

CHAPTER 97.

## REPEALING CLAUSE.

Repeal.

SECTION 33. An act entitled "an act to consolidate and amend the act to incorporate the city of Oshkosh, and the several acts amendatory thereof," approved March 14th, 1856, and the several acts amendatory thereof, and all acts and parts of acts inconsistent and conflicting with the provisions of this act, are hereby repealed; but the repeal of said acts and parts of acts shall not in any manner affect, injure or invalidate any contracts, acts, suits, claims or demands that may have been entered into, performed, commenced, or that may exist under or by virtue or in pursuance of the said acts or any of them, but the same shall exist and be enforced and carried out as fully and effectually, to all intents and purposes, as if this act had not been passed.

Remain in force

SECTION 34. This act shall take effect and be in force from and after its passage.

Approved March 22, 1861.

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[Published March 23, 1861.]

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

*The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows :*

## CHAPTER ONE.

Boundaries.

SECTION 1. All that district of country included in sections three, four, nine and ten, and the east half of sections five and eight, in township seventeen, north of

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range thirteen east, and all that part of sections thirty-three and thirty-four, in township eighteen, north of range thirteen east, lying south and east of Fox river, shall be known and designated as the city of Berlin, and the people now inhabiting, and those who shall hereafter inhabit, within the district of country herein described, shall be a municipal corporation by the name of the city of Berlin, and shall have the general powers possessed by municipal corporations at common law, and in addition thereto, shall possess the powers hereinafter specially granted; and the authorities thereof shall have perpetual succession, shall be capable of contracting and being contracted [contracted] with, using and being sued, pleading and being impleaded, in all courts of law and equity, and shall have a common seal, and may change and alter the same at pleasure.

Style.

Corporate powers.

SECTION 2. The said city shall constitute one ward, and the government of said city, and the exercise of its corporate powers and management of its fiscal, prudential and municipal concerns, shall be vested in a mayor and six aldermen, to be elected from the city, who shall constitute the city council, and also in such other officers as hereinafter provided for.

City one ward.

SECTION 3. On the first Tuesday in April, A. D. 1861, there shall be elected in said city one mayor, one city treasurer, six aldermen, one assessor, one justice of the peace, and two constables. The mayor, city treasurer, assessor and justice of the peace, shall each hold their respective offices two years, and until their successors are elected and qualified. Three of the alderman [aldermen] thus elected shall hold their offices two years, and three one year, their respective terms of office to be determined by lot at the first meeting of the city council after their election. The constables shall hold their office one year. After such first election, there shall be elected in said city at each annual charter election (*thereafter*,) three aldermen, one justice and two constables. The city clerk and city marshal now holding those offices in the present city of Berlin, shall continue to hold said offices, respectively, under this charter, until one year from the first Tuesday of April, A. D. 1861, that being the expiration of the term for which they were elected or appointed. On the first Tuesday of April, 1862, and every two years thereafter, there shall be elected in said city, one city clerk

First election—elective officers, and their terms of office.

Subsequent elections.

Officers biennially elected.

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and one city marshal, who shall each hold their office two years, and until their successors are elected and qualified: *provided, however*, the city council shall have power, for good cause, to expel any of their own number, and to remove from office any officer or agent, whether elected or appointed under the city government, due notice being first given to the officer complained of.

Council may expel, &c.

Inspectors of first election.

Election—notice of, and how conducted.

SECTION 4. The chairman of the board of supervisors of the town of Forsyth, and the two justices of the peace of the city of Berlin, shall be and constitute the board of inspectors of the election to be held the said first Tuesday of April, A. D. 1861, in said city. They shall give at least ten days' notice of the time and place of holding the first election under this act, and of the officers to be elected, by publishing a notice of the same in a newspaper published in said city. Said election shall be held and conducted, and the result thereof canvassed and returns made, in the same manner, and vacancies in the said board of inspectors filled, as required by the law of this state regarding elections.

Vacancies—how filled.

SECTION 5. Whenever a vacancy shall occur in any office in said city, such vacancy shall be filled by the city council. The person elected or appointed to fill a vacancy shall hold his office and discharge the duties thereof for the unexpired term of such office, and with the same rights and subject to the same duties and liabilities as the person whose office he may be elected or appointed to fill.

Elections—how conducted.

SECTION 6. The election in said city shall be held and conducted by three aldermen, to be appointed in writing by the mayor at each election, who shall be the inspectors of elections, and shall take the usual oath or affirmation as prescribed by the general laws of this state to be taken by the judges and inspectors of elections, and shall have power to appoint one clerk to assist the city clerk of such elections, and to administer the necessary oaths. Said elections shall be held and conducted and the result thereof canvassed and returns made in the same manner and under the same penalties, and vacancies in the board of inspectors filled, as required by the laws of this state regarding elections. Said inspectors and clerk so appointed by them shall receive two dollars per day for their services in said board of election.

SECTION 7. Any officer removing from the city, or any officer who shall neglect or refuse, for ten days after notice of his election or appointment, to enter upon the discharge of the duties of his office, shall be deemed to have vacated the same, and the city council shall proceed at the next meeting after such vacancy to fill the same as herein prescribed, and all such vacancies shall be filled by qualified electors residing in said city.

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What deemed a  
vacancy.

SECTION 8. The city council shall designate by ballot three aldermen, members of said council, who shall, when so designated, be entitled to become members of the board of supervisors in and for the county of Green Lake, with all the rights, duties and liabilities of the chairman of the board of supervisors of the several towns, for the year they are so designated.

Three aldermen  
to be members  
of county board.

## CHAPTER SECOFD, [TWO.]

### OFFICERS—THEIR POWERS AND DUTIES.

SECTION 1. The mayor and aldermen and all the officers must be residents within the city limits, and every person elected or appointed under this act to any office shall, before he enters upon the duties of said office, take and subscribe an oath of office, and file the same, duly certified by the officer taking the same, with the city clerk; and the treasurer, clerk, marshal and such other officers as the city council may direct, shall, severally, before they enter upon the duties of their respective offices, execute to the city of Berlin a bond which [with] at least two sureties, who shall swear that they are each worth the penalty specified in said bond, over and above all debts, exemptions or liabilities; and said bonds shall contain such penal sums and such conditions as the city council shall direct; and said 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 justices of the peace elected under this act shall have the same jurisdiction and perform all the duties of justices of the peace, as provided by the general laws of the state, except that their official bonds, as well as all other bonds required by this act, shall be approved by the city council.

Residence of officers.

Oath of office.

Bonds of officers.

Jurisdiction of justices.

SECTION 2. The mayor shall be the chief executive officer and head of the police of the city. It shall be his duty to recommend in writing to the city council

Mayor chief of  
police—his powers  
and duties.

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such measures as he may deem expedient. He shall sign all commissions, licenses and permits which may be granted by the city council. He shall endeavor to maintain peace and good order, and see that the laws of the state and ordinances of the city are observed and executed. He shall have power to administer oaths and affirmations, and to take and certify acknowledgments of deeds and other instruments in writing, and to prevent and suppress riots or other public disturbances, and he may appoint as many special constables as he may deem proper. The mayor shall have a vote in the council only in case of a tie, and shall preside at all meetings of the city council.

