

SECTION 8. All acts and parts of acts in contraven- ^{Repealed.}
tion of the provisions of this act, are hereby repeal-
ed, so far as they affect the provisions of this act.

SECTION 9. This act shall take effect and be in force
from and after its passage and publication.

Approved March 6, 1876.

CHAPTER 122.

[Published March 9, 1876.]

AN ACT relating to the city of Portage, and codifying, consolidating
and amending the act of incorporation and all acts amendatory
thereof.

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

CHAPTER I.

SECTION 1. All the district of country in the county <sup>General pow-
ers.</sup>
of Columbia, contained within the boundaries here-
inafter described, shall be a city by the name of
"Portage," and the people now inhabiting, and those
who shall hereafter inhabit said district, shall be a
municipal corporation, the name of which shall be
"The city of Portage." Said corporation shall have
the general powers possessed by municipal corpora-
tions at common law, and in addition thereto the pow-
ers hereinafter specifically granted, and the authorities
thereof shall have perpetual succession; shall be capa-
ble of contracting and being contracted with; of su-
ing and being sued; pleading and being impleaded
in all courts, and shall have a common seal, and may
change the same at pleasure.

SECTION 2. The territory included within the fol- ^{Territ ry.}
lowing boundaries shall constitute said city of Por-
tage, to-wit: Beginning at a point in the center of
Fox river, where the east and west quarter line of
section No. thirty-three (33), of township No. thir-
teen (13), north of range No. nine (9) east, intersects
the center of said river, running thence west along
the quarter line through sections No. thirty-three (33),
thirty-two (32), and thirty-one (31), of township No.
thirteen (13), north of range No. nine (9) east, to the
center of section No. thirty-six (36), of town thirteen

(13) north, of range eight (8) east, thence south along the quarter line through section thirty-six (36), of town thirteen (13) north, of range eight (8) east, and sections one (1) and twelve (12), of town twelve (12) north, of range eight (8) east, to the south quarter post of section twelve (12), in town twelve (12) north, of range eight (8) east, thence east along the south line of said section twelve (12), and of section seven (7), eight (8), and nine (9), in town twelve (12), north of range nine (9) east, to the south quarter post of said section nine (9); thence north along the quarter line through sections nine (9) and four (4), till it intersects the easterly line of claim No. twenty-one (21), known as Grignon's claim, thence northeasterly along the east side of said claim to the center of Fox river, thence down Fox river along the center thereof to the place of beginning.

Ward boundaries.

SECTION 3. The said city shall be divided into five wards, the boundaries of which for the present, and until changed as hereinafter provided, shall be as follows, to-wit: all that portion of the city lying south and east of the canal connecting the Fox and Wisconsin rivers and north of the Wisconsin river, shall constitute the first ward; all that portion of the city lying north of said canal and east of Adams street, extended in a straight line to its intersection with the new Pinery road, and east of said new Pinery road, extended north to the north line of said city, shall constitute the second ward; all that portion of the city commencing at the canal bridge on Wisconsin street, running thence northwesterly along Wisconsin street to its intersection with Mac street, thence northerly along Mac street to its intersection with the railroad track of the Chicago, Milwaukee, and St. Paul Railway Company, thence easterly along said railroad track to its intersection with Adams street, thence in a southerly direction along said Adams street to the said canal, thence along said canal to the place of beginning, shall constitute the third ward; all that portion of the city lying southerly of Carroll street extended from Mac street westerly to the Wisconsin river, and along said river to the west line of the city, and all that part lying south of the Wisconsin river shall constitute the fourth ward; all that portion of the city lying westerly of Mac street and the new Pinery road, and northerly of Carroll street, commencing at Mac street and running westerly along said street to the Wisconsin river, and along the

banks of said river to the west line of the city shall constitute the fifth ward. But the common council shall have power to change said lines of division as they may deem convenient and proper.

SECTION 4. The corporate authority of said city shall be vested in one principal officer styled the mayor; in one board of aldermen consisting of two members from each ward, who, with the mayor, shall be denominated the common council, and in such other officers as are hereinafter provided for or may be created under this act. In whom authority vested.

CHAPTER II.

ELECTIONS.

SECTION 1. The annual elections for ward and city officers shall be held on the first Tuesday in April of each year, at such place in each ward as the common council shall designate. Ten days' notice shall be given of the time and places of holding such election, and of the officers to be elected, by publication in the official city paper. All elections under this charter shall be conducted in the same manner as the general elections for state and county officers, and the qualifications of voters shall be the same as at such general elections. Each ward officer shall be a qualified elector in the ward in which he is elected, and each city officer shall be a qualified elector in the city. Elections.

SECTION 2. The officers to be elected by the people shall be a mayor, treasurer, marshal, clerk, assessor, and a superintendent of schools for the city, and two aldermen and one constable and one justice of the peace for each ward. All other necessary officers shall be appointed by the common council. All elective officers except justices of the peace and aldermen shall, unless elected to fill a vacancy, hold their respective offices for one year, and until their successors are elected and qualified; *provided, however,* the council shall have power, for due cause, satisfactory to them, to expel any of their own number, and to remove from office any officer or agent of the city except justices of the peace, due notice and an opportunity for a hearing having been first given to the officer proposed to be removed. Justices of the peace shall hold their offices for two years, and until their successors are elected and qualified. The term of every officer elected under this act shall commence on the City officers.
Terms of same.

second Tuesday in April of the year for which such officer is elected, and the term of office of all appointed officers shall expire with that of the members of the body appointing them.

Vacancies.

SECTION 3. Whenever a vacancy shall occur in the office of mayor, or aldermen, or justice, the council may order a new election, and shall give five days' notice thereof. Vacancies in other offices shall be filled by the council. The person elected or appointed to fill a vacancy, shall hold his office and discharge the duties thereof for the unexpired term, with the same rights and subject to the same liabilities as the person whose office he may be elected or appointed to fill.

Tie vote.

SECTION 4. In all elections by the people, a plurality of votes shall constitute an election. In case 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 of lots in the presence of the council, at such time and in such manner as they may direct.

When office to be deemed vacant.

SECTION 5. Whenever any officer shall cease to possess the qualifications necessary for his election, his office shall be deemed vacant; and any officer who shall neglect or refuse to qualify within ten days from the time he shall be notified of his election shall be deemed to have vacated his said office.

Canvass and return of votes.

SECTION 6. Whenever an election shall be held under this charter, the inspectors of election shall forthwith make their returns, stating the number of votes cast for each person for each and every office, to the city clerk. Within one week after an election, the council shall meet and canvass said returns, and declare the result as it shall appear from the same. The clerk shall thereupon immediately give notice to the persons elected, of their election.

Terms of aldermen.

SECTION 7. Aldermen shall hold their office for the term of two years, one of whom shall go out of office annually.

CHAPTER III.

OFFICERS—THEIR POWERS AND DUTIES.

Officers to take oath and give bonds.

SECTION 1. Every person elected or appointed to any office under this act, except justices of the peace, shall, before he enters upon the duties of his office, take and subscribe an oath of office and file the same,

duly certified by the officer taking the same, with the clerk of the city; and the clerk, marshal, constables and such other officers as the common council may direct, shall severally, before they enter upon the duties of their respective offices, execute to the city of Portage a bond, 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 bond shall contain such penal sum, and such conditions as the common council may deem proper. The treasurer, before entering upon his duties, shall also execute a bond, with at least two, nor more than ten, sureties. The penal sum expressed in such bond shall exceed the amount of the last annual tax roll, and each surety shall swear that he is worth a certain amount over and above all debts, liabilities or exemptions, and the aggregate of such amounts shall at least exceed the penal sum specified in the bond. The council may, from time to time require new or additional bonds from the treasurer or other officer of the city, and the council may remove from office any officer refusing or neglecting to give the same. Justices of the peace shall qualify in the same manner as in towns, except that their bonds shall be approved by the common council.

SECTION 2. The mayor, shall, when present, preside over the meetings of the common council. He shall take care that the laws of the state and the ordinances of the city are duly observed and enforced, and that all other executive officers of the city discharge their respective duties; he shall from time to time give the common council such information and recommend such measures as he may deem advantageous to the city. The mayor shall be the chief executive officer and head of the police of the city; and in case of a riot or other disturbance he may appoint as many special or temporary constables as he may deem necessary. He shall have the authority to remove the marshal for inefficiency or neglect of duty, and to appoint a marshal in place of the one he may remove, but the term of office of a marshal who may be appointed by the mayor shall not commence until his nomination has been approved by a majority of the common council. The mayor shall have a vote in the council only in case of a tie. When the council shall be engaged in the election of any officer, the mayor shall have a vote the same as an alderman.

Mayor—his powers and duties.

