, rules and regulations; provided, however, that no such by-law, rule or regulation, and no alteration, modification or repeal thereof shall have any force until submitted to and approved by the common council.

Make and enforce by-laws.

SECTION 11. It shall be the duty of the said board of public works on the first day of March and September of each year, after said water-works shall be acquired by the city, to make and certify to the city treasurer, a list of all lots, parts of lots, and parcels of land to which water has been furnished from said water-works, during the preceding six months, with the names of the owners or occupants of said premises, and the

Assessment and collection of water rates.

amount chargeable to each such owner or occupant for water rates during the said six months. The president of said board shall attach to such list his warrant to the city treasurer for the collection of the water rates therein contained from the several persons, firms and corporations against whom they are charged therein, requiring him to make return thereof, with his doings thereon, to the city comptroller within six months from the date of such warrant, and shall deliver such list and warrant to the city treasurer on or before the fifth day of March and September in each year. On receipt of such list and warrant, the city treasurer shall give notice thereof, and proceed in all things in relation thereto as he is required by title 18, of this act, to do in relation to personal taxes, and on the expiration of twenty days, as provided in said title 18, he shall issue his warrant to the chief of police of said city, returnable within twenty days, for the collection of delinquent water rates, and the said chief of police shall give like bond to the city, before receiving such warrant, as in case of personal taxes, and shall proceed to collect such delinquent water rates in the same manner and with the same rights, powers and duties in and about the collection thereof, which are conferred upon and exercised by him in the case of personal taxes under said title 18. In case any of said water rates should remain unpaid at the time when the comptroller is required by this act to make his annual report and schedule to the common council, of lots, parts of lots and parcels of land subject to special assessment in said city, it shall be the duty of the comptroller to include in such schedule and report all the water rates so delinquent, adding thereto a penalty of 10 per cent., with a description of the lots, parts of lots and parcels of land to which they may be chargeable; and the same shall be levied and entered on the tax roll, and collected at the same time and in the same manuer with other special taxes and assessments. All water rates for water furnished to any building or premises which shall remain unpaid for thirty days after the same shall be due, with the penalty above provided, shall be a lien upon the lot, part of lot, or parcel of land on which the building shall be situated. Any water rates which may by mistake

have been omitted in any warrant or list thereof delivered for collection as aforefaid, may be entered and collected as omitted water rates upon any subsequent list or warrant that may be made within one year thereafter.

SECTION 12. Any person who shall wilfully injure or pollute any water supplied by the said water-works in any tunnel, aqueduct, pipe or other thing, or shall wilfully injure the said water-works, or any building, machinery or fixtures appertaining thereto, or shall wilfully and without authority of said board, impede or derange the flow of water in any tunnel, aqueduct, pipe or other thing belonging to said water-works, or shall wilfully and without authority of said board bore or otherwise cause to leak, any tunnel, aqueduct, pipe or other thing used in said water-works for holding, conveying or distributing water, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding one thousand dollars, or by imprisonment not exceeding two years in the state prison, or by both such fine and imprisonment, in the discretion of the court.

Penalty for polluting city water.

SECTION 13. It shall be the duty of the said common council, and they are hereby empowered, from time to time, to pass such ordinances as may be deemed necessary or expedient to protect said water-works and the use thereof, and to enforce the by-laws, rules and regulations of the board of public works.

Duty of council to protect water-works.

SECTION 14. Nothing in this title shall be construed to give the common council or board of public works of said city the control of any water-works system in said city, until the same has first been purchased by the city as provided in the franchise of the owner or owners of such water-works system, or otherwise legally acquired.

Regarding control of water-works.

SECTION 15. The said board of public works shall have the management of the artesian fountain in said city, and they shall do all things in relation thereto in the manner and form required by this title in dealing with the water-works of said city.

Artesian fountain.

TITLE XI.

PUBLIC SCHOOLS.

Board of education, how constituted.

SECTION 1. The school commissioners elected from the different wards of said city, as provided in section 7, of title 2, of this act, shall constitute the board of education of said city. Whenever any vacancy shall in any manner occur in said board, the remaining members of said board shall appoint a commissioner having all the qualifications required by said section 7, who shall hold his office until the next municipal election, at which time the qualified electors of the ward in which such vacancy occurred shall elect a school commissioner for the unexpired term. Before entering upon their respective offices each of the school commissioners shall take and subscribe the oath of office and file the same with the city clerk. The public schools and high schools of said city shall be under the supervision and management of the board of education.

Regular meetings of the board of education.

SECTION 2. The board of education shall hold such regular meetings, not less than one in each month, as they shall determine, and the president of said board shall call special meetings when requested by a majority of said board. The first meeting of said board shall be held on the third Wednesday of April in each year. A majority of said board shall be a quorum for the transaction of business. The board of education shall elect from their number a president, who shall preside at the meetings of the board, and in case of his absence the board may elect one of its members president pro tem., who, for the time being, shall possess all the power and authority of the president.

Powers and duties of the board.

SECTION 3. The powers and duties of the board of education shall be as follows: 1. To establish, organize and maintain such and so many schools in said city, and the several wards thereof, as they may deem necessary and expedient, and to alter and discontinue the same.

2. To have the custody and safe keeping of all the school-houses, outhouses, books, furniture,

library and all property appertaining to the public schools in said city.

3. To decide upon the number of teachers to be employed, the grade of schools to be kept by each, and the amount of salary to be paid each, and to hire and make contracts with the teachers, and to remove them for cause, and before any teacher shall enter upon his duties he shall enter into a written contract, which contract shall be signed by him and by the board of education, or the president thereof. Such contract shall be signed in duplicate, one copy thereof filed with the superintendent of schools, and the other copy delivered to the teacher.

4. To purchase and contract for fuel, stationery and school furniture and apparatus, to pay and defray the expenses of the school library, and to furnish school books for indigent pupils.

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

6. To regulate the admission of children of non-residents to the schools of said city, and to establish and collect tuition fees.

7. To prepare and report to the common council such ordinances and regulations as may be necessary or proper for the protection, safe keeping, care and preservation of the school-houses and appurtenances and all the property belonging to the city connected with or appertaining to the schools, and suggest proper penalties for the violation of such ordinances and regulations.

8. To publish monthly statements in the official papers of said city a full account of their acts and doings under this title; provided, however, that said board may omit from such publication all action which relates to school government and discipline and other matters, the publication of which may be unwise, unjust or impolitic.

