

proportion to the time actually spent in each county in laying out said road.

Disability.

SECTION 5. In case of sickness or disability of any one of the commissioners, he may appoint a substitute to act in his place.

Commencement of work.

SECTION 6. Said board of commissioners shall proceed to discharge the duties and powers conferred upon them by this bill as soon as the first day of August, 1878.

SECTION 7. This act shall take effect and be in force from and after its passage.

Approved March 15, 1878.

[No. 319, A.]

[Published March 29, 1878.]

CHAPTER 195.

AN ACT to incorporate the city of Waupun.

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

CHAPTER I.

CITY AND WARD BOUNDARIES.

Boundaries.

SECTION 1. All that district of country included in the west one-half of the southwest quarter of section thirty-three, and the south half of section thirty-two, and the east half of the southeast quarter of section thirty-one, in township fourteen, north of range fifteen east, in the town of Waupun, county of Fond du Lac, and state of Wisconsin, and the east half of the northeast quarter of section six, and the north half, and also the north half of the south half, of section five, and the west half of the northwest quarter of section four, in township thirteen, range fifteen east, in the town of Chester, in the county of Dodge and state of Wisconsin, shall hereafter be a corporation known and designated as the city of Waupun, and it is hereby provided and expressly declared, that all the territory situate within said described limits shall be distinct and separate for all purposes whatsoever from the towns of Waupun and Chester, aforesaid, except for school purposes, and for such purposes, shall be and remain as is provided by the laws of this state for the regulation of joint school districts.

SECTION 2. The said city of Waupun shall be and the same is hereby divided into two wards, as follows: ^{Ward boundaries.}

North ward. All that portion of said city lying north of the county line between the counties of Dodge and Fond du Lac, shall constitute the north ward.

South ward. All that portion of said city lying south of the county line between the counties of Dodge and Fond du Lac, shall constitute the south ward.

CHAPTER II.

RIGHTS AND POWERS OF THE CORPORATION.

SECTION 1. The people now inhabiting and those who shall hereafter inhabit within the district of country described in the preceding chapter, shall be a corporation of the name of the city of Waupun, and shall have the general powers possessed by municipal corporations at common and statute law, and in addition thereto, shall possess the rights, privileges and powers hereinafter specially granted. ^{Incorporated.}

SECTION 2. The authorities thereof shall have perpetual succession, and in the name of said corporation may sue and be sued, complain and defend, in any court, and have a common seal, and may alter it at pleasure, and may receive by bequest, gift, grant, devise or purchase, and hold and convey, contract and be contracted with, such real and personal estate as the purposes and interests of the corporation may require. ^{Perpetual succession.}

CHAPTER III.

OFFICERS, ELECTIVE AND APPOINTIVE.

SECTION 1. The elective officers of said city shall be a mayor, marshal and treasurer for the city at large, and two aldermen, one justice of the peace, one assessor, and one supervisor for each ward of said city. ^{Elective officers}

SECTION 2. The appointive officers of said city shall consist of a clerk and street commissioner, and such other officers and agents as may be provided for by this act, and such as the common council may from time to time deem necessary to appoint. Each of the officers, either elective or appointive, shall continue in office for the term of one year, and until his successor is elected or appointed and qualified, except as hereinafter provided. They shall have such powers and perform such duties as are prescribed by this act, or as may be prescribed by any ordinance of said city not ^{Appointive officers.} ^{Terms.}

inconsistent with said act, or which may not be incompatible with the nature of their respective offices.

CHAPTER IV.

ELECTIONS.

Elections.

SECTION 1. On the first Tuesday of April next, and annually thereafter, the qualified electors of each ward of said city shall meet at the place of holding the last general election in each ward, or at such place as the common council may direct, and then and there, by plurality of votes, elect by ballot the elective officers named in the preceding chapter: *provided*, that one of the aldermen when elected from each ward shall, when elected and during the term for which he shall hold office, reside west of the Milwaukee and St. Paul Railroad, and that one of the aldermen when elected from each ward shall, when elected and during the term for which he shall hold office, reside east of the Milwaukee and St. Paul Railroad; and that no person shall be eligible to the office of mayor unless he shall be an elector and freeholder in said city, and that no person shall be eligible to the office of alderman or assessor, unless he shall be an elector and freeholder in the ward for which he shall be elected. All officers elected under this act shall be resident electors of their respective wards.