President of
council.

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

City clerk.

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

City treasurer.

SECTION 5. The treasurer shall perform such duties and exercise such powers as may be lawfully required of him by the ordinances of said city or the laws of this state. He shall receive all moneys belonging to the city, and keep an accurate and detailed account thereof, together with an account of all disbursements, in such manner as the common council shall direct. He shall report to the common council as often as required, and annually, at least ten days before annual election, a full and detailed account of all receipts and expenditures since the date of the last annual report; and also of the state of the treasury, which statement shall be filed with the clerk.

The city treasurer shall be collector of taxes in said city, and in addition to the powers and duties already specified, shall have the same powers and duties, and be subject to the same liabilities as treasurers in towns. No person having been city treasurer for two years in succession, shall be eligible to a re-election until one year shall have elapsed, nor shall any person who has been city treasurer be appointed deputy treasurer for the term immediately succeeding his term of office.

SECTION 6. The marshal shall possess all the powers of a constable in towns, and be subject to the same liabilities. It shall be his duty to execute and return all writs and process to him directed by the mayor, and when necessary in criminal cases or for the violation of any ordinance of said city or laws 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 authority for examination; and for such service he shall receive such fees as are allowed to constables for like service. He shall do and perform all such duties as may lawfully be enjoined on him by the ordinances of said city. He shall have the 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.

SECTION 7. The common council shall have power from time to time to require other and further duties to be performed by any officer whose duties are herein prescribed; and to appoint such other officers as may be necessary to carry into effect the provisions of this act, and to prescribe their duties and to fix the compensation of all officers appointed by them, where the compensation is not fixed by the statute or this charter. The council shall, at least ten days before the annual charter election in each year, fix, by resolution, the salary which shall be paid to the clerk, marshal, assessor, and school superintendent for the ensuing year, and such salary shall not be increased or diminished during the term of the officer elected, neither shall extra compensation be granted, except

City marshal.

Council to require other duties of officers.

To fix salaries.

by unanimous vote of the council, which vote shall be approved by the mayor.

Official paper.

SECTION 8. The council, at the first meeting after their election, or as soon thereafter as practicable, shall designate a newspaper, printed in said city, in which shall be published all ordinances and other matters required by this act or the by-laws or ordinances of the city to be published in a newspaper.

Proof of publication.

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, as stated in such affidavit.

Penalty for refusal to deliver books, papers, etc.

SECTION 10. If any person, having been an officer in said city, shall not within ten days after notification and request deliver to his successor in office all property, books, papers and effects of every description in his possession, belonging to said city or pertaining to the office he may have held, he shall forfeit and pay to the use of the city one hundred dollars, besides all damages caused by his neglect or refusal so to deliver; and such successor may recover possession of such books, papers and effects in the manner prescribed by the laws of this state.

Aldermen not to be interested in contracts.

SECTION 11. No alderman shall be party to, or interested in any job or contract with the city, and any contract in which an alderman may be so interested shall be null and void; and in case any money shall have been paid on any such contract, the common council may sue for and recover the amount so paid from the parties to such contract, and the alderman interested in the same, or either, or any one of them.

Peace officers.

SECTION 12. The mayor or acting mayor, sheriff of Columbia county, and each and every alderman, justice of the peace, marshal, constable, and watchman shall be officers of the peace and may command the peace, and suppress in a summary manner all rioting and disorderly behavior within the limits of the city, and, for such purposes, 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 above mentioned in this section, shall direct the proceedings.

SECTION 13. The common council may elect a city City surveyor. surveyor, who shall be a practical surveyor and engineer, and shall prescribe his duties, and fix the fees and compensation for any service performed by him. All surveys, profiles, plans or estimates made by him for the city, shall be the property of the city, and shall be carefully preserved in the office of the surveyor, or filed with the city clerk when ordered by the common council, open to the inspection of the parties interested; and the same together with all books and papers appertaining to said office, shall be delivered over by the surveyor, at the expiration of his term of office, to his successor, or the common council. The certificate of such surveyor shall have the same force and effect in all courts as the certificate of a county surveyor.

SECTION 14. All actions to recover any penalty or forfeiture under this charter, or the ordinances, by-laws, police and health regulations, made in pursuance thereof, shall be brought in the corporate name of the city, and may be heard and determined by or before any justice of the peace in the city. Actions to be brought in corporate name of city. All fines and penalties collected by any justice, in such cases, Fines and penalties. shall be paid over to the city treasurer, except those for refusing to work upon the highways, which shall be paid over, on demand, to the street commissioner of the ward in which such labor ought to have been performed. Each justice shall report to the common council, on the first Monday in January, April, July, and October, in each year, a statement of all such fines and penalties collected by him, and at the same time pay over the amount thereof to the city treasurer, except as above mentioned.

SECTION 15. Any officer may resign his office by filing his written resignation with the clerk; and such resignation shall take effect, and his office shall be deemed vacant from the time such resignation shall be accepted by the common council. Resignations.

SECTION 16. No alderman or other city officer shall be accepted as surety upon any bond, note, or obligation made by the city, nor shall any officer required to give bonds as aforesaid, enter upon the discharge Officers not to be surety for city.

of the duties of his office until such bond shall have been filed and approved as by this act provided.

CHAPTER IV.

THE COMMON COUNCIL—ITS POWERS AND DUTIES.

Common council.

SECTION 1. The mayor and aldermen shall constitute the common council, and the style of all ordinances shall be, "The mayor and common council of the city of Portage do ordain," etc. The common council shall meet at such time and place as they shall fix upon. A majority of the aldermen shall constitute a quorum.

Meetings of council—attendance may be compelled.

SECTION 2. The common council shall hold stated meetings, and the mayor may call special meetings, by notice to each of the members, to be served personally or left at their usual places of business or abode. The common council shall determine the rules of its own proceedings, and have power to compel the attendance of absent members.

General powers of council.

SECTION 3. The common council shall have the management and control of the finances, and of all the property of the city; and shall likewise, in addition to the power herein vested in them, have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify, amend, and repeal all such ordinances, rules, and by-laws for the government and good order of the city, for the suppression of vice, for the prevention of crime, and for the benefit of the trade, commerce, and health thereof, 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 ordinance, rules or by-laws, and such ordinances, rules and by-laws are hereby declared to be and have the force of law; *provided*, that they be not repugnant to the constitution and laws of the United States or of this state; and for these purposes shall have authority, by ordinances, resolutions or by-laws. 1st. To license and regulate the exhibition of common showmen or shows of any kind, or the exhibition of caravans, circuses or theatrical performances, billiard tables, bowling saloons, and to provide for the abatement and removal of all nuisances under the ordinances or at common law; and to grant licenses, and regulate groceries, taverns, victualing houses, and all persons vending or dealing in spirituous, vinous or fermented liquors. 2d. To re-

strain and prohibit all descriptions of gaming and fraudulent devices and practices, all playing of cards, dice or other games of chance for the purpose of gaming in said city, and to restrain any person from vending, giving or dealing in spirituous, fermented or vinous liquors, unless duly licensed by the common council. 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. 4th. To compel the owner or occupant of any grocery, cellar, tallow chandler shop, soap factory, tannery, stable, barn, privy, sewer, or other unwholesome, nauseous house, or place, to cleanse, remove or abate the same from time to time, as often as it may be deemed necessary for the health, comfort and convenience of the inhabitants of said city. 5th. To direct the location and management of slaughter houses and markets, and regulate the storage, sale, keeping and conveying of gunpowder or other combustible materials. 6th. To prevent the encumbering of the streets, sidewalks, lanes or alleys with carriages, carts, wagons, sleighs, boxes, lumber, fire-wood, or any other material or substance whatever. 7th. To prevent horse racing, immoderate riding or driving in the streets and to regulate the places of bathing and swimming in the waters within the limits of said city. 8th. To restrain the running at large of cattle, swine, sheep, poultry and geese, and to authorize the distraining and sale of the same. 9th. To prevent the running at large of dogs, and to authorize the destruction of the same in a summary manner when at large contrary to the ordinance. 10th. To prevent any person from bringing, depositing or having within said city any putrid carcass or other unwholesome substance, and to require the removal of the same by the owner thereof, or by the person who shall have upon his premises any such substance or putrid or unsound beef, pork, fish, [hides or skins of any kind; and on default to authorize the removal thereof by some competent officer at the expense of such person or persons. 11th. To regulate and license hacks, cabs, drays, carts and the charges of hackmen, cabmen, draymen and cartmen in the city. 12th. To establish and regulate boards of health, provide hospitals and cemetery grounds, regulate the burial of the dead and the return of bills of mortality, and to exempt burial