9. To determine and report to the comptroller of said city, on or before the first Monday in Sep-

tember of each year, the amount of money, in their opinion, necessary or proper to be raised for school purposes, specifying the amount required for teachers' wages, salary of the superintendent and janitors, for the purchase and repair of furniture, apparatus, books, fuel, for the repair and improvement of school buildings, and school-house sites, the expenses of the library and for the defraying of all other contingent expenses.

10. To make all repairs necessary to be made in and about school buildings and appurtenances thereto belonging, where the expense thereof shall not exceed fifty dollars.

Expenditure of money.

SECTION 4. No money shall be expended out of the school fund except upon the orders signed by the president and clerk of said board, and countersigned by the city comptroller.

Members of board cannot have an interest in any contract.

SECTION 5. No member of the board of education shall have any interest, direct or indirect, in any contract made by said board, and every contract so made in which any member of said board shall have such interest shall be absolutely void.

Contracts to be countersigned by city comptroller.

SECTION 6. All contracts entered into by the board of education, except for the employment of teachers, shall, before they have any validity, be countersigned by the city comptroller, who shall keep an account of the liabilities incurred by the board for each current year, and it shall be the duty of the board of education to report to the comptroller the amounts required for teachers' wages, salaries of the superintendent and other persons employed on a salary, and for the purchase of fuel, and the amounts required for the payment of such liabilities, and for the expense of all repairs authorized by this title and made by said board shall be set apart for such purpose, and shall not be drawn from the school fund for any other purpose. No expenditure shall be incurred, no liability created, or contract entered into in excess of the amount of money raised for the school fund and available for such purpose. And all agreements and contracts entered into in violation of this section shall be null and void and of no force against the city, and no money shall be drawn from the school fund on account thereof.

SECTION 7. It shall be the duty of the city

comptroller annually, at the time of making his general reports, to prepare and report to the common council a true and correct statement of all its receipts, and disbursements of moneys under and in pursuance of this title, during the preceding year, in which shall be stated under appropriate heads:

Duties of the city comptroller.

1. The moneys received into the school fund from taxes levied by the common council.

2. The moneys received from direct taxes levied by the county board.

3. The moneys received as distribution of the state school fund income.

4. All other moneys received by the treasurer into the school fund from other sources.

5. The manner in which the said sums of money have been expended, specifying the amounts paid under appropriate heads of expenditure. The common council shall cause said report to be published in the official papers of said city at least ten days before the charter election.

SECTION 8. It shall be the duty of the board of education to report to the common council on the first Monday in September of each year, the condition of the several schools in said city, the average number of pupils in attendance, the names and salaries of the several teachers, the cost of supporting each and all of said schools since their last report, together with the estimated cost thereof for the ensuing year.

Report of the condition of schools, when made.

SECTION 9. The said board of education shall, at their regular meeting on the third Wednesday of April in each year, elect some competent person superintendent of schools of said city, who shall act as clerk of said board of education. The salary of said superintendent shall be fixed by the school board and paid out of the school fund.

Election of superintendent of schools.

SECTION 10. The superintendent of schools shall have and exercise the following powers and duties:

Duties of superintendent of schools—defined.

1. He shall examine all teachers making applications for schools; such examinations shall be public and in the presence of the board of education.

2. He shall grant certificates to such persons so examined, as shall be deemed by him and a majority of the board, suitably qualified.

3. He shall carry into effect the ordinances of

the common council, and the rules and regulations of the school board in reference to the schools of the city.

4. He shall visit all the schools at least twice during each term and report their condition to the board, with such suggestions for their improvement as he shall deem proper.

5. He shall report for the consideration of the board of education, such text-books as he may think advisable and proper for the use of the schools, and suggest such alterations therein from time to time, as he may think most beneficial for the schools in said city.

6. He shall, between the tenth and fifteenth of September in each year, report to the board of education the number of children, male and female, separately designated, over the age of four and under the age of twenty years, residing in the city on the last day of June previous to such report, and he shall on or before the fifteenth day of August in each year, make out and transmit to the state superintendent, a report containing the facts set forth in the general school laws of this state, a copy of which report he shall present to the board of education at the next meeting thereof.

7. He shall attend all meetings of the board of education, and act as clerk or secretary thereof, and make all suggestions he may think advisable relative to the schools of said city.

Title of school property, in whom vested.

SECTION 11. The title of all school property, real, personal or mixed, now in said city, as well as that which may hereafter be acquired, for school purposes, shall be vested in the city of Sheboygan, and shall not be subject to taxation, nor levied upon and sold by virtue of any warrant, execution, judgment or decree, and the said city in its corporate capacity shall be and is hereby authorized to receive, purchase and hold, and dispose of any real or personal estate for the use of the public schools of said city.

TITLE XII.

THE BOARD OF HEALTH

Appointment of board of health.

SECTION 1. It shall be the duty of the mayor of the city of Sheboygan to appoint on the third

Tuesday in April, 1887, a committee consisting of three persons, one for one year, one for two years, and the other for three years, and annually thereafter on the third Tuesday of April, the mayor shall appoint a person to succeed the one whose term of office then expires. The committee so appointed shall be known as the board of health of said city and their term of office shall be three years, except as in this section otherwise provided. It shall be the duty of said board of health to examine into and consider all measures necessary to the preservation of the public health in said city, and to see that all ordinances and regulations in relation thereto be observed and enforced.

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

City clerk to be clerk of board of health.

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

Power to appoint and remove health officer.

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

Examination of premises by board of health.

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

Measures may be adopted.

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

How nuisances
may be abated.

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

this title are authorized to incur, shall be paid exclusively out of the funds so provided and set apart, and said board shall not be authorized to create any liability on the part of said city in excess of the sum or sums which shall have been appropriated and set apart as aforesaid for their use.

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

Removal of nuisances.

SECTION 8. It shall be the duty of the board of health, on complaint being made to them, or whenever they shall deem any business, trade or profession, carried on by any person, persons or corporation in the said city, detrimental to the public health, to notify such person, persons or corporation to show cause before the said board, at a time and place specified in said notice, why such business, trade or profession should not be discontinued or removed, which notice shall not be less than three days, except that in case of epidemic or pestilence the board of health may, by general order, direct a shorter notice, of not less than twenty-four hours, and said notice shall be served by leaving the same at the residence or place of business of the parties thereby affected. Cause may be shown by affidavit, and if, in the

Abatement of business detrimental to public health.

opinion of the board of health no good and sufficient cause be shown why such business, trade or profession should not be discontinued or removed, the said board shall order the said parties to discontinue or remove the same within such time as the board may deem reasonable and necessary, and such order of said board shall be final and conclusive.