Board of election, and manner of conducting election.

SECTION 2. At the first election held under this act the inspectors of election, as now provided by law, shall constitute the election board, and at all subsequent elections the supervisor and aldermen of each ward shall be judges of election in their respective wards, if present; if not, the electors present may choose judges thereof *viva voce*; and the clerk of said city, if present, shall be clerk of the election in the ward in which he resides, and if not present, the judges of election may choose a clerk; and in the other ward the said judges shall appoint a clerk of the election. And at all elections held under this act the polls shall be opened between the hours of nine and ten o'clock in the forenoon and closed at sundown of said day. And at the close of the polls the votes shall be publicly counted and a true statement of the result proclaimed to the electors present by one of the judges, and it shall be the duty of the clerk appointed by the judges of election to make out and return as soon as may be to the clerk of said city, a full and true statement of the election in the ward where he shall have

been clerk. And the clerk of said city shall make a true entry of the election, and within three days after such election notify the persons elected of their election respectively. And in any case two or more persons shall receive the same and the highest number of votes for any office herein named at any election, it shall be decided by lot who of such persons shall fill such office, to be decided by the judges of election at such time and in such manner as they shall direct. And it shall be the duty of the clerk of said city to give at least ten days notice of the time and place of holding such election, by publication in a newspaper published in said city, and no election under this act shall be invalid by reason of any failure to give the notice required by this section.

SECTION 3. At all general elections held in said city, the supervisor and aldermen of each ward shall be inspectors of election in their ward, and in case of the death, absence, or refusal to act of any or all the inspectors, the electors present may choose *viva voce*, from the qualified electors of the ward, such number as, together with the inspector or inspectors present, if any, will constitute a board of three; and the person or persons so chosen shall be authorized to act as inspectors at that election. The clerk of said city shall be clerk of the general election in the ward in which he resides, and before opening the polls, the inspectors of his ward shall appoint another competent person to be clerk of election. And the inspectors in the other ward shall appoint two such clerks: *provided*, that no person shall act as clerk of the election who is not a qualified elector of the ward in which he is appointed.

General elections.

SECTION 4. The supervisor of each ward, if present, shall be chairman of the election board, but if he be absent, such one of their number as the inspectors shall appoint shall be chairman of said board.

Chairman of election board.

SECTION 5. Previous to receiving any votes, the inspectors and clerks of election shall severally take an oath or affirmation as by law required, and they shall be governed in conducting the election, canvassing and returning the votes, by the statute in such case made and provided. The canvass being completed, the inspectors shall draw up a statement of the result in writing, and cause a duplicate thereof to be made, which instrument and duplicate they shall certify to be correct, and subscribe with their names. One of said statements shall be delivered to the clerk of said city, to be filed and preserved by him, and the other shall

Oath of officers of election.

be sealed up and transmitted to the clerk of the board of supervisors of the county in which the ward is situated, in the manner provided by law.

Qualifications
of voters.

SECTION 6. All persons qualified to vote for state and county officers, and who shall have resided in said city for thirty days, and in the ward where he shall offer his vote, for ten days next preceding such election, shall be entitled to vote at all elections held under this act.

Challenges.

SECTION 7. If either of the judges or inspectors of election shall suspect that any person offering to vote at any municipal election held under this act does not possess the qualifications of an elector, or if any vote shall be challenged by an elector, the judges of election, before receiving the vote of such person, shall require him to take the following oath, which either of the said judges or inspectors is hereby authorized to administer: "You do solemnly swear (or affirm) that you are twenty-one years of age, that you are a citizen of the United States (or have declared your intention to become a citizen conformably to the laws of the United States) upon the subject of naturalization; that you have resided in this city during the last thirty days, and in this ward during the last ten days; that you now reside therein, and that you have resided in the state of Wisconsin during the last year preceding; that you have not voted at this election; that you have made no bet or wager, and have not become directly or indirectly interested in any bet or wager depending upon the result of this election." And if the person so offering to vote shall take such oath, and satisfactorily answer on oath such questions as may be required of persons offering to vote at general elections, his vote shall be received. If such person shall take such oath falsely, he shall be deemed guilty of willful and corrupt perjury, and upon conviction thereof, shall suffer the punishment now provided by law for persons guilty of perjury.