President of  
council.

SECTION 3. At the first meeting of the city council each year, they shall proceed to elect by ballot one of their number president, and in the absence of the mayor, the said president shall preside over the meetings of the city council, and during the absence of the mayor from the city, or his inability from any reason to discharge the duties of his office, the said president shall exercise all the powers and discharge all the duties of the mayor. In case the mayor and president shall be absent at any meeting of the city council, they shall proceed to elect a temporary presiding officer, who for the time being shall discharge the duties of the mayor. The president or temporary presiding officer, while presiding over the board, or performing the duties of mayor, shall be styled acting mayor. An act performed by them shall have the same force and validity as if performed by the mayor.

clerk—his duties

SECTION 4. The clerk shall keep all the papers and the records, and the corporate seal of the city, and keep a record of the proceedings of the city council, at whose meetings it shall be his duty to attend; and copies of all papers filed in his office, and transcripts from the records of the city council, certified by him under the corporate seal, shall be evidence in all courts in like manner as if the original were produced. He shall draw and countersign all orders on the treasury, in pursuance of any order or resolution of the city council, and keep a full and accurate account thereof in books provided for that purpose. The clerk shall have power and authority to administer oaths or affirmations, and shall be clerk of all elections held in said city.

**SECTION 5.** The treasurer of said city shall perform CHAPTER 97.  
 such duties and exercise such powers as may be law- Treasurer—his  
 fully required of him by the ordinances of said city, or duties.  
 by the laws of this state. All moneys raised, received, recovered or collected, by means of any tax, license, penalty, fine, forfeiture or otherwise, under the authority of this act, or which belongs to said city, shall be paid into the city treasurer [treasury,] and shall not be drawn therefrom except by an order, signed by the mayor, or acting mayor, by order of the city council, and countersigned and attested by the clerk. He shall keep an accurate account of all moneys or other things coming into his hands as treasurer, in a book provided for that purpose, which shall remain the property of the city, wherein he shall note the time when and the person from whom the amount of the several sums were received, which book shall at all reasonable hours be open to the inspection of any person having business therewith. He shall, as often as the city council require, render to said council a minute account of the receipts and expenditures of his office, and at the expiration of his office, he shall hand over to his successor all moneys, books, papers and property in his possession belonging to said city. The said treasurer shall also be the collector of taxes, and for this service, except as herein otherwise provided, he shall have the same powers, and be subject to the same liabilities, be governed by the laws, and receive the same compensation, as treasurers of towns.

**SECTION 6.** The marshal shall perform such duties Marshal—his  
 as shall be prescribed by the council, for the preserva- duties.  
 tion of the public peace, and the collection of license money and fines. He shall possess all the powers of constables of towns, and be subject to the same liabilities. It shall be his duty to execute and return all writs and processes to him directed, and when necessary, in criminal cases, or for the violation of any ordinance of said city, or law of this state, may pursue and serve the same in any part of the state of Wisconsin. It shall be his duty to suppress all riots, disturbances, and breaches of the peace, to apprehend any person in the act of committing any offense against any ordinance of said city or laws of this state, and forthwith bring such person before competent authorities for examination, and for such services, he shall

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receive such fees as are allowed to constables for like services. He shall have power to appoint one or more deputies, to be approved by the city council, but for whose official acts he shall be responsible, and of whom he may require a bond for the faithful discharge of their duties.

Council may require further duties of officers.

SECTION 7. The city council shall have power from time to time to require other and further duties to be performed by any officer whose duties are herein prescribed, not inconsistent with the provisions of this act, and to appoint such other officers as may be necessary to carry into effect the provisions of this act, and to prescribe their duties and fix the compensation of all officers elected or appointed by them. Such compensation shall be fixed by resolution at the time the office is created, or at the commencement of the year, and shall not be increased or diminished during the time such officer shall remain in office.

Official paper.

SECTION 8. The city council, at their first annual meeting in each year, or as soon thereafter as may be, shall designate one or more newspapers printed in said city, in which shall be published all ordinances and other proceedings required by this act, or by the by-laws or ordinances of the city council, to be published in a newspaper.

Affidavit of printer.

SECTION 9. 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 clerk of the city a copy of such publication, with his or their affidavit, or the affidavit of his or their foreman, of the length of time the same has been published; and such affidavit shall be conclusive evidence of the publication of such notice, ordinance or resolution.

Officers refusing to deliver books, &c., to successors—penalty.

SECTION 10. If any officer, after his term of office shall have duly expired, shall not, within ten days after notification and request, deliver to his successor in office all property, books, papers and effects of every description in his possession belonging to said city, or pertaining to the office he may have held, or shall willfully retain the same, he shall forfeit and pay to the use of said 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 same manner as prescribed by the laws of this state.

**SECTION 11.** No alderman or mayor shall be a party to or directly interested in any job or contract with the city or any of the wards, and any contract in which any alderman may be so interested, shall be null and void, and in case any money shall have been paid on any such contract, the city council may sue for and recover the amount so paid from the parties to such contract and the aldermen interested in the same.

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Aldermen shall not be interested in contracts, &amp;c.

**SECTION 12.** The mayor or acting mayor and each and every alderman, justice of the peace, marshal, constable and watchman shall be officers of the peace, and may command peace, and suppress in a summary manner all rioting and disorderly behavior within the limits of said city, and for such purposes may command the assistance of all bystanders and, if need be, of all citizens and military companies, and if any person, bystander, military officer or private shall refuse to aid in maintaining the peace when so required, every such person shall forfeit and pay a fine of fifty dollars; and in cases where the civil power may be required to suppress riotous or disorderly behavior, the superior or senior officer present, in the order mentioned in this section, shall direct the proceedings.

Peace officers.

**SECTION 13.** There may be elected by the city council a city surveyor, who shall be a practical surveyor and engineer. He shall keep his office at some convenient place within said city, and the city council shall prescribe his duties and fix his fees and compensation for any services performed by him. All surveys, profiles, plans or estimates made by him for the city, shall be the property of the city, and shall be carefully preserved in the office of the city clerk, open to the inspection of parties interested.

Surveyor.

### CHAPTER THIRD, [THREE.]

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

**SECTION 1.** The mayor and aldermen shall constitute the city council, and the style of all ordinances shall be, "The mayor and city council of the city of Berlin do ordain," &c. Stated meetings of the council shall be held in accordance with the by-laws or ordinances of said city, but the council may by resolution hold meetings at any other time. The mayor may call

Style of ordinances.