Refusal to obey
lawful order a
misdemeanor.

SECTION 9. Any person or persons refusing to obey such lawful order of the board of health shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than one thousand dollars or by imprisonment not more than six months, or by both such fine and imprisonment; and such person or persons shall be subject to like punishment for each and every day that he or they shall continue such business, trade or profession after the expiration of the time specified in the order of the board of health, for the discontinuance or removal of the same.

Service of
order.

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

Collection of
fines.

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

Temporary
hospital for
epidemic dis-
eases.

SECTION 12. The board of health, during the prevalence of Asiatic cholera, or of any epidemic disease, shall have power, when they may deem it necessary, to take possession of and occupy for a temporary hospital, any building or buildings in said city; but the city of Sheboygan shall pay for the use of such property so taken a just compensation.

Duties of prac-
ticing phys-
ician.

SECTION 13. It shall be the duty of each and every practicing physician in the city of Sheboygan: 1st. Whenever required by the board of health to report to them, at such time and in such manner as they shall prescribe, the number of persons attacked with any pestilential, contagious or infectious disease, attended by such physician for the twenty-four hours next preceding such

report, and the condition of such person. 2d. To report in writing to the board of health every patient he shall have, laboring under any pestilential, contagious or infectious disease, within twenty-four hours after he shall discover the nature of the same. 3d. To report in writing to the board of health, when required by them, the death of any patient who shall have died of a pestilential, contagious or infectious disease, within twenty-four hours thereafter, and to state in such report the specific nature and type of the disease. 4th. To report monthly to said board the death of all patients from other causes than those specified in the 3d subdivision of this section.

SECTION 14. Any physician who shall neglect or refuse to perform the duties required of him by any section of this title, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished by a fine of not more than one hundred dollars for each such violation.

Guilty of misdemeanor for refusal to act.

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

Compensation of officers.

SECTION 16. The common council of said city shall have power to further define the duties of the board of health, and to pass such ordinances in aid thereof as the general health of the inhabitants of said city require.

Further duties of the board may be defined.

SECTION 17. It shall be the special duty of the members of the police force of said city, and of all magistrates and civil officers, and all citizens to aid, to the utmost of their power, the board of health and the officers mentioned in this title, in the performance of their respective duties, and on requisition of the president of said board of health, it shall be the duty of the police of said city to serve the notices of said board, and to perform such other duties as may be required.

Duty of peace officers to aid board of health.

TITLE XIII.

THE FIRE DEPARTMENT.

Fire limits.

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

Dangerous construction of chimneys, etc.

SECTION 2. The common council shall have power to prevent the dangerous construction and condition of chimneys, fire-places, hearths, stoves, stove pipes, ovens, boilers and apparatus used in and about any building, and to cause the same to be removed or placed in a safe and secure condition, when considered dangerous; to prevent the deposit of ashes in dangerous places; to require the inhabitants to provide as many fire-buckets in such time and manner as they shall prescribe, and to regulate the use of them in time of fire; to regulate the carrying on of manufactories dangerous in causing or promoting fires; to regulate and prevent the use of fire-works or fire-arms; to compel the owners and occupants of buildings to have scuttles in the roofs, and stairs or ladders leading to the same; to authorize the mayor, aldermen, and other officers of the city to keep away from the vicinity of any fire all idle and suspected persons, and to compel all by-standers 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 extinguishing of and prevention of fires, and for the protection of persons and property from injury thereby, as they may deem expedient.

SECTION 3. The common council shall have

power to purchase fire-engines and other fire apparatus, and to organize a fire department, composed of a chief engineer and such assistants and officers and firemen as shall be required and employed in the management and conduct of the fire-engines and apparatus, and to establish rules and regulations for the fire department.

Fire department.

SECTION 4. The city of Sheboygan is hereby authorized and empowered to purchase for the use of said city, steam fire-engines, hose-carts and hose, and all other apparatus necessary for the fire department of said city, and to employ engineers and all other necessary help to operate and conduct said engines and hose carts, at stated salaries or monthly wages; provided, that in no case shall there be employed to exceed nine persons, including the watchman, to care for and operate each of said engines and hose-carts connected with the same, and no more than six persons shall be employed to operate and care for any separate hose cart and apparatus, used in connection with the water-works of said city, and the council shall determine the number of persons to be employed in hook and ladder and other fire companies.

Power to purchase fire-engines, fire apparatus of every description.

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

Chief engineer to be appointed by mayor.

SECTION 6. Whenever any person shall refuse to obey any lawful order of the mayor, chief engineer, alderman or policeman at any fire, it shall be lawful and the duty of the officer giving such order to arrest, or direct orally any policeman, constable, watchman or any citizen to arrest such person, or to confine him temporarily in any safe place until the fire shall be extinguished; and in the same manner such officers, or any of them, may arrest or direct the confinement of any intoxicated person at such fire; and any person who

Penalty for refusal to obey lawful order.

shall refuse to obey such lawful order, or who shall refuse to arrest or assist in arresting any such person hereby authorized to be arrested, or who shall be otherwise disorderly shall be liable to such penalty as the common council may prescribe, not exceeding fifteen dollars.

TITLE XIV.

THE POLICE DEPARTMENT.

Police department.

SECTION 1. The police force of the city of Sheboygan shall consist of one chief of police, and such number of policemen as the common council shall from time to time deem necessary, and authorize to be appointed.

Chief to be appointed by the mayor.

SECTION 2. The chief of police shall be appointed by the mayor, and approved by the common council, on the third Tuesday in April, 1887, and biennially thereafter, and he may be removed by the mayor by and with the approval of the common council. Before entering upon the duties of his office, the chief of police shall execute to the city of Sheboygan a bond in the penal sum of two thousand dollars, with two or more sureties, to be approved by the common council, said bond to be conditioned for the faithful performance of the duties of his office, and the common council may require all other policemen to give a bond in such sum and on such conditions and with such sureties as they may deem proper. The chief of police, subject to the approval of the mayor, shall appoint all other members of the police force, who shall hold their office until the third Tuesday of April following the date of their appointment, unless sooner removed in the manner in which they were appointed; and all appointments in the police department shall be reported to the common council annually, and as often as changes are made.

Official duties.

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

To have power of policemen.

SECTION 4. The mayor, aldermen, harbor-master and bridge tenders of the city shall, sever-

ally and respectively have and exercise within said city, all the powers of policemen of the city, without any extra compensation or claim of extra compensation therefor.

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

Duties of police force.