Penalty for il-
legal voting.

SECTION 8. If any person who is not a qualified voter shall vote at any election held under this act, or shall vote in any other ward than the one in which he resides, or shall vote more than once at any one election, he shall be liable to all the penalties prescribed by the general laws of this state for illegal voting, which penalty may be enforced and recovered as is provided by the general laws of this state. It shall be the duty of the inspectors to keep a list of the names of all persons whose votes may be challenged as afore-

said, and who shall swear in their votes. And if any inspector shall knowingly and corruptly receive the vote of any person not authorized to vote, or shall make out false returns of any election, or if any clerk shall willfully not write down the name of every voter as he votes, or shall willfully make untrue and incorrect counts and tallies of votes, each and every such inspector and clerk shall, upon conviction thereof, severally forfeit and pay a sum not exceeding five hundred dollars, which penalty may be recovered as in other tort actions, for the benefit of said city, in the circuit court of the counties of Dodge or Fond du Lac, but nothing in this act shall be construed to supercede the registry laws of this state so far as the general elections in said city are concerned.

SECTION 9. In case of a vacancy or vacancies in any of the offices herein named, it shall be the duty of the board of aldermen to fill the same by appointment, except the office of justice of the peace, which shall be filled as hereinafter provided: *provided*, the office of mayor shall be filled by an alderman, and the office of alderman shall be filled by a person eligible to such office, to be nominated by the remaining aldermen of the ward where the vacancy occurs, and confirmed by a majority of the council.

Vacancies on board.

SECTION 10. In case of a vacancy in the office of justice of the peace, it shall be the duty of the mayor to call a special election to fill such vacancy in the ward in which the same may occur. Such notice shall be given at least ten days previous to the time of holding such special election by publication in a newspaper printed in said city.

Vacancy in justice office.

SECTION 11. Every officer elected under the provisions of this act, or appointed by virtue or in pursuance of its provisions, shall within six days after his election or appointment, and before he enters upon the duties of his office, take and subscribe an oath or affirmation in the following form, which oath or affirmation shall be filed in the office of the clerk of said city: "I do solemnly swear that I will support the constitution of the United States and the constitution of the state of Wisconsin, and will faithfully discharge the duties of —, of the city of Waupun, according to the best of my ability," and the treasurer and marshal before they enter upon the duties of their office shall each execute and deliver a bond to the mayor and aldermen, in such sum and with such sureties and conditions as a majority of said aldermen shall direct.

Oath of office.

CHAPTER V.

OFFICERS, THEIR POWERS AND DUTIES.

Mayor.

SECTION 1. The mayor shall preside over the meetings of the council, and shall see that the laws of the state and ordinances of the city, within the corporation, are duly enforced, and that all the officers of the city discharge their respective duties. He shall give the council such information and recommend such measures as he may deem proper and advantageous to the city, and shall perform all the duties imposed on him by this act, or by the ordinances or resolutions of the council. It shall be his duty generally to maintain the peace and good order of the city. He shall vote in the council only in case of a tie vote. He shall have the control and supervision of the police of said city, and is hereby authorized to appoint special policemen when the safety and good order of the city shall, in his judgment, require the same, upon special or unusual occasion, where compensation shall be fixed and allowed by the common council.

Common council.

SECTION 2. The mayor and aldermen shall constitute the common council and the style of all ordinances shall be, "The common council of the city of Wau-pun." The common council shall meet, qualify and organize on the second Tuesday in April of each year, or as soon thereafter as may be. A majority of the aldermen, with the mayor, shall constitute a quorum.

Clerk.

SECTION 3. At the first meeting of the common council of each year, under this act, or as soon thereafter as may be, it shall be the duty of the common council to elect by ballot a clerk for said city, who shall hold his office for one year and until his successor is elected and qualified, being subject to be removed at any time by a vote of a majority of the aldermen of said city, upon proper notice to said clerk, who shall have the privilege of being heard in his own defense. His compensation shall be such as shall be agreed upon by the common council and said clerk.

Street commissioner.

SECTION 4. At the first meeting of the common council of each year, under this act, or as soon thereafter as may be, the common council shall appoint one street commissioner for said city, who shall hold his office for one year, and until his successor is appointed and qualified, and whose duties and liabilities shall be as hereinafter provided.