<u>CHAPTER 97.</u>	special meetings by notice to each of the members, to be served personally, or left at their usual place of residence. Any ordinance passed at any special meeting so held shall have the same authority as though it were passed at a stated meeting. A majority of the aldermen shall constitute a quorum.
Stated and special meetings.	
Qualification of members.	SECTION 2. The city council shall determine the rules of its proceedings, and be the judge of the election and qualification of its own members, and have power to compel the attendance of absent members.
General powers of council.	SECTION 3. The city council shall have the management and control of the finances, and of all the property of the city, and it shall likewise, in addition to the powers herein vested it them, have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify and amend and repeal all such ordinances, rules and by-laws for the government and good order of the city, for the suppression of vice, and for the prevention of crime, and for the benefit of the trade, commerce and health thereof, as they shall deem expedient, declaring and imposing penalties, and to enforce the same against any person or persons who may violate any of the provisions of such ordinances, rules and by-laws; and such ordinances, rules and by-laws are hereby declared to be, and have the force of law: <i>provided</i> , that they be not repugnant to the constitution and laws of the United States or this state; and for such purposes shall have authority by ordinances, resolutions and by-laws:
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Shows, &c.	1st. To license and regulate the exhibition of common showmen, and shows of any kind, or the exhibition of caravans, circusses or theatrical performances; and to provide for the abatement and removal of all nuisances under the ordinances or common law.
Gaming, selling liquor without license, &c.	2d. To restrain and prohibit all descriptions of gaming devices and practices, and all playing of cards, dice or other games, and all horse racing in said city, and to restrain any person from vending, giving away to evade the law, or dealing in spirituous, fermented or vinous liquors, contrary to law. It shall be the duty of the mayor to prosecute for any and all penalties incurred for any violation of any of the provisions of this charter, or any by-law enacted by virtue of this charter, or for any violation of any law of this state within the limits of the said city of Berlin, ( <i>Berlin</i> .)

3d. To prevent any riots, noise, disturbance or disorderly assemblages, suppress and restrain disorderly houses or groceries, and houses of ill-fame, and to authorize the destruction of all instruments used for the purpose of gaming.

Riots, &c.

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

Cleanse unclean places.

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

Slaughter houses &c.

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

Encumbering streets, &c.

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

Immoderate driving, bathing, &c.

8th. To restrain the running at large of cattle, swine, sheep, horses and poultry, and to authorize the distraining and sale of the same.

Cattle.

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

Dogs.

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

Putrid carcasses, &c.

11th. To make and establish public pounds, pumps, wells, fountains, cisterns and reservoirs, and to provide for the erection of water works for the supply of water to the inhabitants, to erect lamps, and regulate and license hacks, cabs, drays, carts, and the charges of hackmen, cabmen and draymen in the city, and to

Pounds, pumps, lamps, hacks, &c.

- CHAPTER 97.** provide for lighting the streets, public grounds and public buildings with gas or otherwise.
- Boards of health &c.** 12th. To establish and regulate boards of health, provide hospitals and cemetery grounds, regulate the burial of the dead, and the return of the bills of mortality, and to exempt burial grounds from taxation.
- Bread.** 13th. To regulate the assize and weight of bread, and to provide for the seizure and forfeiture of bread baked contrary thereto.
- Driving on sidewalks, &c.** 14th. To prevent all persons riding or driving any mule, cattle, horse or any other animal, on sidewalks in said city, or in any way doing any damage to such sidewalks.
- Firearms, fireworks, &c.** 15th. To prevent the shooting of fire-arms or crackers, and to prevent the exhibition of any fireworks in any place which may be considered by the council dangerous to the city or any property therein, or annoying to any citizen thereof.
- Drunkenness and obscenity.** 16th. To restrain drunkenness or obscenity in the streets or public places, and to provide for arresting, removing and punishing any person or persons who may be guilty of the same.
- Runners.** 17th. To restrain and regulate runners and solicitors for boats, vessels, stages, public houses or other establishments, and to regulate the police of the city.
- Markets.** 18th. To establish public markets 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.
- Butchers' stalls.** 19th. To license and regulate butcher stalls, shops and stands for the sale of game, poultry, butchers' meat, butter, fish and other provisions.
- Hay, fuel, &c.** 20th. To regulate the place and manner of weighing hay and the selling [of] the same, and measuring and selling fuel, lime and stone, and to appoint suitable persons to superintend and conduct the same.
- Remove rubbish &c.** 21st. To compel the owners or occupants of buildings or grounds to remove snow, dirt or rubbish from the roofs, sidewalks, streets or alleys opposite thereto, and to compel such owner or occupant to remove from the lot owned or occupied by him all such substances as the board of health shall direct, and in default to authorize the removal or destruction thereof by some

officer of the city, at the expense of such owner or occupant.

22d. To regulate the construction of piers or wharves on the Fox river, within the limits of said city, and to prescribe and control the prices to be charged for pierage or wharfage thereon. Piers and wharves.

23d. To regulate the time and place and manner of holding public auctions and vendues. Auctions.

24th. To appoint fire wardens and watchmen, and prescribe their duties. Fire-wardens, &c.

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

26th. To protect trees and monuments in said city. Trees, &c.

27th. To prescribe and regulate the manner of draining fountains made by individuals, and the construction of sewers in said city. Fountains, &c.

28th. To lay out, make, open, keep in repair, grade or discontinue any highways, streets, lanes, alleys and sidewalks and bridges, and to keep them free from encumbrances, and to protect them from injury. Streets, &c.

29th. To cause all out or in lots within said city of less size than ten acres each, that have not been platted and recorded by the owners thereof, as required by law, to be platted and recorded by authority of the board, and to tax the charges for the said services against the lot or lots so platted and recorded, to be collected the same as other corporate or general taxes. To plat lots.

30th. To have a common seal, and to alter the same at pleasure. Seal.

SECTION 4. All laws, ordinances, regulations, resolutions and by-laws shall be passed by an affirmative vote of a majority of the city council, and shall be signed by the mayor, and shall be published in the official [paper or] papers of the city before the same shall be in force, and within fifteen days thereafter shall be recorded by the city clerk in books provided for that purpose; but before any of said laws, ordinances or regulations or by-laws shall be recorded, the publication thereof, respectively, within the said time, shall be proved by the affidavit of the foreman or publisher of such newspaper, [or the foremen or publishers of such newspapers,] and said affidavit shall be recorded therewith at all times. Such affidavits or records [records] shall be deemed and taken as sufficient evidence of the fact contained therein. Passage of ordinances, &c. Proof of publication, &c.

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Abatement of nuisances, and suits relative thereto.

SECTION 5. The powers conferred upon the said council to provide for the abatement or removal of nuisances, shall not bar or hinder suits, prosecutions or proceedings in the courts, according to law. Depots, houses or buildings of any kind, wherein more than ten pounds of gun-powder are stored or kept at any one time, gambling houses, houses of ill-fame, disorderly taverns, and houses and places where spirituous, vinous or fermented liquors are sold without the licenses therefor required, within the limits of said city, are hereby declared and shall be deemed public or common nuisances.

Council to examine and audit accounts of officers, &c.

SECTION 6. The common council shall examine, audit and adjust the accounts of [the] clerk, treasurer, school superintendent, marshal, constables, and all other officers and agents of said city, at such times as they may deem proper, and also at the end of each year, and before the term for which the officers of said city are elected or appointed, shall have expired; and the city council shall require each and every such officer and agent to exhibit his books, accounts and vouchers for such examination and settlement; and if any such officer or agent shall refuse to comply with the orders of the said council in the discharge of their said duties, in pursuance of this section, or shall refuse or neglect to render his account or present his books and vouchers to said council, it shall be the duty of the city council to declare the office of such person vacant; and the city council may order suits and proceedings at law against any officer or agent of said city who may be found delinquent or defaulting in his accounts or in the discharge of his official duties, and shall make a full record of all such settlements and adjustments.