grounds, set apart for public use, from taxation. 13th. To regulate the assize and weight of bread, and to provide for the seizure and forfeiture of bread baked contrary thereto. 14th. To prevent all persons riding or driving any ox, mule, cattle or other animals on the sidewalks in said city, or in any way doing any damage to such sidewalks. 15th. To prevent the shooting of firearms or crackers, and to prevent the exhibition of any fireworks in any situation which may be considered by the council dangerous to the city or any property therein, or annoying any citizen thereof. 16th. 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. 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. 18th. To establish public markets and to make rules and regulations for the government of the same; to appoint suitable officers for overseeing and regulating such markets, and to restrain all persons from intercepting or interfering with the due observance of such rules and regulations. 19th. To license and regulate butchers' stalls, shops, and stands for the sale of game, poultry, butchers' meat, butter, fish, and other provisions. 20th. To regulate the place and manner of the weighing and selling of fuel, hay, and lime, and to appoint suitable persons to superintend and conduct the same. 21st. To compel the owners or occupants of buildings or grounds to remove snow, dirt, or rubbish from the sidewalk, street, or alley opposite thereto, and to compel such owner or occupant to remove from the lot owned or occupied by him all such substances as the board of health shall direct, and in his default, to authorize the removal or destruction thereof by some officer of the city, at the expense of such owner or occupant. 22d. To regulate, control, and prevent the landing of persons from boats or vessels, wherein are contagious or infectious diseases or disorders, and to make such disposition of such persons as to preserve the health of said city. 23d. To license auctioneers and transient dealers, and to regulate the time, place, and manner of holding public auctions or vendues, and to require the payment into the city treasury of a certain percentage of amounts received from sales by

auctioneers and transient dealers. 24th. To appoint watchmen and prescribe their duties.

SECTION 4. All ordinances shall be passed by an affirmative vote of a majority of the common council, and shall be signed by the mayor, and shall be published once a week for three successive weeks in the newspaper selected by the council, printed in said city, before the same shall be in force, and within fifteen days thereafter they shall be recorded by the city clerk in books to be provided for that purpose, but before any of the said ordinances shall be recorded, the publication thereof respectively within the same time, shall be proved by the affidavit of the foreman or publisher of such newspaper, and the said affidavit shall be recorded therewith, and at all times shall be deemed and taken as sufficient evidence of the time and manner of such publication.

Ordinance—
how passed and
made effective.

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 according to law. Gambling houses, houses of ill fame, disorderly taverns and houses or places where spirituous, vinous or fermented liquors are sold without the license required, houses or buildings of any kind wherein more than twenty-five pounds of gunpowder are deposited, stored or kept at any one time, are hereby declared and shall be deemed public or common nuisances.

Abatement of
nuisances.

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

Auditing of
accounts.

discharge of his official duties, and shall make a full record of all such settlements and adjustments.

CHAPTER V.

OPENING OF STREETS, ALLEYS, ETC.

Power of council to lay out streets, alleys, etc. and to take lands for same.

SECTION 1. The common council shall have power to lay out public squares, grounds, streets, and alleys, and to enlarge or extend the same, and to use lands in said city for the purpose of constructing and repairing sewers and drains, as follows: Whenever ten or more freeholders residing in any ward, shall, by petition, represent to the common council that it is necessary to take certain lands within the ward where such petitioners reside for public use, for the purpose of laying out public squares, grounds, streets, or alleys, or enlarging or widening the same, or to use certain lands within the ward for the purpose of constructing and repairing sewers and drains, giving the courses and distances, metes and bounds of the lands proposed to be taken or used as aforesaid, together with the names and residences of the owners of such premises, if the same shall be known to the petitioners, the common council shall, if they deem it necessary to take or use such lands for the purpose specified in such petition, cause notice of such application to be given to the owner or owners of such land, in case such owner or owners shall reside in the city of Portage, and to the occupant or occupants of such land, if any there be, which notice may be served personally or by leaving the same at the place of business or at the residence of such owner or owners, occupant or occupants; or if any portion of such lands shall not be in the actual occupation of any person then the common council shall cause such notice describing as near as may be the premises proposed to be taken, to be published in a public newspaper printed in the city of Portage, for four successive weeks, at least once in each week.

Form of notice to be given.

SECTION 2. Such notice shall state that on a certain day therein to be named, not less than ten days from the service of such notice or the expiration of such publication, as the case may be, application will be made to the county judge of the county of Columbia, for the appointment of twelve jurors to view said premises, and to determine whether it will be necessary to take or use the same for the purposes speci-

fied in said petition. Should any of the lands proposed to be taken or used belong to the county judge, the application shall be made to the sheriff of the county.

SECTION 3. Upon presentation of such application, and upon proof of the publication or service of the notice hereinbefore required, the said judge, or sheriff, as the case may be, shall thereupon appoint as jurors twelve reputable freeholders, residents of the city, but not residents of the ward in which such premises lie, nor interested in the result of such application. The said judge or sheriff shall thereupon issue his precept, directed to said jurors, requiring them within thirty days from the date thereof to view such premises, to be specified in said precept, and to make return under their hands to the common council, whether in their judgment it is necessary to take or use said premises for the purposes specified in such application. Appointment of jurors to view premises.

SECTION 4. If any juror so appointed shall be disqualified from acting, or shall refuse to act at any time before the completion of their final award, the judge or sheriff shall appoint others in their place, and a memorandum of such substitution shall be endorsed on the precept. Substitution of jurors.

SECTION 5. The said jurors, having first taken the oath hereinafter provided for, shall at such times as they may agree, proceed in a body to view the premises in question, and shall hear such testimony as may be offered by any party interested, which testimony shall be reduced to writing by one of the jurors, and either of the jurors shall be authorized to administer the necessary oaths to witnesses. Jurors to view premises and hear testimony.

SECTION 6. After viewing the premises and hearing such testimony as may be offered, the jurors shall make a report of their proceedings, which shall be signed by them respectively and which shall state whether in their judgment it is necessary to take or use the premises in question for the public use; which said report, testimony and precept shall be returned to the common council within the time limited therein. Report of jurors.

SECTION 7. Should the jurors report that it is necessary to take or use such premises, the common council shall, if they approve such report, enter an order among their proceedings confirming said report, and directing the same jurors, within one month thereafter or such further time as may be necessary, to Further duty of jurors.

again view said premises for the purpose of ascertaining and determining the amount of damages to be paid to the owner or owners of the property proposed to be taken, and also what premises will be benefited by such taking, and to assess and return within the time limited such damages and benefits to the common council; *provided, however*, that in case of sewers and drains the said jurors need not view the premises to be benefited or assess the benefits thereon.

When premises occupied by buildings.

SECTION 8. If there should be any buildings standing, in whole or in part, upon the lands to be taken or used, the jurors, before proceeding to make their apprizements, shall first estimate and determine the whole value of the land, and secondly, the value of such buildings to remove, except in cases of sewers and drains.

Notice to be given to owner of land.

SECTION 9. At least ten days' personal notice of such determination shall be given to the owner or his agent if known and a resident of the city, or left at his usual place of abode. If not known or a non-resident, notice to all persons interested shall be given by publication in a newspaper published in this city, three successive weeks; such notice shall specify the building and the award of jurors. It shall also require the parties interested to appear by a day to be therein named and give notice of their election to the common council either to accept the award of the jurors and allow such building to be taken with the land appropriated, or of their intention to remove such building at the value set thereon by the jurors to remove. If the owner shall agree to remove such building, he shall have such time for that purpose as the common council may allow.

When council to direct sale of building.

SECTION 10. If the owner refuse to take the building at the value to remove, or fail to give notice of his election as aforesaid within the time prescribed, the common council shall have power to direct the sale of such building at public auction for cash, giving ten days' notice of such sale. The proceeds shall be paid to the city treasurer, for the use of the owner, and shall thereafter be paid over to the owner on his application therefor, provided it shall be necessary to remove such buildings for the proper use of the lands so taken or used.

Jurors to hear testimony and make assessment and appraisement.

SECTION 11. The said jurors, within the time limited shall view and examine the premises proposed to be taken or used, and all such other premises as will in their judgment be benefited thereby; *provided*,

however, that in case of sewers or drains the said jurors need not examine the lands benefited. After hearing such testimony as may be offered, and which shall be reduced to writing by one of said jurors, they shall proceed to make their assessment and to determine and appraise to the owner or owners the value of the real estate so proposed to be taken or used, and the injury arising to them respectively in consequence of the taking or using thereof, which shall be awarded to such owners respectively as damages, after making due allowance therefrom for any benefit which such owners may respectively derive from such improvement. In the estimate of damages to the lands, the jurors shall include the value of the building or buildings (if the property of the owners of such lands) as estimated by them as aforesaid, less the proceeds of the sale thereof; or if taken by the owner at the value to remove, in such case they shall only include the difference between such value and the whole estimated value of such building or buildings.