SECTION 6. The mayor or acting mayor, the sheriff of Sheboygan county, and each and every alderman, justice of the peace, policeman, constable, watchman, bridge tender, harbor-master, members of the board of public works and the municipal judge, shall be officers of the peace, and suppress in a summary manner, all rioting and disorderly behavior within the limits of the city, and shall command the peace; and for such purpose they 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, each such person shall forfeit and pay a fine of fifty dollars; and in cases where the civil power may be required to suppress riotous and disorderly behavior, the superior or senior officer present, in the order above mentioned, shall direct the proceedings.

Officers of the peace.

SECTION 7. It shall be the duty of the chief of police, on or before the first day of May in each year, to report to the city clerk and attorney the names and places of business of all the parties within said city selling or dealing in spirituous, vinous or fermented liquors, and to give notice to such parties that they are required to pay the city treasurer such license money as may be fixed by law for the selling or dealing in spirituous, vinous or fermented liquors; and, from time to time, the chief of police shall report the names and places of business of all other parties who, subsequent to or who were not embraced in such report, shall be or may have been engaged in selling or dealing in spiritous, vinous or fermented liquors. Every license for the sale of such liquors shall expire on

Duties of the chief of police.

the first day of May following the date of its issue.

No extra compensation allowed.

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

City attorney to prosecute.

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

TITLE XV.

THE MUNICIPAL COURT.

Municipal court.

SECTION 1. There is hereby established in the city of Sheboygan, a municipal court, for the transaction of all business that may lawfully come before it, and for that purpose the city of Sheboygan is hereby declared a municipality. The qualified electors of the said city of Sheboygan shall, on the first Tuesday of April, 1887, and once in every four years thereafter, elect a suitable person to the office of judge of said municipal court, to be called the municipal judge, who shall hold his office for the term of four years, and until his successor is duly elected and qualified; and the said judge shall, before entering upon the duties of his office take and subscribe the oath of office to support the constitution of the United States and the constitution of the state of Wisconsin, and to faithfully, honestly and impartially discharge the duties of his office, which oath may be administered by any officer authorized by the laws of the state of Wisconsin to administer oaths, and shall be filed in the office of the clerk of the circuit court of Sheboygan county, together with an official bond with two sureties, in the form now prescribed by law for justices of the peace of the state of Wisconsin.

Powers of municipal judge.

SECTION 2. The municipal judge of the city of Sheboygan shall have jurisdiction to try and determine all actions at law, where the amount

claimed shall not exceed the sum of six hundred dollars, and to try and determine all criminal actions where the crime was committed in said city, and that are not punishable by commitment to the state prison, and to arrest and examine and to hold to bail all parties charged with other offenses against the laws of the state as provided by law. And the said court and judge thereof shall also have exclusive original jurisdiction of all offenses and actions under the charter of said city and the ordinances, rules and by-laws of said city, and exclusive jurisdiction of all criminal trials and examinations for offenses committed within said city, subject to appeal to the circuit court of said county, and the statute of removal of causes, either civil or criminal, applying to justices of the peace, shall not apply to said judge or his court and there shall be no removal therefrom and the said court and the judge thereof shall have all the jurisdiction given by law to justices of the peace of said county; and the proceedings and practice of said court shall in all respects, as far as practicable, comply with the laws of this state applicable to justice's courts, except as otherwise provided in this title, and transcripts of the judgments of the said municipal court shall be with like effect filed and entered with the clerk of the circuit court of said county, and all appeals, civil and criminal may be taken in the same manner and with like effect as are now provided for courts of justices of the peace, and the said judge shall have power to sentence and commit all persons convicted of any of the offenses of which he has jurisdiction, that the circuit judge and justices of the peace may now lawfully do.

SECTION 3. The provisions of the charter of the city of Sheboygan, and all other laws of the state relating to justices' courts, shall be so construed as to apply to said municipal court, so far as the same are not inconsistent with this act; and the jurisdiction, powers and duties of the municipal court, in both civil and criminal proceedings, shall be the same as is provided for justices' courts, except as modified and changed by this act.

Provisions of charter to apply to said court.

SECTION 4. The same fees in all civil actions, that are now allowed by law to justices of the peace, and one dollar in addition thereto for all

Fees.

civil actions where the amount involved shall exceed two hundred dollars, it shall be lawful for said municipal judge to charge and collect, and the further salary of not less than five hundred dollars for his services in conducting criminal trials and examinations, to be fixed by the common council of said city, at least three months before the commencement of his term of office, but the salary of the judge first elected under this act shall be five hundred dollars per annum, and such salary and the salary fixed by the common council shall be neither increased nor diminished during the term of office for which the same was fixed; such salary to be paid quarterly, and the said judge shall pay over to the treasurer of the city of Sheboygan all fines and penalties imposed by virtue of the charter, ordinances and regulations of said city. And all fees charged and collected by said judge, either in civil or criminal cases, shall be retained by him, and he shall in no case be allowed to collect any fees against either the city or county of Sheboygan, in either civil or criminal cases.

Provide a seal.

SECTION 5. The judge of said municipal court may provide a seal for his said court, and all papers, depositions, certificates, acknowledgements, examinations or other documents, executed or signed by said judge, when sealed with the seal of said court, shall be evidence in all courts and places in this state, and shall have the same effect as the seal of a court of record.

What repealing law must state.

SECTION 6. No general or local act of the legislature heretofore passed, or which shall hereafter be enacted, shall be construed as to change, alter, modify or repeal this act, or any provision of the charter, ordinances, rules or regulations of the city of Sheboygan thereto relating, unless the purpose so to do be expressly set forth in such general or local law, by stating therein that it is the intention of the legislature to have the same apply to the city of Sheboygan.

Conduct of jury trials.

SECTION 7. Jury trials in said municipal court may be conducted in the same manner as in justices' courts until otherwise provided. The common council of the city of Sheboygan may, by ordinance, provide for a different manner of selecting jurors for said court, and any ordinance providing for the drawing or selecting of jurors

for the said municipal court, shall have the force and effect of law. Any juror, when duly summoned to attend said court, and who shall not attend at the time required in the summons, shall be adjudged guilty of contempt, and shall be fined in a sum not less than five nor more than ten dollars; and appeals from said court shall be allowed in all cases tried in said court, whenever and in the same form and manner as appeals are now allowed by law from justices' courts.

SECTION 8. Nothing herein contained shall be construed as to abridge or impair the jurisdiction of the circuit court of said county. Jurisdiction of circuit court not impaired.