## CHAPTER FOURTH, [FOUR.]

## FINANCES AND TAXATION.

City funds and orders.

SECTION 1. All funds in the treasury, except school and county funds, shall be under the control of the city council, and shall be drawn out upon the order of the mayor and clerk, duly authorized by a vote of the city council; and all orders drawn upon the treasury shall specify the purpose for which they are drawn, and shall be payable out of such funds as may be ordered

by the council, in the hands of the treasurer, and all such orders shall be received in payment of any tax raised for the fund upon which they may be drawn. All orders shall be payable to the person in whose favor they may be drawn, and shall be transferred by delivery.

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SECTION 2. For the discharge of any debts against said city, or expenditures authorized by the city council under the provisions of this act, or ordinance of said city, or to defray the current expenses of said city, the city council shall have power to levy and collect, annually, a tax on all such real and personal property, or capital of any kind, within said city, subject to taxation by the laws for levying taxes for this state, for the time being, but such tax shall not exceed ten mills on the dollar per annum of the assessed value of such property.

City tax.

SECTION 3. Special taxes for the purchasing [of] fire engines, buckets, hose and ladders and other instruments for suppressing fires, the purchase of materials and the erection of engine houses, and the purchase of lots for the same, or for the purchase of lots in a cemetery and improving the same, for erecting any public buildings for the use of said city, or any other necessary purpose, and for improving any public grounds in said city, may be voted by the council at any regular or special meeting; but no such special tax shall be levied and collected until it shall be confirmed by a majority of the electors of said city who shall vote upon the question of raising said tax, at a special election to be held for that purpose. Such elections shall be conducted and the returns made in the same manner as other city elections. The votes at such election shall be by ballot, and the city council shall publish in some newspaper printed in said city, for at least three weeks before such election, a notice of the time and place of holding such election, which notice shall specify the object for which such special tax has been voted by said council, and shall prescribe the form of the ballots to be voted at such election. Such special taxes shall be collected at the same time and in the same manner as other city taxes are collected: *provided*, that

Special tax.

To be confirmed by vote of electors.

said council shall incur no indebtedness in the name of said city, either for general purposes or the special purpose above provided for, except when the provisions

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of this charter authorize them to levy a tax for the payment of such indebtedness; and if they shall incur any such indebtedness, the said city shall not be charged therewith, or be liable for the payment of the same, but such indebtedness shall constitute a just and proper claim in law against the officers creating the same, to be enforced in an ordinary action at law in any court of competent jurisdiction.

Subject to local taxes.

SECTION 4. Real estate exempted from taxation by the laws of this state, shall be subject to local taxes for [the] building and improving of sidewalks.

Bridges under control of council.

SECTION 5. The bridges within the limits of said city shall be under the charge and control of the city council, and the charges and expenses necessarily incurred in opening, taking care of, repairing or reconstructing said bridges, or any of them, or any part thereof, shall be chargeable to and payable out of the general city fund.

## CHAPTER FIFTH, [FIVE.]

## OPENING OF STREETS, &amp;C.

Power of council over streets, &c.

SECTION 1. The city council shall have power and authority to lay out new highways, streets, alleys and public walks, and vacate and alter the same; to regulate, grade, pave and improve streets, avenues, lanes and alleys, and to extend, open and widen the same: *providing*, said council shall in no case lay out any highway, street or alley, or alter or vacate the same, except upon petition in writing signed by ten or more freeholders of said city.

Condemning premises for public use.

SECTION 2. The council shall, by a general ordinance, prescribe the mode of procedure in condemning premises for public use, the manner of notifying the parties interested in such premises, and of estimating the damages to be paid to the owner or owners of the property proposed to be taken, and also the mode of ascertaining what lands or premises will be benefited by such taking: *provided, however*, that no ordinance shall be passed which shall not require notice, either actual or constructive, to the parties interested in the premises proposed to be taken, of the time, place and manner of appointing or drawing a jury to assess the damages, and of the time when the damages or benefits

Notice to parties interested.

will be assessed, or that shall attempt to take away from the parties interested their right of assessment by jury, of appeal to the circuit court, or to compensation, before such property shall be taken.

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SECTION 3. Any person being dissatisfied with the amount of compensation for property taken, or the amount assessed as benefits, shall have the right to appeal to the circuit court within twenty days from the time of the awarding of compensation or assessment of benefits, by giving a bond to the city in not less than one hundred dollars, to be approved by the mayor, acting mayor, or city clerk, to pay all costs of appeal. In case the appellant shall not upon such appeal increase the amount of compensation, or decrease the amount assessed as benefits, as the case may be, the city council may appeal in behalf of the city, by giving notice to the opposite party without giving bond.

## CHAPTER SIXTH, [SIX.]

## CITY IMPROVEMENTS.

SECTION 1. Whenever the city council shall deem it necessary to construct or repair any sidewalk in said city, they shall direct the owner or occupant of any lot adjoining such sidewalk to make or repair the same at his own proper charge and cost. If such work is not done in the time and manner prescribed, the city council shall cause the same to be done at the expense of the lots adjoining such sidewalk. The city council shall have power to order and contract for the making, grading, repairing and cleaning of streets, alleys, public grounds, reservoirs, gutters and sewers within the city. The opening, grading, graveling, planking, improving or paving [of] streets and alleys, to the center thereof, shall be chargeable to and payable by the lots fronting or opposite to such street or alley; but no street or alley shall be graded, graveled, planked, improved or paved, except upon the petition of two-thirds of the property holders interested therein, and built at the expense of the lots or parcels of land benefited thereby, which shall be apportioned among said lots or parcels of land by the street commissioners: *provided, however,* that in all cases where improvements or works of any kind are chargeable by virtue of this section,

Sidewalks.

Streets, &amp;c.

How improvements chargeable.

Proviso.



**CHAPTER 97.** upon lots benefited, all such improvements across streets, alleys and public grounds shall be made and paid for out of the funds of the city.

Notice to owners by publication.

SECTION 2. Whenever the city council shall determine to make any improvement as authorized by section 1st of this chapter, they shall give notice by advertisement, for ten days, in one or more public newspapers published in the city, to the owners or occupants of the lots or parcels of land fronting on any street, alley or sidewalk ordered to be graded, graveled, planked or paved, requiring them to do the work mentioned in such notice; and [if] the said work shall not be done within such time, the city council shall enter into contract for the doing thereof.

Abatement of nuisances—notice to be given.

SECTION 3. The city council shall give ten days' notice in the official paper or papers, to all owners or occupants of lots which may be deemed injurious to health, by reason of stagnant water remaining thereon, to abate such nuisance by draining or filling such lot, within a time in said notice to be specified, and if such nuisance shall not be abated or removed within the time so specified, they shall cause the same to be abated and removed at the expense of the property upon which the same may exist.

Taxes for improvements—if not paid, how collectable.

SECTION 4. After the completion and performance of any contract entered into by the city council for the work chargeable to the lots or lands by virtue of this act, the city clerk shall as soon as practicable thereafter, make out and file in his office a statement in writing, signed by the clerk and mayor of said city, stating therein the amount of work done chargeable to said lots or lands, the nature thereof and the description of land upon which the same is chargeable; and if the amount thereof shall not be paid before the levying of the taxes for the current year, the same shall be levied and collected of the said lots or parcels of lands respectively, as other taxes on real estate are collected, and of [if] the notice to do the work required shall have been given as herein provided, no informality or error in the proceedings shall vitiate the proceedings.