Meetings.

SECTION 5. The common council may hold stated meetings. The mayor may call special meetings of the

council by notice to each of the members. The common council shall determine the rule of its own proceedings, and shall have power to compel the attendance of absent members, by an order under the hand of the mayor, to be executed by the marshal or his deputy.

SECTION 6. The common council shall have the control and management of the finances and of all the property of the city, and shall likewise, in addition to the powers herein vested in them, have full power to make, erect, 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 and immorality, for the prevention of fires, and for the benefit of trade, commerce and health, as it shall deem expedient, declaring and imposing penalties, and to enforce the same against any and all persons who may violate any of the provisions of such ordinances, 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:

Powers of common council.

1st. To license, regulate and prohibit the exhibition of common showmen or shows of any kind, or the exhibition of caravans, circuses, theatrical performances or concerts, and the use of billiard tables, bowling saloons, and to provide for the abatement of and removal of all nuisances under the ordinances or at common law, and to grant licenses for selling spirituous, vinous or fermented liquors, and regulate groceries, taverns, victualing houses, and the persons vending or dealing in spirituous, vinous or fermented liquors, and revoke the same for a violation thereof: *provided*, that the sum to be paid for any such license shall not be less than the amount fixed and provided by the laws of this state.

Liquors, showmen, etc.

2d. To restrain and prohibit all descriptions of gambling and fraudulent devices and practices, and 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, vinous or fermented liquors, unless duly licensed by the common council.

Gaming, etc.

3d. To prevent any riots, noise, disturbances or disorderly assemblages, suppress and restrain disorderly

Riots, etc.

houses or groceries, and houses of ill-fame, and to authorize the destruction of all instruments used for the purpose of gaming.

Nauseous places.

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.

Slaughter-houses and markets.

5th. To direct the location and management of slaughter houses and markets, and to prevent the erection of or the use and occupation of the same, when the offal or filth therefrom shall endanger the health of the inhabitants of the city.

Encumbering of streets, etc.

6th. To prevent the encumbering of the streets, sidewalks, alleys or public grounds with any material substance whatever, and to require the removal of snow and other substances by the owners of such sidewalk.

Fast driving and swimming.

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

Pounds, etc.

8th. To build a public pound, to restrain the running at large of horses, cattle, swine, sheep, poultry and geese, and to authorize the distraining and impounding the same.

Dogs.

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 an ordinance.

Putrid carcasses.

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

Sidewalks.

11th. To prevent all persons from riding, driving or leading any horse, mule or other animal, on the sidewalks in said city, or in any way doing damage to said sidewalks.

Fireworks, etc.

12th. To prevent the shooting of fire arms or crackers, and to prevent the exhibition of fireworks in any situation which may be considered by the council, dangerous to the city or any property therein, or annoying to the citizens thereof.

13th. To restrain drunkards, immoderate drinking Drunkards. 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.

14th. To regulate, prevent and control the landing Infectious diseases. of persons from cars and stages wherein any contagious and infectious diseases or disorders exist, and to make such disposition of such persons as to preserve the health of said city.

15th. To appoint one street commissioner (and to remove him at pleasure) whose compensation shall be such sum as shall be determined by the council at the time of making the appointment, not exceeding, however, two dollars per day. Street commissioner.

16th. To provide by ordinance, for a standard of Weights and measures. weights and measures, and for the punishment of the use of false weights and measures.

17th. The said board of aldermen shall have power Fire companies and protection against fire. and are hereby authorized by ordinance or by-law to organize fire companies, hook and ladder companies, and regulate their government, and the time and manner of their exercise; to provide all necessary apparatus for the extinguishment of fires, subject to the provisions of this act; to require the owners of buildings to provide and keep suitable ladders and fire buckets, which are hereby declared to be appurtenances to the real estate, and exempt from seizure of distress or sale in any manner, and if the owner shall refuse or neglect to procure suitable ladders or fire buckets, after reasonable notice, the board of aldermen may procure and deliver the same to him, and in default of payment thereof, the common council shall assess the cost of such ladder or fire bucket, or both, and the same shall become a tax against the property for which such ladder or fire bucket, or both, shall have been provided, and the amount thereof shall be added to the other taxes levied upon such property, in the tax roll next thereafter, and shall be collected therewith; to regulate the storage of gunpowder, or other dangerous materials; to direct the safe construction of places for the deposit of ashes, and to appoint one or more fire wardens, to enter into, at all reasonable times, and examine all dwelling houses, lots, yards and inclosures and buildings of any description, in order to discover whether any of them are in a dangerous condition, and to cause such as are dangerous to be put in a safe condition; to regulate the manner of putting up stoves and stovepipes; to prevent fires and use of fire arms and fire works within