SECTION 12. If the damages to any person be greater than the benefits received, or if the benefits be greater than the damages, in either case the jurors shall strike a balance and carry the differences forward to another column, so that the assessment will show what amount is to be received or paid by such owner or owners respectively, and the difference only shall in any case be collected of them or payable to them.

Jurors to ascertain amount of damage or benefit.

SECTION 13. If the lands or buildings belong to different persons, or be subject to lease, judgment, mortgage or other incumbrance, or if there be any estate in it less than an estate in fee to such person or interest respectively, the injury done shall be awarded to the person entitled thereto by the jurors, less the benefits resulting to such interests respectively from the proposed improvement.

When property belongs to different persons.

SECTION 14. Having ascertained the damages and expenses of the proposed improvement as aforesaid the said jurors shall thereupon apportion and assess the same 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 assessment may be made and state the amount assessed upon each separate tract; *provided, however*, that when the lands are used only for the purpose of a sewer or

Jury to assess amount of damages upon real estate benefited

drain the damages shall not be assessed upon the lands benefited but shall be paid by the city as provided by law. The award of the said jurors shall be signed by them and returned, together with the testimony taken, to the common council within the time limited, in their order of appointment, and shall be final, unless appealed from in the manner hereinafter provided.

When land shall be appropriated.

SECTION 15. The land required to be taken or used for the purposes mentioned in this act shall not be appropriated until the damages awarded therefor to the parties interested shall be paid or tendered to them or their agents, or in case said parties or agents cannot be found, or are unknown, deposited to their credit in some safe place of deposit to be determined by the common council; and then, and not before, such lands may be taken or used and appropriated for the purposes required, and the lands shall thereafter be subject to all the laws and ordinances of the city, in the same manner as streets, alleys, and public grounds heretofore opened or laid out except in cases where the lands are only used for the purposes of sewers and drains, and then in that case the said city shall have the power to go upon said premises at any and all times for the purpose of examining and repairing said sewers and drains.

When property under lease or incumbrance.

SECTION 16. When the whole of any lot or tract of land or other premises under lease or other contract or incumbrance shall be taken or used by virtue of this act, all the covenants, contracts, or liabilities relating to the same, or any part thereof, shall, after the expiration of the time for appeal, as herein provided, respectively, cease and be absolutely discharged.

When only part of lot or tract is taken.

SECTION 17. When only part of the lot or tract of land or other premises so under lease or other contract or incumbrance shall be taken or used for the purpose aforesaid, such covenants, contracts, or incumbrance shall be absolutely discharged, as to the part thereof so taken or used, but shall remain valid as to the residue thereof, and the rents, liens and payments due from or on account of the same, shall be so appropriated that the part thereof justly and equitably payable for such residue, and no more, shall be paid or recoverable for or in respect of the same.

Damages to be paid within one year.

SECTION 18. The damages assessed on each separate lot or tract shall be paid or tendered or deposited as herein required within one year from the confirma-

tion of such assessment and report, and if not so paid, tendered, or deposited, all the proceedings in any such case as to any lot or tract on which they are so unpaid shall be void, the benefits so assessed from the expiration of the time for appeal shall become a lien upon the premises upon which they are assessed, and shall be collected therefrom as a special assessment in the same manner as other special assessments for city improvements are collected. The amounts so collected shall be held by the city as a special fund for the payment of the damages aforesaid, and shall be paid out for that purpose and no other.

SECTION 19. When any known owner of lands or tenements affected by any proceedings under this act shall be an infant, or labor under disability, the judge of the circuit court of Columbia county, or the county judge may, upon the application of the common council or such party by his next friend, appoint a guardian for such party, and all notices required by this act shall be served upon such guardian in the same manner as if he were the party interested.

When owner is an infant or under legal disability.

SECTION 20. The jurors mentioned in this act shall, before entering on the discharge of their duties, severally take an oath before some competent officer, that they are freeholders of said city, and not interested in the premises proposed to be taken or used, and that they will faithfully and impartially discharge the trust reposed in them. If any juror shall neglect or refuse to serve after the return of the precept above mentioned, the county judge shall have power to appoint new jurors in place of those who shall so neglect or refuse to serve.

Oath of jurors.

SECTION 21. The city council or any party interested may, within twenty days from the return of the jurors to the common council of the benefits and damages so assessed, appeal to the circuit court of Columbia county from the decision of said jurors so far as it affects the interests of said appellants. Notice of such appeal shall be filed by the appellant, with the clerk of said court, within twenty days above mentioned, and the issue on such appeal shall be made up and tried in said court in such manner as said court shall direct.

Appeal to circuit court.

SECTION 22. In case the total amount of damages and costs awarded by the jurors and which formed the basis of their assessment, shall be increased by any proceedings subsequent to the return of said assessment to the common council, and founded there-

When damages increased by subsequent proceedings.

on, such additional sum shall, as soon as such proceedings are finally determined, be assessed by the city clerk under the direction of the mayor and common council upon the land upon which the first assessment was made, in the same proportion as such first assessment, and shall be collected in the same manner.

Survey and profile to be made.

SECTION 23. Whenever any streets, alleys or public grounds shall be laid out or extended, or sewers or drains constructed, under the provisions above, the common council shall cause an accurate survey and profile thereof to be made and filed in the office of the city clerk.

How streets, etc. vacated.

SECTION 24. No street or alley, or part thereof, shall be vacated except upon the petition of the owners of three-fourths of the front upon such street or alley in the block in or along which such street or alley runs; but the boundaries of streets may be changed upon petition to the council by the parties interested.

Power of council to vacate plat.

SECTION 25. The common council shall have power to vacate any plat or any portion thereof which lies south of the Wisconsin river in said city, that may be petitioned for by the proprietor of such plat, or any person interested therein; but no petition for such vacation shall be acted upon unless notice of such application to the council shall have first been published in the official city paper for at least two weeks prior to the meeting of the council.

How roads and streets laid out.

SECTION 26. The foregoing provisions shall not apply to unplatted lands. Roads or streets may be laid out by the common council through unplatted lands in the same manner as roads are laid out by supervisors in towns.

Directions deemed directory.

SECTION 27. All the foregoing directions given in this chapter shall be deemed only directory, and no error, irregularity or informality in any of the proceedings under the provisions of this chapter of this act, not affecting substantial justice, shall in any way affect the validity of the proceedings.

CHAPTER VI.

CITY IMPROVEMENTS.

Making and repair of streets, etc.

SECTION 1. The city council shall have power to order and contract for the making, grading, repairing, and cleaning of streets, alleys, public grounds, reser-

voirs, gutters, sewers, drains, and sidewalks in the manner hereinafter mentioned and direct and control the persons employed therein.

SECTION 2. The cost and expense of surveying streets, alleys, sidewalks, drains, and sewers, and of estimating work thereon in the execution of any public improvement, shall be charged to and payable by the city. The cost and expense of opening, grading, graveling, planking, paving or repairing streets and alleys and constructing or repairing sidewalks shall be chargeable to, and payable by the lots fronting on such street or alley, so that each lot or parcel of land shall pay for the work done between the front of such lot or tract of land and the center of such street or alley. Sewers and drains may be ordered by the council and all costs and expenses as well as the damages which shall be sustained by owners of lands through which the same shall pass shall be charged to and payable by the city.

What part of cost chargeable to city.

What chargeable to property benefited.

SECTION 3. Whenever the council shall determine to make any public improvement, as authorized by sections 1 and 2 of this chapter, they shall fix the time wherein which such work shall be done and shall give notice by advertisement published once a week for three successive weeks in a newspaper printed in Portage, to the owners or occupants of the lots or parcels of land fronting on any street alley or sidewalk ordered to be improved, requiring them to do the work mentioned in such notice within the time fixed by the council for the doing of the same, to be therein specified. If said work shall not be done within said time, the street commissioner of the ward in which said work is required to be done, shall immediately proceed to contract for doing the same at the expense of the lots upon which such work is chargeable; the contract to be let to the lowest bidder, printed notices having been given of the time and place of such letting at least ten days in three public places in the ward in which said work is to be done, and a copy of such notice shall be published in a newspaper printed in the city. The letting of the contract shall take place at the office of the city clerk and the street commissioners shall give notice to the aldermen of the wards in which such work is to be done to be present at the letting of the contract. Proposals for grading shall be sealed and shall state the amount per yard for excavation or filling, and the award of the contract shall be made to the lowest re-

Notice to be given of improvement to be made.

When contract for work to be let.

sponsible bidder. Before proceeding to execute any contract obtained under this chapter, the street commissioner shall cause each [such] surveyor as the council may employ to make an estimate of the amount of work to be performed in front of each lot, which estimate shall be filed in the office of the city clerk.