Road tax—how collected and expended.

SECTION 5. There shall be levied annually by the city council, upon the taxable property of said city, a road tax, not exceeding one per cent. of the assessed valuation of the taxable property of said city; said tax to be collected by the city treasurer at the time other

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taxes are collected, and shall be expended by the city council in opening, improving or repairing any public highway leading into said city, at such place or places or [as] the said council shall deem most conducive to the general good, whether within or without the city limits. To this end, a road commissioner shall be appointed by the said council, who shall hold his office during the pleasure of said council, shall give bonds to the city for the faithful performance of the duties of his office, in such sum and with such sureties as the said council shall direct. Said road commissioner shall disburse and expend the said road tax, at such places as the council shall decide, and shall in all respects be subject to the order of said council. He shall also perform such other duties as shall be prescribed by said council, and his compensation shall be regulated by said council. There shall be no poll tax collected or levied in said city.

Road commissioner—his duties.

## CHAPTER SEVEN.

## FIRE DEPARTMENT.

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

Council to prescribe fire limits and prevent construction of wooden buildings.

SECTION 2. The city council shall have power to prevent the dangerous construction and condition of chimneys, fire-places, hearth-stones, 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 unsafe places, and to require the inhabitants to provide as many fire buckets, and in such manner and time as they shall prescribe, and to regulate the use of them in time of fire; to

To prevent construction of dangerous chimneys &c.

Fire buckets.

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Duty of officers  
at fires.

regulate and prevent the carrying on of manufactories dangerous in causing or promoting fires; to regulate and prevent the use of fire-works and fire-arms; to compel the owners and occupants of buildings to have scuttles in the roofs, and stairs or ladders leading to the same; to authorize the mayor, aldermen, fire wardens and other officers of the city, to keep away from the vicinity of any fire all idle and suspected persons; and to compel all bystanders to aid in the extinguishing of fires and in the preservation of property exposed to danger thereat, and, generally, to establish such regulations for the prevention and extinguishment of fires as the city council shall deem expedient.

Fire engines and  
companies.

SECTION 3. The city council shall have power to purchase fire engines and other fire apparatus, and to authorize the formation of fire engine, hook and ladder and hose companies, and to provide for the due and proper support and regulation of the same, and to order such companies to be disbanded, and their meetings to be prohibited, and their apparatus to be delivered up. Each company shall not exceed seventy able bodied men, between the ages of eighteen and fifty years, and may elect their own officers and form their own by-laws, not inconsistent with the laws of this state or the ordinances or regulations of said city, and shall be formed only by voluntary enlistment. Each member of such company authorized to be formed, shall be exempt from serving on juries, and from military duty, during the continuance of such membership; and any person having served for the term of seven years in either of said companies, shall be forever thereafter exempt from serving on juries, and from military duty, except in case of insurrection or invasion.

Meeting of fire  
companies to  
nominate engi-  
neer, &c.

SECTION 4. There shall be a meeting of the members of said companies on the second Monday of April in each year, at such place as may be designated by the city council, when they may nominate and recommend to the city council for appointment, one chief engineer and three assistant engineers, and the said council shall thereupon confirm said nominations, and the person so appointed shall perform such duties as the city council shall prescribe; and they may at any time enter into, or upon, any house, store or other building or enclosure, for the purpose of inspecting the same.

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

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Fines.

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

Arrest at fires of persons disobeying orders of officers, &amp;c.

SECTION 7. The city council shall have power to organize such other companies, and make such further regulations as they may deem proper for the protection of property in said city from fire, and may enforce the same by adequate fines and penalties.

To further protect from fires.

## CHAPTER EIGHT.

## MISCELLANEOUS PROVISIONS.

SECTION 1. No money shall be appropriated for any purpose whatever, except such as are [may be] expressly authorized.

Appropriations.

SECTION 2. No penalty or judgment recovered in favor of the city, shall be remitted or discharged except by a vote of two-thirds of all the aldermen elect.

Judgments, &amp;c., how remitted.

SECTION 3. All actions brought to recover any penalty or forfeiture under this act, or the ordinances, by-laws or police of health regulations, made in pursuance thereof, shall be brought in the corporate name of the city.

Actions by city.

SECTION 4. Bridges shall be maintained, supported and built across Fox river in said city, where the same may be necessary or convenient, at the expense of the city.

How bridges across the Fox to be built, &amp;c.

CHAPTER 97.Protection of  
bridges.

SECTION 5. The general laws for the preservation of bridges, and the punishment by such laws provided for the willful and malicious injuries thereto, are hereby extended to such bridges, and the city council may make such by-laws and regulations for the preservation of such bridges, and enforce the same by adequate penalties; and for any injury done thereto by boats or vessels, may proceed against them under the law to provide for the collection of demands against boats and vessels.

Suits against  
city.

SECTION 6. When any suit or action shall be commenced against said city, the service of process therein may be made by leaving a copy thereof by the proper officer, with the mayor, and it shall be the duty of the mayor forthwith to inform the city council thereof, or take such other proceedings as by the ordinances or resolutions of the said council, may in such cases be provided.

Grade.

SECTION 7. The city council may at any time, under the direction of a surveyor to be appointed by them, cause to be established the grade of all streets, sidewalks and alleys in said city, and shall cause accurate profiles thereof to be made, one of which shall be filed in the office of the city clerk.

Commissioners  
to draft ordinances,  
&c.

SECTION 8. The city council may appoint one or more commissioners, whose duty it shall be to report to the city council, within a reasonable time, a draft of all ordinances, by-laws, rules, regulations and forms that may be necessary to carry this act fully into effect, and more fully to define the powers and duties, and fix the compensation of the several offices created or authorized by this act. The said ordinances, by-laws, &c., when they shall have been adopted by the city council, shall be published in a convenient form, and the same when so published shall be admitted as evidence in any court within the state of the passage and publication of such ordinances, without any further publication in the official paper: *provided*, that the mayor and council of said city shall be entitled to no compensation for their services under the provisions of this act.

No compensation  
to mayor and  
council.City may hold  
real estate, &c.

SECTION 9. The said city may lease, purchase and hold real or personal estate, sufficient for the convenience of the inhabitants thereof, and may sell and convey the same, and the same shall be free from taxation.

SECTION 10. Every execution issued upon any judgment for the violation or non-observance of any ordinance or by-law of said city, may contain a clause directing, in the event of the non-payment of the judgment, the imprisonment of the defendant in the county or city jail, for such time as shall have been provided by the ordinance under which the judgment shall have been rendered.

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Executions.

SECTION 11. The city council shall, as soon as practicable after its organization under this act, ascertain the general indebtedness of the town of Forsyth and the city of Berlin, respectively; and in ascertaining said indebtedness, the amount the town of Forsyth may then owe to the city of Berlin, and also the amount the city of Berlin may then owe the town of Forsyth, shall be taken into consideration. The amount of indebtedness thus ascertained against the town of Forsyth, shall be chargeable to and levied upon the taxable property of that portion of the city of Berlin embraced in the town of Forsyth before the passage of this act, in addition to other taxes levied for the year [A. D.] 1861; and the amount of indebtedness thus ascertained against the city of Berlin, shall be chargeable to and levied upon the taxable property embraced in that corporation before the passage of this act, in addition to other taxes levied for the year [A. D.] 1861.