the limits of said city or such part thereof as they may think proper; to compel the inhabitants of said city to aid in the extinguishment of fires, to pull, break down and raze such buildings in the vicinity of fires as shall be directed by the aldermen, or any three of them who may be at the fire, for the purpose of preventing its communicating with other buildings, and any building so destroyed shall be paid for by the corporation; to construct and preserve reservoirs, pumps, wells, and other water works, and regulate the use thereof; and generally to establish other measures of prudence for the preservation of property and for the extinguishment of fires, as they may deem proper.

Street grades.

18th. It shall be the duty of the common council to establish the grade of all streets, gutters and sidewalks in said city. Such grade shall be established on the survey of a practical surveyor, to be appointed by them, whose compensation shall not exceed the pay allowed by law for like services. It shall be the further duty of the common council to cause the grade of all streets, gutters and sidewalks, when so established, to be recorded in the office of the clerk of said city, in a book to be provided for that purpose, and when such grade shall have been so established and recorded, the same shall not be altered or changed, except on the written recommend of such practical surveyor and the unanimous vote of the common council: *provided*, that when the grade of any sidewalk shall be established on the end or side of any block in said city, such grade shall be uniform throughout the length and breadth of said block.

Licenses of hackmen, peddlers, etc.

19th. To license and regulate cartmen, runners, porters, hack, cab, truck, omnibus and stage owners and drivers, and all carriages or vehicles used for the transportation of passengers, merchandise, goods or articles of any kind, common criers, hawkers, peddlers, pawn brokers and auctioneers, and to prohibit any person or persons not holding a proper state license, and also a license issued by the authority of the common council of said city, from acting in either of such capacities.

Bridges.

20th. To provide for the security and protection of bridges in said city.

Lock-up.

21st. To erect and establish a lockup for the confinement of disorderly persons or vagrants, and for the confinement of persons waiting examination, and to pass ordinances for the regulation of the same, as may be necessary.

Fire limits.

22d. The common council, for the purpose of guard-

ing against the calamities of fire, shall have the power, by ordinance, and it shall be its duty, to prescribe the limits within which wooden buildings, or buildings of other materials which shall not be considered fire-proof, shall not be erected, placed or repaired, and to direct that any and all buildings, within the limits prescribed, shall be made and constructed of fire-proof materials, and to provide that any building or buildings erected, placed or repaired within the fire limits, in violation of such ordinance, shall be removed; and to prohibit the repairing or rebuilding of wooden buildings, or buildings not fire proof, within the fire limits, when the same shall have been damaged to the extent of fifty per cent. of the value thereof, and to prescribe the manner of ascertaining such damage, and to prescribe the penalties for the violation of any resolution or ordinance passed under this section: *provided*, the penalty for the erection of buildings not fire-proof within the fire limits shall not for any one offense exceed the sum of five hundred dollars, and the penalty for allowing any such building or buildings to remain within said fire limits, after the same shall have been erected and ordered removed, contrary to the provisions of said ordinance, shall not exceed the sum of fifty dollars for each day said building or buildings shall remain within said fire limits.

23d. To protect trees and monuments in said city.

Trees and monuments.

24th. To establish and regulate boards of health; to furnish hospitals and cemetery grounds; to regulate the burial of the dead.

Boards of health, cemetery, etc.

25th. To restrain and punish vagrants, mendicants, street beggars, drunken persons, prostitutes, keepers of houses of ill-fame, persons giving away any strong spirituous liquor, wine or beer to any person; to prevent the selling or giving away of liquors, spirituous or vinous, any ale or beer, to any person whom the common council shall designate.

Vagrants, etc.