SECTION 9. In all cases where the amount claimed by the plaintiff shall exceed the sum of two hundred dollars, and the plaintiff appears by an attorney of record, the sum of fifteen dollars shall be taxed as attorney's fees to the successful party, and except as herein provided, the same attorney's fees shall be charged and recovered as now provided by law in justice courts. Attorney's fees.

TITLE XVI.

ACTIONS TO RECOVER FINES, FORFEITURES AND PENALTIES.

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

SECTION 2. In all prosecutions for any violation of any of the provisions of any ordinance, by-law 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, as required by law. Upon return of the warrant, if commenced by warrant, the municipal judge may proceed summarily with the case, unless it be adjourned by consent or for cause. If the case be First process to be by summons.

adjourned, the defendant may be required by the court to recognize with security to be approved by the judge, for his appearance, in such sum as the said judge shall direct, or in default thereof, the defendant may be put in charge of the officer who made the arrest, or be committed to the jail of Sheboygan county. The complaint made as aforesaid shall be the only complaint required, and the plea of not guilty shall put in issue all subject matters embraced in the action.

Printed copies
to be received
in evidence.

SECTION 3. A printed copy of any ordinance, by-law or regulation, passed by the common council, and published in the official paper, or in book form, purporting to be published by the authority of the council, shall be received in evidence on the trial of all cases in any court of this state.

Jury to be
allowed to
either party.

SECTION 4. In city prosecutions, a jury shall be allowed either party, or the same may be tried by the court, and the finding of the court or jury 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 he was adjudged guilty, and for the costs of suit, and 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 judge shall forthwith issue execution, as in cases of tort, in case the action was commenced by summons, or by 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 not, except as in this act otherwise provided, exceed six months, and also insert such time in the execution or commitment. Such execution may be in the following form:

Forme.

COUNTY OF SHEBOYGAN, }
City of Sheboygan. } ss.

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

Whereas, the said city of Sheboygan, on the — day of —, A. D. 18—, recovered a judgment before the undersigned, municipal judge in and for said city, against — — —, for the

sum of _____ dollars, and for the sum of _____ dollars and _____ cents, costs of suit, (or for the violation of section _____, of title _____, of this act) (or for the violation of section _____, of an ordinance, 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 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 your writ, and the same return to me within thirty days; and for want of such goods whereon to levy take the body of said _____, and him convey and deliver to the keeper of the common jail of Sheboygan county and the said keeper is hereby commanded to receive and keep in custody in said jail the said _____ for the term of _____, unless 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—.

Municipal Judge.

SECTION 5. The form of commitment shall be substantially the same as that of the execution, omitting all that relates to the levy and sale and return of the writ. Commitment.

SECTION 6. In all cases where the fine, penalty or forfeiture is more than twenty (20) dollars, the defendant may appeal from such judgment, to the circuit court of Sheboygan county; provided, such defendant within twenty-four hours, enter into a recognizance, with sufficient sureties, to be approved by said judge, conditioned to appear before said circuit court, and abide the judgment thereof. The judge shall make a special return of the proceedings had before him, and shall forthwith cause the summons, or warrant and return thereto, as the case may be, together with the proceedings had before him, and copies of his docket entries, in the action and the recognizances, to be filed in the office of the clerk of said circuit court; and the city may appeal from any such judgment, as in other cases before justices of the peace. Appeal.

SECTION 7. 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 Appeal to stand for trial.

term thereof, and no notice of trial shall be required to be given by either party.

In case judgment be confirmed.

SECTION 8. If the judgment of the municipal court shall be confirmed, or if, upon the trial, the defendant shall be convicted, the circuit court shall inflict the penalty provided by the charter, ordinance, by-law or regulation, and enter judgment against the defendant and his sureties for such fine, penalty or forfeiture, together with the costs in both courts and enforce the same by execution, as in actions of tort, or commit the defendant as provided by law.

No fees in advance required.

SECTION 9. Witnesses and jurors shall attend before the municipal judge in all city and criminal suits, without the payment of fees in advance, or a tender thereof, upon process duly served, and in default thereof, their attendance may be compelled by attachment; provided, that no witness shall be compelled to attend the trial of any civil case on the part of any other party than the city without the payment of his fees in advance.

Claims to be verified.

SECTION 10. No action shall be commenced against the city until the claim or demand upon which the same is founded has first been duly verified and presented to the common council of said city for allowance.

TITLE XVII.

FINANCE AND TAXATION.

Finance and taxation.

SECTION 1. All funds in the city treasury, except school funds and the funds set apart for the payment of the annual rental of hydrants for fire protection, shall be under the control of the common council, and shall be drawn out on the order of the mayor and clerk, duly authorized by a vote of the common council, and countersigned by the city comptroller, except as follows, to-wit: The common council may provide by ordinance for the payment of such persons as may be employed by the board of public works, or by the common council in the service of the city, upon monthly pay rolls, and shall prescribe the form of such pay rolls in the manner in which the same shall be certified, audited and approved; provided, that such pay rolls shall, in all cases, be certified by

the board of public works, approved by the common council, and countersigned by the city comptroller. All orders drawn upon the treasury shall specify the purpose for which they were drawn, and shall be drawn generally out of any funds in the treasury belonging to the city and not otherwise appropriated, and all such orders shall be received in payment of any tax or assessment levied by the authority of the city.

SECTION 2. The common council of said city shall have the power to levy annually for the general fund of said city, a tax not exceeding five mills on each dollar of taxable property of said city as shown by the assessment roll of the year. For the school fund a tax not exceeding ten mills on each dollar of taxable property of said city to meet the expenses of purchasing school grounds for school buildings, the building and repair of school buildings, for the purchase of school apparatus and fixtures, and supporting and maintaining schools within said city. For the fire fund a tax not exceeding five mills on each dollar of taxable property of said city to meet the expenses of purchasing and repairing fire-engines and horses for the fire department, and fire apparatus, and the building and repairing of engine houses, and to provide for such other means for fire protection as may be adopted, and all other requirements of the fire department of said city. A tax not exceeding five mills on each dollar of the taxable property of said city for the purpose of paying the annual rental of hydrants and other expenses connected with the water-works of said city. For the bridge fund, a tax not exceeding ten mills on each dollar of taxable property of said city for the building and repairing of bridges. For the bond fund, a tax not exceeding ten mills on each dollar of taxable property of said city, to pay the accrued and accruing interest on the bonded indebtedness of said city, to provide a sinking fund to pay the bonds of said city when due, and for compromising the bonded indebtedness of said city. For ward funds, a tax not exceeding five mills on each dollar of taxable property of the respective wards of said city as shown by the assessment roll of the year. For the sewerage fund, a tax not exceeding five mills on each dollar of the taxable property of said city

School tax may be levied annually.

as shown by the assessment roll of the year. For the cemetery fund, a tax not exceeding one mill on each dollar of the taxable property of the city as shown by the assessment roll of the year. For the poor fund, a tax not exceeding three mills on each dollar of the taxable property of the city as shown by the assessment roll of the year.