Indebtedness of town of Forsyth and city of Berlin—how chargeable.

## CHAPTER NINE.

### PUBLIC SCHOOLS.

SECTION 1. The school districts and parts of school districts within the corporate limits of the city of Berlin, as defined by this act, are hereby consolidated, and shall hereafter constitute one district, for the better regulation and management of the public schools of said city.

School districts consolidated.

SECTION 2. There shall be elected, at the first charter election held after the passage of this law, one superintendent of schools and six commissioners of common schools for said city; the superintendent to hold his office for two years, and until his successor is elected and qualified. The persons so elected shall, within ten days after their election, take the oath of office prescribed by the constitution of this state, and file the same with the city clerk.

Election of superintendent and commissioners—term of superintendent.

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Duties of superintendent.

**SECTION 3.** The said superintendent of schools shall be *ex officio* president of the board of education, and shall have a casting vote in said board in all cases of a tie, and shall perform all the duties, and shall have the same rights and powers within said city, and be subject to the same liabilities as superintendent of schools in towns, (except that his official bond shall be approved by the city council and filed with the clerk,) except as otherwise provided in this act.

First meeting of commissioners—to be divided into two classes.

**SECTION 4.** Within ten days after their election, as in the last section mentioned, said commissioners shall meet at the room of the city council in said city, and cause the said commissioners so chosen to be divided into two classes, by lot, to be denominated the first and second. The term of office of the first class shall expire at the end of one year from the election; the second at the end of two years.

Annual election of commissioners.

**SECTION 5.** There shall, in like manner, in each year thereafter, at the annual charter election in said city, be elected three commissioners of schools in said city, to supply the places of those whose term of office is about to expire. They shall hold their offices for two years, and until their successors are elected and have taken the oath of office.

Vacancies.

**SECTION 6.** The city council of said city may make appointments of commissioners of common schools to fill vacancies which may occur from any cause other than the expiration of the term of office of those elected. The commissioners so appointed shall hold their office until the next charter election.

Council may remove, &c.

**SECTION 7.** Any commissioner of common schools, in said city, may be removed from office for official misconduct, by the city council thereof, by a vote of two-thirds of the members thereof; but said commissioner shall be granted a full and fair hearing before removal.

Style.

**SECTION 8.** The commissioners of common schools in said city, shall constitute a board to be styled the "board of education of the city of Berlin," which shall be a corporate body in relation to all the powers and duties conferred on them by virtue of this act. A majority of the board shall form a quorum. At their first meeting after each annual charter election, said board shall elect one of their number president, who shall, in the absence of the superintendent, preside at the meetings of said board, and perform his duties.

Election of president.

In the absence of both superintendent and president, a president *pro tempore* may be appointed. CHAPTER 97.

SECTION 9. The clerk of said board shall keep a record of the proceedings thereof, and perform such other duties as the board may prescribe; which record or transcript thereof, certified by the president and clerk, shall be received in all courts as *prima facie* evidence of the facts therein set forth; and such records, and all the books and accounts of the said board, shall at all times be subject to the inspection of the city council, and of any committee thereof. Clerk to keep record, &c.

SECTION 10. The city council of the said city shall have the power and it shall be their duty to raise from time to time, by tax upon the real and personal estate in said city, which shall be liable to taxation for the ordinary city taxes, or for city or county charges, in addition to the amount of school moneys now or hereafter appropriated or provided by law for common schools in said city, such sums as may be determined and certified by the said board of education to be necessary or proper for any or all of the following purposes: Tax.

1st. To purchase, lease or improve sites for school houses. School sites, &c.

2d. To build, purchase, lease, enlarge, alter, improve and repair school houses, and their out houses and appurtenances. School houses, &c.

3d. To purchase, exchange, improve and repair school apparatus, books, furniture and appendages; but the power herein granted shall not be deemed to [include] the furnishing [of] class or text books for any scholar whose parents or guardian shall be able to furnish the same. Books, &c.

4th. To procure fuel and defray the contingent expenses of the common schools and the expenses of the district library of said city. Fuel, &c.

5th. To pay the wages of teachers due, after the application of the public moneys, which may by law be appropriated and provided for that purpose: *provided, nevertheless*, that no tax shall be laid [levied] for such purpose oftener than once in each year; *and provided, also*, that the amount to be raised for teachers' wages and for contingent expenses in any one year, shall in no case exceed four dollars for each person that draws public money, nor less than two dollars; that the amount to Teachers' wages, &c.  
One tax only to be levied each year.



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Limit of tax.

be raised in any one year, for buying sites and erecting and repairing school houses and the appurtenances, shall not exceed one thousand dollars, save as excepted in the 27th section of this act, [chapter.]

How taxes levied and collected.

SECTION 11. The city council shall cause the tax or taxes herein provided for, to be levied and collected annually on all such real and personal property, or capital of any kind within said city, as is subject to taxation by the laws for levying taxes for the state for the time being; said taxes to be levied and collected in the same manner as annual taxes are levied and collected in said city.

All moneys to be paid treasurer, and he accountable therefor.

SECTION 12. All moneys to be raised pursuant to the provisions of this act, and all school moneys by law appropriated to, or provided for said city, shall be paid to the treasurer of said city, who, together with the sureties of his official bond, shall be accountable therefor, in the same manner as for other moneys of said city. The said treasurer shall also be liable to the same penalties for any official misconduct in relation to the said moneys, as for any similar misconduct in relation to the other moneys of the city.

Treasurer to pay out moneys only on orders.

SECTION 13. After the passage of this act, the treasurer of said city shall not pay out any moneys in his hands, received by said city, either as school moneys, or collected or received by virtue of any of the provisions of this act, excepting upon an order drawn upon him and signed by the superintendent and clerk of said board of education, and no such order shall be drawn except by virtue of a resolution of the said board.

Suits against treasurer.

SECTION 14. The said board may cause a suit or suits to be prosecuted in the name of the city of Berlin, upon the official bond of the treasurer, or of any collector of said city, for any default, delinquency or official misconduct in (*the*) relation to the collection, safe keeping or payment of any moneys in this section mentioned.

Powers of board.

SECTION 15. The said board shall have power, and it shall be their duty:

Organize schools

1st. To establish and organize such and so many schools in said city, (including the common schools now existing therein,) as they shall deem requisite and expedient, and to alter and discontinue the same.

Purchase school houses, &amp;c.

2d. To purchase or hire school houses, and rooms, and lots, and sites for school houses, and to fence and improve them as they deem proper.