When deep cutting or filling required.

SECTION 4. Whenever the general interest of the city requires deep cutting or extraordinary filling in any street, and the owners of the lots or lands fronting on such deep cutting or filling shall deem themselves aggrieved thereby, and shall represent to the council, in writing, that the expense of such excavation or filling will exceed the proportion that should be justly and equitably charged upon the property assessed therefor, the council shall require the marshal to summon five freeholders, not residents of the ward, nor owners of, nor interested in said lots or lands, who, after being sworn faithfully and impartially to discharge the trust reposed in them, shall examine the premises, and if, in their opinion, the costs of such work will exceed the amount that should be justly and equitably chargeable upon said premises, it shall be their duty to determine what portion of such work shall be chargeable to such lots or parcels of land respectively, and to what lots and parts of land on the streets so improved will be benefited by such deep cutting or filling, or the construction of such sewer or drain; and how much or what portion shall be chargeable to them, and to make a report thereof as soon as practicable, in writing, to the council; and such proportion as shall be reported as properly chargeable to the lots or parcels first mentioned, shall be assessed upon and collected from the same in the same manner as herein provided in case such owners shall not do such work, and the remainder shall be assessed upon the lots benefited by such improvements, [in] proportion to their respective benefit as determined by said jury; the sum so assessed shall become a lien upon the premises assessed and shall be collected therefrom as a special assessment in the same manner as other special assessments for city improvements are collected; *provided*, that should said jury find that said petitioners were not entitled to any division of the expense as assessed upon their lots or parcels of land, then the expense of all proceedings under this section shall be paid by said petitioners, and the common council may require a bond for the pay-

ment of the same on the filing of the petition; *provided, also*, that the petition of no owner feeling himself aggrieved, shall be received unless the same shall be presented within twenty days after the publication of the notice requiring the same to be done; *and provided, further*, that when it shall appear to the council that any such lands belong to non-residents, infants, or persons laboring under legal disability, who shall not be represented by any agent or guardian, or not be benefited by the making of streets in front of such lots or lands, to the amount of the costs and expenses thereof, it shall then be the duty of said council to cause to be summoned a jury as herein provided.

SECTION 5. The common council shall give notice to all owners or occupants of lots, which may be deemed injurious to health by reason of stagnant water remaining thereon, in the official paper for two weeks, to abate such nuisance by draining or filling such lot within a reasonable time, therein to be specified, and if such nuisance shall not be abated or removed within the time so specified, the common council shall cause the same to be abated and removed at the expense of the property upon which the same may exist.

Lots to be drained.

SECTION 6. After the completion and performance of any contract entered into by the street commissioners, for work chargeable to lots or lands by virtue of this act, they shall give the contractor or contractors a certificate under their hand, stating therein the amount of work done by such contractor and the nature thereof, and the description of the lot, or parcel of land upon which the same is chargeable, which said certificate may be transferred by endorsement thereon; and if the amount thereof shall not be paid before the time of making out the annual assessment roll, the same may be filed with the city clerk and shall be assessed upon the said lots or parcels of land respectively, and collected therefrom for the use and benefit of the holder of such certificate, as other taxes on real estate are collected by virtue of the laws of this state, except that personal property shall not be seized or sold for the payment thereof, and if the notice to do the work required shall have been given, as herein provided, no informality or error in the proceedings shall vitiate such assessment. When the tax shall have been paid to the city treasurer, he shall pay over the amount on order of the council, to the per-

Contractor to be given certificate.

When certificate not paid, assessment to be made against lots.

sons entitled to receive it. But if the tax on such lot shall not be paid while the roll is in the hands of the city treasurer, it shall be returned to the county treasurer as delinquent, and shall be received by such treasurer in part payment of the county tax. Then the city shall issue a city order to the amount assessed against the lot in favor of the contractor, on his petition to the council so to do. But in no event where work is ordered to be done at the expense of any lot or parcel of land, shall either the city or county be held responsible for or on account thereof, or of any proceeding for the collection of the pay therefor. This proviso shall apply as well to work already done or ordered to be done at the expense of particular lots as to that which may be done hereafter.

Owner may
make appeal.

SECTION 7. In all cases where work is ordered to be done by the owner of any lot, under the provisions of this chapter, such owner may make his appeal as hereinbefore provided at any time within twenty days after the publication of the notice required to be given, and while such appeal is pending no such order shall be executed.

Street commis-
sioners—their
powers and du-
ties.

SECTION 8. The common council shall appoint one street commissioner in each ward, whose general powers and duties shall be the same as those of overseers of highways in towns, except as otherwise herein provided. It shall also be the duty of such street commissioners to see that all ordinances of the city relating to the streets, alleys, public grounds, reservoirs, gutters, sewers, waters of the lakes and water courses within their respective wards, are duly observed and kept, and direct and control the persons employed therein. The street commissioners shall have a general supervision over all work let by contract, for the improvement of streets or sidewalks in their respective wards, unless the common council shall otherwise provide; *provided, however*, that the common council may instead of appointing one street commissioner in each ward, appoint one for the entire city, or may by ordinance require that the city marshal shall be such street commissioner, who shall have all the powers and perform all the duties required of street commissioner in this chapter. He shall deliver to the clerk of said city a list of the names of persons liable to pay taxes on the streets or highways of each ward separately, and shall expend in each ward in the repair or

improvement of streets, the amount of tax collected by him from residents of such ward.

SECTION 9. Every street commissioner hereafter appointed by the common council shall, before entering on the duties of his office, give a bond to the city of Portage, with one or more sufficient sureties, to be approved by the council, in the penal sum of not less than five hundred dollars conditioned to render an account to the common council whenever required by law or the ordinances of said city, or by vote of said council, to safely keep and account for, and deliver over when lawfully required, all property of said city that may come into his hands; to use, disburse and pay over as required by law or the ordinances of said city, all moneys that may come into his possession as such officer, and to faithfully discharge the duties of said office.

Street commissioners to give bonds.

SECTION 10. Every street commissioner shall hold his office for the term of one year from the first Tuesday in April of the year in which he is appointed, and shall on or before the first Monday in November, render an account under oath to the common council, showing the amount of money collected by him as such commissioner and from whom it was collected, and showing the amount of money that has been expended, specifying the work for which it was expended, and also showing the amount of labor and by whom performed in payment of highway taxes, and when the same was performed. Such an account shall be rendered as often as the council shall require.

Term of commissioners.

Same to render account.

SECTION 11. It shall be the duty of every male inhabitant in the city, being over the age of twenty-one years, excepting persons over fifty years of age, idiots, lunatics and paupers, to pay each year, when demanded by the proper street commissioner, a poll tax of one dollar. Said tax may be paid to the street commissioner, or be commuted for in labor as now provided for by law; and in default of paying the same either in money or labor, when demanded by the proper officer, he shall forfeit and pay a penalty of three dollars. Each street commissioner shall within sixteen days after being notified of his appointment, deliver to the city clerk a list subscribed by him of the names of all the inhabitants of his ward who are liable to pay taxes on the highways, and the clerk shall lay the same before the common council at their next meeting. The common council may correct and perfect said list, and shall thereupon as-

Poll tax.

Highway tax.

sess a poll tax of one dollar upon each person named in said list for street and highway purposes. The residue of the highway tax to an amount not less than one or more than five mills on the dollar shall be assessed by the common council on the valuation of the real and personal property in said city, and the common council shall set opposite to the name of each person and corporation, and to each description of taxable property, the amount of tax charged to each respectively. Warrants for the collection of such tax shall be made out by the clerk, under the seal of the city, in the same general manner that warrants for the collection of city taxes are now made out, and said taxes shall be placed in the annual assessment roll of the city, and collected in all respects as other taxes are collected. Said taxes, when collected, shall be held by the city treasurer and paid out as directed by the common council. Said moneys shall be expended, under direction of the council, on such streets, in such places, and under the supervision of such persons as the council may designate. No person, however, shall be entitled to any compensation from the city treasury for services rendered thus. Whenever any person shall neglect or refuse to pay his poll tax, the street commissioner may commence suit for the penalty incurred by the party refusing to pay the tax, in the name of the city, as provided by law in other cases. All the laws relating to the assessment and collection of highway and poll taxes in towns when not inconsistent with the provisions of this act, shall be in force in said city the same as though they were a part of this charter.

Compensation of street commissioners.

SECTION 12. Each street commissioner shall be entitled to receive ten per cent. of the amount collected by him as poll tax to be retained out of the moneys collected by him, and no other compensation shall be allowed. The city shall not be liable for any services ordered to be performed by said street commissioners, unless provision is made for paying therefor at the time such services are ordered.