Estimates to be made of expenses.

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

Election expenses to be charged to wards.

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

Money to be deposited in banks.

SECTION 5. As often as the common council shall think best for the interest or safety of the city, they shall select some bank, banks or banking associations, with which or whom all or any part of the funds in the treasury of the city, or which shall thereafter be collected or received by the treasurer, shall be deposited; provided, however, that such bank, banks or banking associations so selected shall, before receiving such funds, give security in the same manner as is now required of the treasurer of said city, for safe keeping and proper distribution of such funds, which bond shall be approved by the common council.

Treasurer to make monthly statements.

SECTION 6. The city treasurer shall render monthly statements to the common council of the amounts received and disbursed by him, and the balance over fifteen hundred dollars on hand in the treasury at the end of each month shall be deposited with the bank, banks or banking asso-

ciations so selected, it or they giving proper vouchers therefor. From the time of so depositing such funds, the city treasurer shall be relieved from all liability to the city arising from the failure of the bank, banks or banking associations safely to keep said funds. Such funds shall be drawn out only upon the check of said treasurer, countersigned by the comptroller of said city.

SECTION 7. The treasurer and comptroller may, whenever the balance in the treasury does not amount to said fifteen hundred dollars, increase it to that amount by their check as aforesaid, in favor of the city treasurer; the true object of this being to enable the treasurer to have funds under his control with which to pay such demands upon the treasury as he is or shall be required by law to pay.

Amount of funds to be kept in treasury.

SECTION 8. The common council may, before or after selecting a depository or depositories, contract with such banks, bank or banking associations that it or they shall pay to the city such interest upon the funds so to be deposited as they may mutually agree upon.

Banks may pay interest.

SECTION 9. Nothing in this act shall be so construed as to authorize the treasurer to apply funds so retained by him, or so to be drawn from the bank on his check, countersigned by the comptroller, to purposes other than those to which the same funds are appropriated by law. The common council may at any time, when in their opinion the safety or interests of the city require it, direct all sums so deposited to be paid into the treasury of the city, or to such other bank, banks or banking associations as they may direct under the law.

Funds not to be misapplied.

SECTION 10. The common council may, from time to time, borrow, upon the notes of the city, signed by the mayor and city comptroller, such sums of money in anticipation of the incoming taxes of the year, as they shall deem necessary to pay accruing bonds and accruing interest on the funded debt, and to meet the current expenses of the city. All such notes shall be paid out of the taxes of the current year, at such time as may be agreed, not later than the first day of February next following their date.

When money may be borrowed.

SECTION 11. At the first meeting of the com-

Statement of
city orders to
be given in
May.

mon council in May of each year, the city clerk shall prepare and present to the common council a descriptive list, giving the dates, amounts and names of payees of all city orders drawn, which shall have remained in his office three years uncalled for by such payees. The common council shall cause such orders to be compared with such list, and when found or made correct, such list shall be filed and preserved in the office of such clerk, and a copy thereof duly certified by said clerk shall be delivered by him to the comptroller and all such orders shall be cancelled and destroyed. The person entitled to any such order may, upon application to the common council, have a new order issued to him for the amount named in the original order so cancelled, without interest, at any time within six years from the date of such original order, and not afterwards.

TITLE XVIII.

ASSESSMENT AND COLLECTION OF TAXES.

Assessment
and collection
of taxes.

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

City assessor's
office to be
kept.

SECTION 2. The city assessor shall have and keep an office as prescribed by the common council, and shall have and keep therein such records of taxable real property, and of personal property

and persons and corporations liable to assessment, as shall be required by the common council. At the time designated by law, or within such time as the common council shall prescribe, the city assessor shall proceed to examine and determine the valuations of taxable real and personal property within said city, and shall enter the same upon an assessment roll in the manner provided by general law, with such additions as may be prescribed by the common council. Such assessment roll shall be made and completed by the city assessor on or before the first Monday of August in each year, and shall then be submitted to the board of review of said city.

SECTION 3. The board of review for the city of Sheboygan shall consist of the mayor, city assessor and city clerk. The board of review shall meet annually on the first Monday in August at the city clerk's office. A majority shall constitute a quorum. Notice of the time and place of such meeting shall be given by the assessor by publication in the official papers of the city at least one week prior to such first meeting. Excepting as to such time of meeting the said board of review shall proceed thereupon in relation to such assessment rolls and assessments and shall have and possess all the powers of a board of review as now prescribed or as shall hereafter be prescribed by general law. The mayor shall receive as compensation for his services while sitting on such board of review the sum of three dollars per day for the time actually employed. The other members of the board of review shall receive no extra compensation therefor.

Board of review.

SECTION 4. After the assessment roll shall have been examined, corrected and completed by the board of review, the city assessor shall deliver the same to the comptroller, duly verified by the oath of the assessor thereto annexed, as required by law, together with the sworn statements and valuations of personal property, and the comptroller shall preserve such statements in his office.

Assessment roll to be delivered to city comptroller.

SECTION 5. The comptroller, upon receiving such assessment rolls, shall examine and perfect the same, and make out therefrom a complete tax roll in the manner and form as prescribed by law to town clerks. The common council shall, at such times thereafter as they may deem proper, and

Comptroller to examine and perfect the same.

on or before the first Monday in December, by resolution, levy such sum or sums of money or taxes as may be sufficient for the several purposes authorized by law, not exceeding the amount so authorized, excepting that for the payment of bonds and the interest on the bonded indebtedness, they may levy such amounts as shall be necessary, and in such resolution shall particularly specify the purpose or bonds for which such levy or levies are made, and state the same either as a per-centage upon the assessed valuation or in a specified sum.

County taxes to be apportioned.

SECTION 6. Immediately after the county clerk shall certify to the comptroller the amount of taxes levied by the county board of supervisors to be paid by said city, the comptroller shall apportion and extend upon the tax roll upon a uniform per-centage, by setting opposite to the description of each lot or tract of land, and to the name of each person named in said roll, in proper columns, such proportionate share of the taxes to be levied, in or upon said city, as may be chargeable upon such lot or tract of land, or against such person, including five per cent. collection fees. The per-centage levied for the several funds, excepting the ward funds and benefits and damages by special assessments, may be carried out on said roll in one column, unless the common council shall otherwise direct.