- 3d. Upon such lots, and upon any sites now owned by said city, to build, enlarge, alter, improve, and repair school houses, [as] they may deem advisable. CHAPTER 97.  
Erect school houses, &c.
- 4th. To purchase, exchange, improve and repair school apparatus, books for indigent pupils, furniture and appendages, and to provide fuel for the schools, and defray their contingent expenses, and the expenses of the district library. Purchase books, &c.
- 5th. To have the custody and safe keeping of the school houses, out houses, books, furniture and appendages, and to see that the ordinances of the city council in relation thereto, are observed. Custody of school houses, &c
- 6th. To contract with and employ all teachers in the common schools, and the high school, who shall have been licensed by the president, and at their pleasure to remove them. Employ teachers
- 7th. To pay the wages of such teachers out of the school moneys, which shall be appropriated and provided in said city, so far as the same shall be sufficient, and the residue thereof from the money authorized to be raised for that purpose by section nine [ten] of this act, [chapter,] by tax upon the city. Pay teachers.
- 8th. To defray the necessary contingent expenses of the board. Contingent expenses.
- 9th. To have in all respects the superintendence, supervision and management of the common schools in said city, and from time to time to adopt, alter, modify and repeal, as they may deem expedient, rules and regulations for their organization, government and instruction, for the reception of pupils, and their transfer from one school to another, and, generally, for their good order, prosperity and public utility. General superintendence of schools, &c.
- 10th. Whenever, in the opinion of the board, it may be advisable to sell any of the school houses, lots or sites, or any of the school property now or hereafter belonging to the city, to report the same to the city council. Sell school houses, &c.
- 11th. To prepare and report to the city council such ordinances and regulations as may be necessary or proper for the protection, safe keeping, care and preservation of school houses, lots and sites, and appurtenances, and all the property belonging to the city, connected with, or appertaining to the schools, and to suggest proper penalties for the violation of such ordinance and regulations, and annually to determine Prepare ordinances, &c., and determine tax to be raised.

**CHAPTER 97.**

and certify to said city council the sums in their opinion necessary or proper to be raised under the ninth [tenth] section of this act, [chapter,] specifying the sums required for each of the purposes therein mentioned, and the reason therefor.

Pay adjoining districts, &c.

12th. To provide for the payment of any adjoining school district the proper amount to which it may be entitled on account of such district, in whole or in part, having been connected with territory now included in said city.

Non-resident scholars.

SECTION 16. The said board of education shall have power to allow the children of persons not residents within the city, to attend any of the schools of said city, under the care and control of said board, upon such terms as such board shall by resolution prescribe, fixing the tuition that shall be paid therefor.

Expenditures not to exceed tax.

SECTION 17. It shall be the duty of said board in all their expenditures and contracts to have reference to the amount of moneys that shall be subject to their order during the then current year, for the particular expenditure in question, and not to exceed such amount.

District library duty of board.

SECTION 18. The said board of education shall be trustees of the district library in said city, and all the provisions of law which now are, or may hereafter be passed, relating to district school libraries, shall apply to the said board in the same manner as if they were trustees of an ordinary school district. They shall also be vested with the discretion as to the disposition of the moneys appropriated by any law of the state for the purchase of libraries, which is therein conferred upon the inhabitants of school districts. It shall be their duty to provide a library room and the necessary furniture therefor, and appoint a librarian, to make all purchases of books for the said library, and from time to time to exchange or cause to be repaired the damaged books belonging thereto.

Annual report—what to show.

SECTION 19. It shall be the duty of the said board, at least fifteen days before the annual election for commissioners in each year, to prepare and report to the city council, true and correct statements of the receipts and disbursements of moneys under and in pursuance of the provisions of this act during the preceding year, in which account shall be stated under appropriate heads:

Moneys received under sec. 10.

1st. The moneys received by the city council under the ninth [tenth] section of this act, [chapter.]

2d. The school moneys received by the treasurers of the city from the county treasury.

3d. All other moneys received by the treasurer, subject to the order of the board, specifying the sources.

4th. The manner in which such sums of money shall have been expended, specifying the amount paid under each head of expenditure. And the city council shall, ten days before such election, cause the same to be published in at least one of the newspapers published in said city.

SECTION 20. The said board shall be subject from time to time [to] the rules and regulations made by the state superintendent of common schools, so far as the same may be applicable to them, and not inconsistent with the provisions of this act.

SECTION 21. The superintendent of schools shall be the executive officer of the board of education, shall examine all teachers making applications for schools, (examinations to be public and in the presence of the board,) shall grant certificates to such persons so examined as shall be deemed by him and a majority of the board suitably qualified, and shall carry into effect the ordinances of the common council, and the rules and regulations of the board in reference to the common schools. He shall also be specially charged with the care and custody of the several school houses of the city, and under the direction of the board shall superintend the building, enlarging, improving, furnishing and repairing of all the school houses ordered to be erected by them, and the making of all repairs and improvements on and around the same. In addition to the foregoing duties, he shall visit the common schools of the city at least twice during each term, and report their condition to the board, with such suggestions for their improvement as he may deem proper. He shall also perform such other duties with respect to such schools as the board may assign him. The amount of his compensation shall be determined by the city council, and the manner of its payment.

SECTION 22. It shall be the duty of the superintendent, between the first and fifteenth days of October, in each year, to make and transmit to the clerk of the board of supervisors of the county a report in writing, bearing date on the first day of October, in the year of its transmission, stating:

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Money received of co. treasurer.

Other moneys received.

Manner of expenditure.

Board subject to rules of state superintendent.

Superintendent to be executive officer of board—his duties.

Report of superintendent.

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Schools taught.	1st. The number of schools taught within the city, and the length of time they have been taught by qualified teachers.
Moneys received.	2d. The total amount of public money received for the use and benefit of such schools.
Children taught, &c.	3d. The number of children taught in the common schools of the city, and the number of children residing in the city over the age of four and under the age of twenty years.
Expenditures.	4th. The manner in which the public moneys have been expended, and whether any, and what part, remains unexpended, and for what cause.
Amount raised for teachers' wages, &c.	5th. The amount of money raised in the city, and paid for teachers' wages, in addition to the public money raised therefor; the amount of taxes raised for the purchase of school house sites, for building, hiring, purchasing, repairing and insuring school houses, for fuel, for district libraries, or for any purpose allowed by law in said city, since the date of the last preceding report, with such other information as the state superintendent may, from time to time, require.
Ordinances, &c.	SECTION 23. The city council of the said city shall have the power, and it shall be their duty, to pass such ordinances and regulations as the board of education may report as necessary and proper for the protection, safe keeping, care and preservation of the school houses, lots, sites and appurtenances, and all necessary property belonging to or connected with the schools in said city, and to impose proper penalties for the violation thereof, subject to the restrictions and limitations contained in the act of incorporation of said city; and all such penalties shall be collected in the same manner that the penalties for a violation of the city ordinances are by law collected, and when collected, shall be paid to the treasurer of the city, and be subject to the order of the board of education, in the same manner as other moneys raised pursuant to the provisions of this act.
Penalties and their collection.	
Sale of school houses, &c.	SECTION 24. Whenever the said board shall report to the city council that it is advisable to sell any of the school houses, lots or sites, or any of the school property now or hereafter belonging to the city, it shall be the duty of the city council to sell the same without unreasonable delay, and upon such terms as the city council may deem advisable. The proceeds of all such sales shall be paid to the city treasurer, and shall be
Expenditure of proceeds.	

subject to the order of said board, to be expended by them in purchase, leasing, repairs or improvements of other school houses, lots, school furniture, apparatus or appurtenances: *provided*, that a school house shall be erected at some convenient place within the city now known as the town of Forsyth, which house shall be of sufficient size and capacity to accommodate one hundred and sixty pupils; and a school shall be kept and maintained in said school house for the same length of time in each year that shall be determined for other intermediate schools within the city.