SECTION 7. It shall be the duty of the clerk of said city to record the returns made to the board of aldermen of the elections had under this act, to transmit immediately after the qualifying of any marshal chosen or appointed, and after the election of any justice of the peace in said city, to the clerk of the circuit court of the counties of Dodge and Fond du Lac; to keep a record of the doings of the board of aldermen, and of the by-laws, ordinances and regulations, and also the doings and votes of the electors of said city at their annual and other elections, and to keep on file and pre-

Powers and duties of clerk.

serve all papers which may be ordered on file by the council; to file and keep on record all chattel mortgages and other papers required by law to be filed. He shall make out all taxes for city or other purposes within said corporation, and perform such other duties as may be necessary and pertinent to his office. The records kept by the clerk shall be evidence by the clerk in all legal proceedings, and copies of all papers duly filed in his office, and transcripts from the records of the proceedings of the board of aldermen, certified by him under the corporate seal of said city shall be evidence in all courts of the contents of the same.

Treasurer.

SECTION 8. The treasurer of said city shall receive all moneys which may or shall be collected for the use of the corporation by virtue of this act, or by virtue of any by-law or ordinance of the corporation and give the person paying the same his receipt therefor. All moneys shall be drawn from the treasury by warrant under the corporate seal, signed by the mayor by order of the aldermen, and countersigned by the clerk, who shall keep a record thereof, and any such warrant shall set forth for what purpose the amount specified therein is to be paid: and the said treasurer shall pay out the funds of the corporation in no other way whatever. He shall keep a just and accurate account of all moneys and other things coming into his hands as treasurer, in a book to be provided by the corporation for that purpose, which book shall be and remain the property of the corporation, and in said book he shall note the time when, the persons from whom the amount of the several sums was received and the source whence the said sums arose respectively. And in the same book he shall duly enter an account of all sums paid out. And said book shall at all reasonable times be opened to the inspection of the voters of said city. And the said treasurer shall annually, and as often as they shall require, render to the board of aldermen a minute-account of all his receipts and disbursements. And the said treasurer shall be collector of taxes within the corporation and he shall possess all the powers and perform the duties as such collector as is or may hereafter be conferred upon town treasurers. He shall in the same manner, before receiving the tax rolls of the respective wards, execute his bond to the treasurer of the county of Fond du Lac and also to the treasurer of the county of Dodge, which bond shall be approved by the mayor of said city, and upon filing the same the treasurers of the respective counties shall

give him a receipt therefor, and upon filing the said receipt with the clerk of said city, the said clerk shall deliver the tax roll of each ward to him, and the said treasurer shall proceed and collect the taxes in the manner as is by law provided for town treasurers, and shall duly make his return to the county treasurer of each of the respective counties, receiving the same compensation for his services allowed to town treasurers.

SECTION 9. The assessor of each ward shall assess ^{Assessor.} all the property in his ward and shall perform all the duties, and in the same manner as required of town assessors and shall receive the same compensation as now allowed by law.

SECTION 10. The supervisor of each ward shall have ^{Supervisors.} charge of all such affairs of his ward as are not by law made the duties of other officers. He shall perform all the duties and have all the rights and privileges in representing his ward that are conferred upon the chairman of the board of town supervisors.

SECTION 11. The marshal, before he enters upon ^{Marshal.} the duties of his office, and within six days after his election or appointment, shall execute an instrument in writing, with two or more sufficient sureties, to be approved by the mayor, conditioned to pay to each and any person who may be entitled thereto, all such sums of money as the said marshal may become liable to pay for, or on account of any money which may come into his hands by virtue of his office, or for the neglect of any official duty, which writing shall be filed with the clerk of said city, and the said marshal shall possess all the powers and enjoy all the rights of a constable in either of the counties of Dodge or Fond du Lac, and shall be subject to the same liabilities; he shall have power to serve and return summons, attachments, replevins, executions and all other writs issued by any justice of the peace in either of the counties of Dodge or Fond du Lac, and his return, properly certified thereon, shall be evidence of the service thereof; it shall be his duty to execute and return all writs and process in criminal cases, or for the violation of any ordinance of said city, and he may 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 all disorderly persons in said city, and pursue and arrest any person fleeing from justice in any part of the state; to apprehend any person in the act of committing any offense against the laws of this state, or ordinance of the city, and forthwith to

bring such person or persons before competent authority for examination, and for all services he shall receive like fees as are allowed to constables; he shall do and perform all such duties as may lawfully be required of him by the ordinances of said city, and he shall have power and authority to appoint one or more deputies to be approved by the mayor, for whose official acts the said marshal shall be responsible, and of whom he may require a bond for the faithful discharge of their duties.