Warrant to be attached.

SECTION 7. To such tax roll shall be appended a warrant, signed by the mayor and city clerk, directed to the treasurer, requiring and commanding him to collect the taxes and assessments on said roll.

Tax roll to be carefully compared before delivery.

SECTION 8. Such tax roll, before being so delivered to the treasurer shall be carefully compared by the comptroller with the assessment roll as corrected, and to it he shall append his certificate that the same has been so compared by him and is correct, and the said tax roll, when so certified, shall be prima facie evidence in any court that the lands and persons therein named were subject to taxation as therein set forth, and that the assessment was just and equal.

Special charges to be carried out in separate column.

SECTION 9. In all cases when by the provisions of law any special charge or assessment is made a lieu upon land, the amount of such charge or assessment shall be carried out on the tax roll in

a separate column or columns opposite the lot or tract of land upon which the same may be a lien and the treasurer shall collect and do all other acts in relation thereto in the same manner as if the amount thereof was a general tax.

SECTION 10. After the assessment roll is completed, the rate of taxation is fixed, the taxes are extended on the tax roll, and the tax roll is placed in the hands of the city treasurer for collection, it shall not be lawful for the common council to remit, amend or or cancel any tax charged against any real or personal property, except in the following specified cases: 1. When a clerical error has been made in the description or transfer of the property from the original assessment books to the tax roll, or in the extension of the tax. 2. When improvements by the erection of buildings have been assessed on lots or lands where none had been made at the time fixed by law for making the assessments. 3. When the tax is manifestly illegal and void, by reason of the exemption of the property from taxation by law, or assessment district. 4. Where the person has been assessed the same year for the same personal property in more than one ward.

When taxes may be remitted.

SECTION 11. If it shall appear to the assessor that any lot or parcel of land was omitted in the assessment roll or tax roll of either or both of the two preceding years, and that the same has been liable to taxation, or that any personal property liable to taxation was so omitted, or that by any error in copying or carrying out the tax roll the amount properly chargeable to any lot, person or property has in any way been omitted or diminished, the assessor shall enter or cause the same to be entered upon the assessment roll for the current year, as an additional assessment to such property or person, in the amount so omitted, noting the year when such omission occurred, and such assessment shall have the same force and effect as it would have had if included in the year when the same was omitted and shall be collected in like manner with other entries on the tax roll.

In case lot or parcel of land has been omitted.

SECTION 12. Upon the receipt of such tax roll by the city treasurer, it shall be his duty to give public notice in the official papers of said city, that said tax roll has been committed to him for

Public notice of tax roll to be given by city treasurer.

collection, and that he will receive payment for taxes at his office for the term of twenty days next ending the date of said notice, and all persons paying taxes during such time shall be allowed a discount of three-fifths of the amount included or named in the roll for collection fees; provided, that the common council may extend the time for such payment, not exceeding twenty days further. After the expiration of the said twenty days, or of the extended time, the city treasurer shall proceed to collect the taxes charged in said roll and remaining unpaid, and to levy the same by distress and sale, in the manner provided by the general laws of this state for the collection of taxes by town treasurers, and for that purpose shall have and possess all the powers conferred upon town treasurers. The common council of said city shall have power to extend the warrant for the collection of taxes in said city for such period of time, not exceeding sixty days, as they may deem proper and necessary, and the treasurer shall have the same power and authority to proceed in the collection of taxes and in enforcing the same after as before the extension of the warrant, and his return thereupon shall be as valid and effectual as if made pursuant to the direction of the original warrant.

In case unraid taxes, what shall be done with them.

SECTION 13. If any tax mentioned in said roll annexed to his warrant shall remain unpaid, and he shall be unable to collect the same, he shall make out a statement of taxes so remaining unpaid, distinguishing between such as are on real and personal estate by setting them down separately, with a full description of the real estate from his roll and the name of the person taxed, if therein specified, and this list so made with the affidavit thereto attached, stating that the taxes therein named had not been collected, and that he had been unable, after diligent search, to find goods or chattels belonging to the person or persons so charged with said unpaid taxes, out of which to collect the taxes, shall be called the delinquent tax list, and it shall be his duty to deliver such delinquent tax list to the treasurer of Sheboygan county, at such times as is required by law, and he shall at the same time pay over to the treasurer of said county all moneys collected by him belonging to the county of Sheboygan.

and all taxes belonging to the state of Wisconsin, in the same manner as is by law required of town treasurers.

SECTION 14. All directions hereby given for the assessment of lands and the levying and collection of taxes and assessments shall be deemed directory only, and no error or informality in the proceedings of any of the officers entrusted with the same, not affecting the substantial justice of the tax itself, shall vitiate or in any manner affect the validity of the tax so assessed.

TITLE XIX.

DISQUALIFICATIONS AND IMPEACHMENTS.

SECTION 1. No member of the common council shall hold any other office in the city. If any member of the common council shall, while a member, accept any other public office, he shall be deemed to have vacated his office as a member of the common council, and it shall be the duty of the common council to order a special election to fill the vacancy thus created; provided, that three months of the term of such member shall then remain unexpired.

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

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

SECTION 4. No person interested, directly or indirectly, as principal or surety, in any contract or agreement, written or verbal, to which the said city shall be a party in interest, or in which any officer or board under this act shall officially be a party for the construction of any sewer, pavement

or building, or the performance of any public work whatever, or involving the expenditure, receipt or disbursement of money or property of said city, or any ward thereof, or by any officer or board under this act, shall be eligible to any office or appointment in said city that will in any manner give him official cognizance or authority over the subject matter of such interest; and if any person thus interested shall be elected or appointed to office, his election or appointment shall be void, and such office shall be deemed vacant.

May be removed from office for participation in contract.

SECTION 5. If any member of the common council, or other officer of the corporation, after his election or appointment, shall become or cause himself to become interested, directly or indirectly, in any contract or agreement, whether written or verbal, to which the corporation, or any ward shall be a party in interest, or to which any officer or board under this act shall officially be a party or in any question, subject or proceeding, pending before the common council, or on which such officer may be called upon to act officially, with intent to gain, directly or indirectly, any benefit, profit or pecuniary advantage, he shall be removed from his office, and the same shall be declared vacant by the common council; and he shall be deemed guilty of felony, and on conviction thereof shall be punished by imprisonment in the state prison for not more than one year or by a fine of not less than five hundred dollars, and not more than five thousand dollars, or by both such fine and imprisonment in the discretion of the court.