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School house in that part of city known as town of Forsyth.

SECTION 25. The title of the school houses, sites, lots, furniture, books, apparatus and appurtenances, and all other property in this act mentioned, shall be vested in the city of Berlin, and the same, while used or appropriated for school purposes, shall not be levied upon or sold by virtue of any warrant or execution, nor be subject to taxation for any purpose whatever; and the said city in its corporate capacity, shall be able to take, hold and dispose of any real or personal estate transferred to it by gift, grant, bequest or devise for the use of the common schools of the said city, whether the same shall be transferred in terms to said city, by its proper style, or by any other designation, or to any person or persons, or body, for the use of said schools.

Title of school houses, &c.

Not subject to execution, &c.

SECTION 26. All moneys required to be raised by virtue of this act, on being raised as herein provided, shall be held by the treasurer of said city, and by him placed to the credit of said board of education, and shall be drawn out in pursuance of a resolution or resolutions of said board, by drafts drawn by the superintendent and countersigned by the clerk of said board, payable to the person or persons entitled to receive such moneys; and the said treasurer shall keep the funds authorized by this act to be received by him, separate and distinct from any other fund that he is or may by law be authorized to receive.

Moneys to be placed to credit of the board—how drawn, &c.

SECTION 27. It shall be the duty of the said board of education to ascertain and report to the city council of said city the amount of any and all indebtedness of each of the present school districts within said city, and to whom due, and when and how payable; and the said city council shall have the power, and it shall be their duty, in each year that such (*any*) indebtedness

Indebtedness of present school districts.

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shall become due, or any portion thereof, to cause the amount so becoming due from any of said districts to be assessed upon and collected from the taxable property within the said city, in the same manner as the taxes for contingent expenses are assessed and collected, for the use of said board of education in the payment of such indebtedness.

Union school.

SECTION 28. It shall be the duty of the board of education, and they shall have the power, to procure a site in a central part of the city of Berlin, within eighty rods of the bridge at the foot of Huron and Broadway streets in said city, and cause to be erected thereon a suitable and proper edifice for a union or high school, at as early a period as practicable, and cause a statement of the cost of said site and building to be laid before said city council of said city, who shall have the power, and it shall be their duty, to borrow a sum of money not less than six thousand nor more than ten thousand dollars, for the payment of any amount or amounts contracted to be paid by said board of education for the erection of said union [or] high school edifice, and to execute bonds therefor under the common seal of said city, and the signature of the mayor and clerk thereof. The loan of the sum hereby authorized shall be for a term not exceeding ten years, and shall be paid in manner stipulated by said city council, and the interest thereon shall be paid annually; and the said city council are authorized, and it shall be their duty, to raise by tax, in manner specified in the ninth [tenth] section of this act, [chapter,] the annual interest of the above named loan, and to pay over the same in discharge of such interest; and also to raise, levy and collect, in the same manner, any sum or sums necessary to meet the conditions of said loan, and to pay over the same in the discharge thereof.

Council may borrow money for its erection.

Term of loan not to exceed ten years.

Clerk to notify commissioner of his election.

SECTION 29. It shall be the duty of the clerk of the city, immediately after the election of any person as commissioner of common schools, personally to notify him of his election; and if any such person shall not, within ten days after receiving such personal notice of his election, take and subscribe the constitutional oath, and file the same with the clerk of the said city, the city council may consider it a refusal to serve and proceed to supply the vacancy occasioned by such refusal.

SECTION 30. No person in the city of Berlin, engaged in teaching any of the schools of said city, shall be eligible to the office of commissioner of common schools in said city, and no member of the board of education shall be employed to teach any of the schools of said city.

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Eligibility of  
commissioner.

SECTION 31. All moneys on hand when this act takes effect, belonging to the several school districts hereby consolidated, after paying the indebtedness of the respective districts, shall constitute a common fund for the support of the schools in said city, and it is hereby made the duty of the respective treasurers of said school districts to pay over to the city treasurer, on demand, the several sums of money in their possession belonging to said school districts: *provided*, that the taxable property embraced in that school district which shall thus furnish the greatest amount to the common fund, in proportion to the last equalized assessment of the respective districts, shall be entitled to a proportional credit in the first school tax levied in said city under the provisions of this act.

Common school  
fund.

Proviso.

SECTION 32. All of that part of the town of Forsyth, not embraced by this act in the limits of the city of Berlin, shall hereafter constitute and form a part of the town of Berlin.

Town of Forsyth

SECTION 33. An act entitled "an act to incorporate the city of Berlin," approved March 6th, 1857; an act entitled "an act to amend an act entitled 'an act to incorporate the city of Berlin,' approved March 6th, 1857," approved February 13th, 1858; [and] an act entitled "an act to create the town of Forsyth, and to amend chapter 330 of the private and local laws of 1857, incorporating the city of Berlin," approved March 30, 1860, are hereby repealed; but the repeal of said acts and parts of acts shall not in any manner affect, injure or invalidate any contracts, acts, suits, claims or demands that may have been entered into, performed, commenced, or that may exist under or by virtue, or in pursuance of the said acts, or any of them, but the same shall exist and be enforced and carried out as fully and effectually to all intents and purposes as if this act had not been passed. And all ordinances, resolutions, regulations, rules, by-laws and orders of the city council of said city, or parts thereof, not repealed, suspended or made void by this act, shall continue

Acts repealed.

Certain contracts  
not invalidated.

Ordinances, &c.,  
in force.



**CHAPTER 98.** and remain of the same force and effect as if this act had not been passed until altered, amended, repealed or suspended by the city council in pursuance of this act.

**Public act.** SECTION 34. This act shall be considered a public act, and shall be construed favorably in all courts and places, and shall take effect from and after its passage and publication.

Approved March 22, 1861.

## CHAPTER 98.

[Published April 23, 1861.]

AN ACT to amend and consolidate an act entitled "an act to incorporate the city of Racine, in the county of Racine," approved August 8th, 1848, and the several acts amendatory thereof.

*The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:*

**Boundaries.** SECTION 1. The limits and boundaries of said city of Racine shall remain as they are now established by law.

**Wards.** SECTION 2. The number and boundaries of the several wards in said city shall remain as now established, until altered by the city council.

**Style, and corporate powers.** SECTION 3. The inhabitants within the aforesaid limits shall be and remain a body corporate and politic by the name and style of the "the city of Racine;" and by that name shall be capable of contracting and being contracted with, of suing and being sued, pleading and being impleaded, answering and being answered unto, in all courts and places and in all matters whatsoever, with power of purchasing, receiving, holding, occupying and conveying real and personal estate; and shall have a common seal, and may change the same at pleasure; and shall be competent to have and exercise all the rights and privileges, and be subject to all the duties and obligations appertaining to a municipal corporation.

**Government—how vested.** SECTION 4. The government of said city, and the exercise of its corporate powers, and the management