Council may require setting out of shade trees.

SECTION 13. The common council of the city of Portage shall have power to require the owner of any lot or grounds in said city, to set out ornamental and shade trees in the street or streets in front of the same, and to protect and preserve them, and in default thereof to cause the same to be done, and to levy a special tax upon such lot or grounds to pay the expense of the same. They shall also have the power

to determine the lines on which the trees shall be set, the places where they shall be set, the kind and size of the trees to be set, and the manner of protecting them, and for replanting them when they have died or been so injured as to fail to answer the purpose for which they were set out. Said council shall also have full power and authority to do all other needful acts as to them may seem just and proper to give this section full scope and effect.

CHAPTER VII.

FINANCES AND TAXATION.

SECTION 1. All funds in the city treasury, except school, state, and county funds, shall be under the control of the common council, and shall be drawn out upon the order of the mayor, countersigned by the clerk, duly authorized by a vote of the common council, and in no other manner; and all orders drawn upon the treasurer shall specify the purpose for which they are drawn, and shall be payable generally out of any funds in the treasury belonging to the city. All orders shall be payable to the person in whose favor they may be drawn, or to the bearer thereof.

How city funds to be paid out.

SECTION 2. No debt shall be contracted against the city, or order be drawn on the city treasury, unless the same shall be authorized by a majority of the common council, and the vote authorizing the same, in case it exceeds fifty dollars, shall be entered by yeas and nays upon the journal of the council; and no money shall be appropriated for any purpose whatever, except such as is expressly authorized by this act, and for the payment of indebtedness now existing.

Expenditures to be authorized by council.

SECTION 3. All forfeitures and penalties accruing to the city for a violation of this act or of any of the ordinances, by-laws, rules, and regulations of the city, and all moneys received for licenses, shall be paid into the city treasury, and become part of the general fund, except as otherwise provided by this act. No penalty or judgment recovered in favor of the city shall be remitted or discharged, except by a vote of three-fourths of all the aldermen elect.

Penalties to be paid to city treasurer.

SECTION 4. All property, real or personal, within the city, except such as may be exempt by the laws of this state, shall be subject to annual taxation for the support of the city government and the payment of

Property to be assessed—duty of assessors.

its debts and liabilities, and the same shall be assessed in the manner hereinafter provided. The assessors elected under this act shall have and possess the same powers and perform the same duties as are or may hereafter be conferred upon township assessors, except so far as they may be altered by this act; *provided, however,* that the common council may prescribe the form of assessment roll, and more fully define the duties of assessors.

How assessors
to be governed.

SECTION 5. The assessors elected by virtue of this act shall in all things pertaining to their office so far as practicable be governed by the same laws as assessors in towns.

City to be re-
garded as town
in equalizing
assessment.

SECTION 6. The county board of supervisors shall have the right to regard the city of Portage as a town in equalizing the assessment rolls of the several towns in Columbia county, as provided by law; but in such equalization shall consider the assessment roll of said city as an entire roll, and shall not change the relative valuation of the different wards.

Tax to be le-
vied without
regard to divi-
sion of city
into wards.

SECTION 7. The said board of supervisors may levy a tax or taxes, as now is or may hereafter be provided by law in relation to towns, but shall proceed therein without regard to the division of the city into wards, and shall cause the amount of taxes so levied to be certified to the city or city clerk, in the manner provided by law in relation to towns or town clerks, and in all transactions of the board of supervisors of said county said city shall be regarded as a town, except as herein otherwise provided.

Duty of city
clerk to make
tax list.

SECTION 8. Upon receiving the statement of the amount of taxes so levied, the city clerk shall make out upon the assessment-roll, in columns left for that purpose, or upon a copy thereof, a complete statement of the several taxes levied for state, county, city, or other purposes, and all delinquent taxes, if any, of previous years, and all special taxes levied by the common council since the making out of the last annual tax-list, in such separate columns as may be necessary, with the total footing carried out opposite each tract or lot of land or person named therein; which statement shall be called the tax-list of the city of Portage and shall be preserved by said clerk as a record in his office, and shall have the same legal force and effect as the records of the common council.

Tax list to be
prima facie
evidence.

SECTION 9. The tax-list made out and preserved as aforesaid, shall be prima facie evidence in every court

of record in this state that every act or thing required by law to be done, relating to assessing or levying of taxes, from the election of officers to the completion of the tax-list inclusive, has been done regularly, correctly, and as required by law.

SECTION 10. Immediately after making out the tax-list aforesaid, the clerk shall make out a duplicate copy thereof, to which shall be appended a warrant signed by the mayor and clerk, and sealed with the corporate seal of said city, directed to the treasurer, requiring and commanding him to collect the taxes and assessments specified in said duplicate copy of the tax-list, in the manner provided by law; and the said clerk shall on or before the first day of December of the same year, or as soon thereafter as practicable, deliver the same to the city treasurer for collection, and make a record of such delivery on the tax-list preserved in his office.

Duplicate tax list to be made.

SECTION 11. The city treasurer, upon the receipt of such duplicate copy of the tax list shall proceed to collect the same in like manner, and shall have like powers and be subject to like requirements, liabilities, and restrictions as town treasurer, except as otherwise provided in this act. The city treasurer shall receive two per cent. fees upon all taxes paid to him before the first day of January, and five per cent. fees upon all taxes collected after that time, to be added to the amount of taxes and collected with the same, and two per cent. upon all other moneys paid into the treasury, which shall be in full for all services performed by said treasurer under this act or the ordinances of the city.

Duty of treasurer to collect taxes.

SECTION 12. The said treasurer shall make out and return to the treasurer of Columbia county, at the time required by law in the case of towns, a list of all lands and lots upon which the taxes have not been paid, and shall also settle with and pay over all moneys properly payable to said county treasurer in like manner as now is or may hereafter be required of town treasurers. The said treasurer shall also, by the same time, make out and deliver to the city clerk a list of all delinquent personal property taxes for the same year. The county treasurer shall add the same interest, penalties, or fees to such delinquent returns as are allowed or required by law upon the delinquent returns from the several towns.

Further duties of treasurer.

SECTION 13. The county treasurer shall sell all delinquent lands and lots returned from the city of Port-

Sale of lands for taxes.

age, at the same time and in the same manner as other delinquent lands are sold in the county.

Exempt prop-
erty subject to
special taxes.

SECTION 14. All real estate exempt from taxation by the laws of this state, shall be subject to all special taxes for the building of sidewalks and improvements of streets in front of the same.

What taxed as
farming lands.

SECTION 15. All lands lying within the city limits not divided and laid out into lots, or lots or blocks, and all out lots, not subdivided and numbered by such subdivision, which may be used, occupied, reserved or held for agricultural purposes, shall be assessed as farming land, and shall not be subject to any special taxes.

Error not to
vitiate assess-
ment.

SECTION 16. All the directions hereby given except in section eight (8) of this chapter, for the assessing of lands and the levying, collection and return of taxes and assessments and the sale thereof, shall be deemed only directory, and no error or informality in the proceedings of any of the officers entrusted with the same, not affecting the substantial justice of the tax itself, shall vitiate or in any wise affect the validity of the tax or assessment.

Special taxes.

SECTION 17. In addition to the amount herein limited for taxes for general city purposes, special taxes may be levied for the purchase of fire engines, cemetery grounds, public squares, gas purposes and other objects of public utility; but no such tax shall be levied unless the same shall first be recommended by the common council, and afterwards submitted to a vote of the people and approved by them. Whenever the council shall recommend such a tax, they shall specify the amount to be raised and the object thereof, and cause notice thereof, and of the time and place of voting thereon to be published in the same manner as in case of the annual city election.

In what city
dues payable.

SECTION 18. The city treasurer shall receive nothing but the lawful currency of the United States for taxes, licenses, or other dues of the city, and is prohibited from receiving county, city, school or other orders in payment of city dues.

Negotiation of
loans.

SECTION 19. It shall be the duty of the council to always provide for the prompt payment of all orders drawn on the city treasury, and it shall have power to negotiate temporary loans at the legal rate of interest, for the supplying of all funds to meet any deficiency in the treasury.

Council to pro-
vide for pay-
ment of orders.

SECTION 20. When the treasurer shall be unable to pay any order drawn on the treasury, it shall be his

duty to report the fact to the first regular meeting of the council. Thereupon the council shall direct its finance committee to examine the accounts of the treasurer, and if all funds in his hands have been paid out, then the council shall take such action as will enable the city to preserve its credit.