Penalty for bribery.

SECTION 6. If any member of the common council or other officer or agent of the city government shall, directly or indirectly, accept or agree to accept any money, goods or chattels, or any bank note, bank bill, bond, promissory note, due bill, bill of exchange, draft, order or certificate, or any security for the payment of money, or goods or chattels, or any deed or writing containing a conveyance of land or conveying or transferring an interest in real estate, or any valuable contract in force, or any other property or reward whatever, in consideration that such member of the common council or other officer or agent of said city will vote affirmatively or negatively, or

that he will not vote, or that he will use his influence and interest on any question, ordinance, resolution, contract or other matter or proceeding pending before the common council, or on which such officer or agent may be called upon to decide or act in any particular manner, such member of the common council, officer or agent shall be removed from office, and his office declared vacant by the common council; and both he and the person or persons offering or paying such consideration, directly or indirectly, shall be deemed guilty of felony, and on conviction thereof shall be punished by imprisonment in the state prison for not more than three years nor less than one year, or by a fine of not less than five hundred dollars and not more than five thousand dollars, or by both such fine and imprisonment, in the discretion of the court.

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

Majority may
dismiss as for
malfeasance.

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

Official mis-
conduct to be
investigated.

SECTION 9. Subpoenas may be issued for the purpose of procuring the attendance of witnesses before any committee appointed pursuant to the preceding section. Each subpoena shall state when and where and before whom the witness is required to appear and testify, and may re-

Witnesses may
be subpoenaed.

quire such attendance forthwith or on a day certain therein named, and may require the production of books, documents and papers therein to be designated. All such subpoenas shall be signed by the city clerk of said city, and shall be issued under the seal of the city, and may be served in the same manner and have the same force and effect as subpoenas issued out of the circuit court. Any wilful or corrupt false swearing by any witness or person giving testimony before such committee or any member thereof, or making false deposition to any material fact relating to the matter under investigation before such committee, shall be deemed guilty of perjury, and shall be punished as such in the manner provided by law. The provisions of law in respect to attachment of witnesses subpoenaed before justices of the peace, and compelling such witnesses to appear and testify before them, are hereby applied to the case of witnesses subpoenaed before such committee, and such committee may exercise the powers of arrest, fine and imprisonment for contempt vested in justices of the peace in such cases. Writs of attachment and commitment for contempt shall be signed by the chairman of such committee.

TITLE XX.

MISCELLANEOUS.

Liability for defective sidewalks.

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

SECTION 2. Whenever any injury shall happen to persons or property in the city of Sheboygan, at any place in said city where work of any kind is being done on any street, sidewalk, alley or public ground, by any contractor under contract with the board of public works of said city, with the city itself, or any other board or committee thereof, in consequence of the condition of such street, sidewalk, alley or public ground, arising from the doing of such work, the said city shall not be liable therefor until after all legal remedies shall have been exhausted to collect such damages from such contractor. And if such contractor or contractors doing such work shall fail to keep up sufficient fences or protection guards to prevent damages or injury to persons or property, or shall be guilty of other negligence in doing such work, and if injury to persons or property occur by reason of such default or negligence of such contractor or contractors, such contractor or contractors shall be primarily liable for all damages for such injury, and the said city shall not be liable therefor until after all legal remedies shall have been exhausted to collect such damages from such contractor or contractors.

Contractors
required to
fence street,
work, etc.

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

Judgment in
favor of city
not to be
remitted.

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

Shall not work
incompetency.

SECTION 5. All ordinances, resolutions, or regulations now in force in said city, 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.

All resolutions
or ordinances
remain in
force.

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

City to be
successors in
all actions.

Failure to hold election does not destroy corporation.

SECTION 7. If any election by the people or council shall, for any cause, not be held at the time or in the manner herein prescribed, or if said council shall fail to organize as herein provided, it shall not be considered reason for arresting, suspending or absolving said corporation, but such election or organization may be held on any subsequent day by order of said council; and if any of the duties enjoined by this act or the ordinances or by-laws of said city, to be done by any officer at any specified time, are not then done or performed, the common council may appoint another time at which the said acts may be done or performed.

How suit or action shall be commenced.

SECTION 8. When any suit or action shall be commenced against said city, the service of the process therein may be made by leaving a copy of the process, by the officer serving the same, with the mayor, and it shall be the duty of the mayor forthwith to inform the common council thereof, or to take such other proceedings as by the ordinances or resolutions of the said council, may in such cases be provided. When, in any suit, the said city shall take an appeal from the order of judgment or any court in this state to a higher court, it shall not be required to give an appeal bond.

Property that is exempt.

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

Vested in the corporation.

SECTION 10. All property, real, personal or mixed, belonging to the city of Sheboygan, is hereby vested in the corporation created by this act. The officers in said city now in office shall respectively continue in office until the expiration of their term of office except as otherwise in this act provided, when they shall be succeeded in their respective offices by the officers elected thereto under this act.

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

May hold real estate.

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

Subject to special taxes.

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

Shall not have jurisdiction when city is a party.

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

No general law can repeal.

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

Printing this charter.

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

This act does not invalidate former acts.

SECTION 17. Chapter 254, of the private and local laws of this state for the year 1868, entitled, 'an act to revise, consolidate and amend the act to

Repealed.

incorporate the city of Sheboygan, and the several acts amendatory thereof, and to repeal chapter 94, of the private and local laws of 1856, entitled, an act to establish a code of procedure for the police court of the city of Sheboygan, approved March 4th 1868; the several acts amendatory of said chapter 254, relating to said city of Sheboygan, particularly mentioned and described as follows, to-wit: Chapter 126, of the private and local laws of 1869; chapter 410, of the private and local laws of the year 1871; chapter 282, of the session laws of the year 1873; chapters 203 and 236, of the session laws of the year 1874; chapter 111, of the session laws of the year 1875; chapters 56 and 271, of the session laws of the year 1876; chapter 29, of the session laws of the year 1877; and chapter 305, of the session laws of the year 1885; these and all other acts and parts of acts, inconsistent with or superseded by this act, are hereby repealed, but such repeal shall not in any manner affect, injure or invalidate any contracts, acts, suits, proceedings, claims or demands that may exist, under, by virtue of or in pursuance of the said acts or any of them; but the same shall remain in full force and effect, and be enforced and carried out as fully and effectually as if this act had not been passed, but in conformity with the provisions of this act so far as the same may be applicable.

SECTION 18. This act shall take effect and be in force from and after its passage and publication.

Approved March 24, 1887.