SECTION 21. Out of the taxes collected by the city treasurer, the state tax shall first be paid; then all school taxes, then judgments, then all special taxes, in the order in which they were levied, then taxes for bridge purposes, then taxes for fire purposes, then taxes for street and other public improvements, and lastly, county taxes. Delinquent returns shall be received by the county treasurer in payment of county taxes in the manner prescribed by the general laws of the state.

Order in which taxes shall be paid.

SECTION 22. The council shall meet on Monday evening, two weeks previous to the holding of the charter election, for the purpose of disposing of its unfinished business, and shall not thereafter, during their term of office, allow any bills against the city, but may anticipate and provide for the payment of salaries of officers for the balance of their terms.

When bills against city not to be allowed.

SECTION 23. The council shall have power to direct that all surplus funds belonging to the city, not needed for immediate use, may be invested as the council may direct, or borrowed for the temporary use of the other funds of the city, and all interests and profits arising from such investment shall belong to the city, and shall be accounted for in the same manner that other funds are accounted for.

Council to direct disposition of city funds.

SECTION 24. The council shall have power to provide for the erection of a monument to the memory of those of her citizens who lost their lives during the late rebellion, at such time and in such place as they may direct, and for that purpose may levy a tax to pay for all necessary expenses incurred, without submitting the same to a vote of the people.

Authority to erect monument.

CHAPTER VIII.

FIRE DEPARTMENT.

SECTION 1. The common council, for the purpose of guarding against the calamities of fires, shall have power to prescribe the limits within which wooden building or buildings of other materials that shall not be considered fire proof, shall be erected, repaired or

Council may prescribe fire limits.

moved, 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 removal of buildings into such fire limits, or the removal of any building or buildings situated or located within said fire limits, to or on any other lot or lots within such fire limits, and to prohibit the repairing of wooden buildings within the fire limits when the same shall have been damaged to the extent of fifty per cent. of the value thereof, and to prescribe the manner of ascertaining such damages.

May enforce precautions against fires.

SECTION 2. The common council shall have power to regulate the building, construction and condition of chimneys, fire-places, hearths, stoves, stove-pipes, ovens, boilers and apparatus used in or about any building, and to cause the same to be removed or placed in a safe and secure condition when considered dangerous, to prevent the deposit of ashes in unsafe places, to 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 regulate and prevent the carrying on of any manufactories dangerous in causing and promoting fires, to compel the owners and occupants of buildings to have scuttles in the roofs and stairs or ladders leading to the same; to authorize the mayor, aldermen, fire wardens and other officers of the city, to keep away from the vicinity of a fire all idle and suspected persons, and to compel bystanders to aid in the extinguishment of fires, and in the preservation of property exposed to danger thereat, and generally to establish such regulations for the prevention and extinguishment of fires, as the common council may deem expedient, and enforce the provisions of this chapter and the ordinances under it, by suitable penalties.

Formation of fire companies.

SECTION 3. The common council shall have power to authorize the formation of fire engine, hook and ladder and hose companies, provide for the due and proper regulations of the same, and to disband any such companies at any time, and prohibit their meetings as such when disbanded, which companies shall be officered and governed by their own by-laws, provided such by-laws be not inconsistent with the laws of this state, or with the ordinances and regulations of the city and shall be formed only by voluntary enlistment. Every member of any company in said city shall be exempt from serving on juries and from

poll tax and military duty, except in case of war, invasion or insurrection, and whenever a member of a fire, hook and ladder, bucket and hose company, shall have served therein for ten years, he shall be entitled to a discharge signed by the mayor, and shall thereafter be exempt as aforesaid.

SECTION 4. The common council shall have power to raise a tax each year, not exceeding five mills on the dollar of the taxable property within said city for fire purposes, the same to be assessed and collected in the same manner as the general tax of said city; and the moneys arising therefrom shall be expended under the direction of the common council of said city for fire purposes.

Tax for fire purposes.

CHAPTER IX.

SUPPORT OF THE POOR.

SECTION 1. The laws of the state for the relief and support of the poor in towns shall apply to said city, and the common council shall appoint one or more of their number to act as overseers of the poor of the city, who shall perform all the duties of overseers of the poor in towns.

Town laws for support of poor to apply to city.

CHAPTER X.

OF SCHOOLS.

SECTION 1. There shall be elected by the common council of the city of Portage, at its first meeting after the first day of July, of each year, from each ward in said city, one school commissioner for said city, who shall be residents of the wards for which they are elected; the persons so elected shall hold their offices for the term of one year, and until their successors are elected and qualified, and the common council may make appointments of school commissioners to fill vacancies which may occur from any cause.

School commissioners.

SECTION 2. Every woman of the age of twenty-one years and upwards, residing in the city, shall be eligible to the office of superintendent of schools and member of the board of education.

Women eligible to school offices.

SECTION 3. The said school commissioners so appointed in conjunction with the superintendent of schools of said city of Portage, shall constitute a

Board of education.

board to be styled "the board of education of the city of Portage." Said board shall appoint and hold stated meetings, and a majority thereof shall constitute a quorum for the transaction of business. At the first meeting of said board in each year the members thereof shall elect one of the number president, and whenever he shall be absent a president pro tem. may be appointed. The superintendent of schools shall be clerk of said board, whose compensation shall be fixed by the common council. The said commissioners shall not receive any compensation for their services.

General duties of board and clerk of same.

SECTION 4. 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 a transcript thereof, certified by the president and clerk, shall be received in all courts and places as prima facie evidence of the facts therein set forth, and such records and all books and accounts of said board shall at all times be subject to the inspection of the common council, and of any committee thereof, and the said board shall examine all teachers making application to teach in the public schools of said city, all certificates to teachers, granted by said board, shall be substantially in the form as prescribed by the state superintendent of schools. The clerk of said board shall visit all schools in said city, at least once each month, and report their condition to the board of education, with such suggestions for their improvement as he may deem proper. He may also make such suggestions to said board as he may deem necessary for improving and repairing school-houses, grounds, fences, and appurtenances thereunto belonging.

Clerk of board to make report to county superintendent.

SECTION 5. The clerk of said board shall in each year, and at the time and in the manner now or hereafter to be required of town clerks, make and transmit to the county superintendent of schools, a report in writing, which report, in form, shall be such as is now or may hereafter be required by law to be made annually by town clerks and transmitted to said superintendent.

Ordinances for care of school property.

SECTION 6. The common council of said city shall have power to pass such ordinances and regulations as the board of education may report as necessary and proper for the protection and safe-keeping, care, and preservation of school houses in said city, and lots, appurtenances to the schools, and also to impose penalties for the violation thereof. All such penal

ties shall be collected in the same way that other penalties authorized to be imposed by said council under the act of which this act is amendatory, are collected.

SECTION 7. The title of the school houses, sites, furniture, apparatus, and appurtenances, and all other property mentioned by this act, shall be vested in the city of Portage; 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 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 schools of 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 property vested in city and same exempt from taxes and execution.

SECTION 8. The superintendent of schools of said city is hereby authorized, empowered and directed to apply for, demand and receive from the county treasurer for Columbia county, all moneys appropriated for the use of schools in said city, and all other moneys in possession of said county treasurer at any time raised, appropriated or intended for the use and benefit of schools in said city, and the said county treasurer is hereby directed and required, on demand of the said superintendent, to pay over to him the said moneys without delay or set off, taking his receipt as such superintendent therefor, and all such moneys shall be placed to the credit of the school fund of said city.

City superintendent to receive school money.

SECTION 9. The said board of education shall have power and it shall be its duty:

Powers and duties of board of education.

1st. To establish and organize such and so many schools in said city, or the several wards thereof, as they shall deem necessary and expedient, and to alter and discontinue the same.

2d. To have the custody and safe keeping of the school houses, out-houses, books, furniture and appendages, and to see that the ordinances and regulations of the common council in relation thereto are observed.

3d. To contract with and employ in behalf of the city, all teachers in the common and ward schools and such other schools as may be under the direction of said board, who shall have been licensed by said board, and at their pleasure to remove them.

4th. 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, 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 the promotion of their good order, prosperity and utility.

5th. Whenever in the opinion of said 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 common council.

6th. 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 school houses, lots, sites, 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, and annually to determine and certify to the common council at its first meeting in October of each year, the amount of money, in their opinion, necessary or proper to be raised for school purposes specifying the sum required for each of the purposes therein mentioned, and the reason therefor.

7th. In the name of the city of Portage to contract, subject to the approval of the common council, for the repair of school houses and their appurtenances, and for all things necessary or proper for the support and maintenance of schools in said city, and to superintend the erection, construction, and repair of all school houses, and generally, to have the entire and exclusive supervision and control of all property belonging to said city used for said purposes. The board of education shall have the power, by and with the consent of the common council of said city, to erect, construct, hire, and purchase buildings suitable for school houses, buy and lease sites for school houses with the necessary grounds, and to furnish the school houses in said city with the necessary fixtures, furniture, and apparatus.

School tax

SECTION 10. The common council of said city of Portage shall have power to annually levy and collect a school tax not exceeding three-fourths of one per cent. on all real and personal property of said city to meet the expenses of erecting and repairing school

houses, purchasing or hiring sites for school houses, and supporting and maintaining schools.

SECTION 11. It shall be the duty of the board of education to audit each and every indebtedness of said city for school purposes, and to issue orders therefor, signed by the president and clerk of the board of education; and all moneys received by or raised in the city of Portage for school purposes shall be disbursed on the said orders of the president and clerk of the board of education, and in no other manner. The city treasurer and his sureties shall be liable for all school funds that come to his hands, and for payments not authorized by this act.

How school indebtedness audited.

SECTION 12. The said board of education shall have power to allow the children of persons not residents of said city to attend in either of the schools therein under the care and control of said board, upon such terms as said board shall by resolution prescribe, fixing the tuition which shall be paid therefor; all moneys so received for tuition shall become a part of the school fund of said city. It shall be the duty of the board of education to report to the common council at its first meeting in the month of July of each year, the condition of the several schools of said city, and the average number of pupils in attendance, the names and rate of compensation of the several teachers, the cost of supporting each and all of said schools, since the previous report, and the estimated cost thereof to the time of their next succeeding report as in this section required, specifying the items thereof, under their appropriate heads, together with such other matters as they may deem proper, or the common council may require; *provided*, that nothing in this act contained shall be deemed to authorize said school commissioners or the common council, or both, to appropriate contract or expend for school purposes in any one year, any greater sum than is provided for in section ten (10) of this chapter, in addition to the school moneys derived by said city from the state and county school funds, and such fines, forfeitures and penalties and tuition moneys as may properly belong to the city school fund, unless first authorized thereto by a vote of two-thirds of the legal voters of said city.

Further duties of board of education.

SECTION 13. The common council of the city of Portage, on the application of the board of education, may borrow money for the erection and completion of school houses in said city, not exceeding in amount

Loans for school purposes.

the sum of five thousand dollars, and may issue the bonds of said city for the payment of the same, bearing an interest not exceeding ten per cent. per annum, payable annually or semi-annually, and becoming due in not less than two nor more than ten years, as the common council may by ordinance prescribe. In case said bonds are issued, the common council of said city shall annually levy and collect a tax, in money, on the taxable property of said city, as other taxes are levied and collected, sufficient to pay the interest and principal of said bonds as the same may become due; and the money thus raised shall be applied to the purpose for which it was raised, and no other; *provided, however*, that no bonds issued in pursuance of this section shall be sold for less than their par value.

CHAPTER XI.

MISCELLANEOUS PROVISIONS.

- Credit of city not to be loaned** SECTION 1. The credit of the city shall never be given or loaned in aid of any individual, association or corporation.
- Limit of taxation.** SECTION 2. No tax for general city purposes shall be levied in any year exceeding one per cent. of the assessed valuation of property in the city in that year.
- Limit of city indebtedness.** SECTION 3. The city shall have no power to borrow money or contract any debt which cannot be paid out of the revenue of the current year.
- Work to be let to lowest bidder.** SECTION 4. All work for the city exceeding one hundred dollars (\$100) in amount, shall be let by contract to the lowest responsible bidder, and due notice shall be given of the time and place of letting such contract.
- Extra compensation.** SECTION 5. No extra compensation shall be allowed to any officer, agent, servant, or contractor after the service shall have been rendered, or the contract entered into, nor shall any compensation be paid to the mayor or any alderman for their services.
- Settlement of claims against city.** SECTION 6. The common council shall settle all just claims and demands against the city, and settle with the treasurer annually, and publish accounts of the receipts and expenditures of the city, for the information of the citizens.
- How prosecutions to be commenced.** SECTION 7. In all prosecutions for any violation of any of the provisions of this act, or any by-law or or-

dinance, the first process shall be a summons unless oath be made for a warrant as in other cases.

SECTION 8. Execution shall issue forthwith on the rendition of the judgment, unless the same be stayed or appealed according to the laws of this state. The execution shall require the defendant in any such action, in case no goods or chattels, lands or tenements whereof the judgment can be collected, be found, to be imprisoned in the jail of Columbia county for a term not exceeding three months, in the discretion of the justice or judge rendering judgment, unless the same be sooner paid or discharged by the common council.

Executions to issue forthwith.

SECTION 9. No person shall be an incompetent judge, justice, witness or juror by reason of his being an inhabitant of said city, in any proceeding or action in which the city shall be a party in interest.

Residence not to disqualify juror, etc.

SECTION 10. If any election by the people or common council shall, for any cause, not be held at the time or in the manner herein prescribed, or if the common council shall fail to organize as herein provided, it shall not be considered reason for arresting, suspending, or absolving said corporation; but such election or organization may be had on any subsequent day, by order of the common council; and if any of the duties enjoined by this act or the ordinances or by-laws of the city to be done by any officer at any specified time, be not then done or performed, the common council may appoint another time at which the said acts may be done or performed.

When acts not performed at time prescribed.

SECTION 11. 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 common council thereof, or take such other proceedings as by the ordinances or resolutions of said council may be in such case provided.

Service of process against city.

SECTION 12. When a judgment shall be recovered against the city of Portage, or against any city or ward officer, in an action prosecuted by or against such officer in his name of office, where the same should be paid by the city, no execution shall be awarded or issued upon such judgment, except as herein provided; but the same, unless reversed, shall be levied and collected as other city taxes, and when so collected shall be paid by the city treasurer to the

Judgments against city.

person to whom the same shall be adjudged, upon the delivery of a proper voucher therefor; but if any payment thereof be not made within sixty days after the city treasurer is required to make his return of taxes next after the rendition of such judgment, execution may be issued thereon upon the order of the court authorized to issue such execution, on special application therefor. Nor shall any real or personal property of any inhabitant of said city or any individual or corporation, be levied upon or sold by virtue of any execution issued to satisfy or collect any debt, obligation or contract of said city.

City may lease or purchase property.

SECTION 13. 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; *provided*, that no debt shall be incurred in any such purchase which cannot be paid out of the revenue of the current year.

Act not affected by general laws.

SECTION 14. No general law of this state, contravening 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.

Who chairman of wards.

SECTION 15. The senior alderman of each ward shall be the chairman of the ward.

Licenses.

SECTION 16. Every license issued by the authority of this act, or the ordinances of the city, shall be signed by the city clerk and sealed with the corporate seal, but no such license shall be issued by said clerk until the person applying for the same shall have deposited with the clerk the receipt of the city treasurer for the amount required to be paid therefor, nor shall any license be issued for dealing in, selling or vending spirituous, vinous, or malt liquors unless the same shall have been authorized by the common council, and the applicant shall have filed his receipt as aforesaid, together with a bond as required by the laws of this state, which shall be approved either by the mayor or common council.

Jail of Columbia county to be used by city.

SECTION 17. The use of the jail of Columbia county until otherwise provided shall be granted to said city for the confinement of offenders, and every such offender shall be delivered to the sheriff of said county, for whose custody, safe keeping, and delivery, the said sheriff shall be responsible as in other cases. But said county shall not incur or pay any liability or expense on account of any person committed to said jail for the violation of any ordinance, by-law,

rule or regulation of said city; but such expenses shall be paid by the city.

SECTION 18. This act 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 of or in pursuance of the acts hereby repealed 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, regulations, rules, by-laws, and orders of the common council of said city, or parts thereof not repealed, suspended, or made void by this act, shall continue and remain of the same force and effect as if this act had not been passed, until altered, amended, repealed or suspended by the common council, in pursuance of this act; and all the city and ward officers now in office in said city, shall hold their respective offices until their successors shall be elected or appointed, under this act, and duly qualified.

Act not to affect previous contracts.

SECTION 19. Chapter four hundred thirty-seven (437), of the private and local laws of 1868, entitled, "An act to consolidate and amend the act to incorporate the city of Portage," and all acts and parts of acts inconsistent and conflicting with the provisions of this act, are hereby repealed.

Repealed.

SECTION 20. This act shall take effect from and after its passage.

Approved March 6, 1876.

CHAPTER 123.

[Published March 21, 1876.]

AN ACT to appropriate a sum of money therein named for the use of the Institution for the Education of the Blind, for the purpose of paying indebtedness incurred in furnishing the wing of said building with furniture and fixtures.

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

SECTION 1. There is hereby appropriated out of any money in the general fund not otherwise appropriated, the sum of five thousand dollars to the Institution for the Education of the Blind, for the purpose of paying the indebtedness of said institution, incurred.

Appropriation.