Street commis-
sioner.

SECTION 12. It shall be the duty of the street commissioner, within ten days after his appointment and qualification, to inspect all the streets in the city, all sidewalks, crosswalks, ditches, gutters, culverts, and all bridges and approaches thereto, and all matters and things appertaining to the streets, and report to the common council, recommending what in his opinion is necessary and ought to be done thereto. On the receipt thereupon, the common council shall consider the same, and may adopt the whole or any part thereof, add to, strike out, amend or change any part thereof, and as soon as they have passed upon said report and recommendations, the street commissioner shall be informed of the action had thereon. Whereupon said street commissioner shall cause such work to be done in accordance to the common council's amendments to his report, and according to the orders and directions of said common council. Any party or parties may petition the common council for any work or improvement they may particularly desire to be done, and said common council may act thereupon as they may deem fitting and proper, and said street commissioner may, at other times, make such other reports as the necessities of the case may require.

Street work.

SECTION 13. It shall be the further duty of the street commissioner to employ men, and procure utensils, teams and materials, and whatever may be necessary in performing the street work in said city, and all this he shall do under the direction and advice of the common council, and he shall superintend all such work when directed by the common council so to do, and shall keep an accurate account of all material procured, and all teams, utensils and men employed by him, and be able to certify to the account therefor, and shall do and perform, or cause to be performed, any and all other duties pertaining to his office, that may be prescribed from time to time by the common council: *provided, however*, that no street commissioner shall con-

tract nor create any greater expense to the city in any one year than the amount raised by the common council for highway purposes.

SECTION 14. All accounts against the said city for either work, hire, or materials for street purposes, including street commissioner's services, shall be paid out of the highway tax of said city: *provided, however*, that the expense of building and maintaining any bridge in said city may be paid out of the general fund. All such accounts for street purposes shall be duly verified, and when they arose or were created under the direction of the street commissioner, shall be certified by him to be true and correct in all particulars. The street commissioner shall be paid for his services, and for every day's service actually and necessarily rendered, such compensation as the common council and said street commissioner shall agree upon at the commencement of his official year, which shall not exceed two dollars per day, and such account for services shall be rendered under oath, as other accounts are. The common council may at any time remove such street commissioner from office by a majority vote of the common council.

Payment of accounts.

SECTION 15. It shall be the further duty of the street commissioner to collect all highway taxes and superintend the laying out of the same under the direction of the common council. He shall possess all the powers and have all the rights in the collection of such taxes as is by law conferred upon road overseers. He shall, before he enters upon the duties of his office, execute to the common council a bond in such sum, with such sureties and conditions as the said common council shall direct, for the faithful discharge of his official duties.

Further duties of street commissioner.

SECTION 16. It shall be the further duty of the street commissioner to see that all the ordinances of the city relating to the obstructing and cleaning of sidewalks, streets, alleys, public grounds, gutters and sewers within said city, are duly kept and observed, and direct and control the persons employed therein.

Cleaning of streets, etc.

SECTION 17. It shall be the further duty of the street commissioner to report to the common council, in writing, when required, the amount of labor, materials or money expended in each ward separately, and also the amount expended on the street running between and dividing the two wards, and shall, at the close of his official year, make an annual report in writing to the common council, which shall set forth

Report of commissioner.

the amount of highway tax paid in money, and the amount paid in labor, also the amount of poll tax collected, the manner in which such moneys have been disbursed, and the particular items of such disbursement.

Justice of the
peace.

SECTION 18. The justice of the peace for each ward of said city shall hold his office for two years from and after the first Monday in May next succeeding his election, except when elected to fill a vacancy, in which case he shall hold during the unexpired portion of such term. He shall, before entering upon the duties of his office, take and subscribe to two separate oaths of office, before some officer authorized to administer oaths, and shall also execute two official bonds, each to have two or more sufficient sureties, to be approved by the mayor, which shall be in the form and manner required by the statute; the approval of the sureties shall be indorsed upon such bonds, and the said justice shall cause one, together with his oath of office, to be filed in the office of the clerk of the circuit court of the county of Dodge, and the other, with his oath of office, to be filed in the office of the clerk of the circuit court of the county of Fond du Lac, and a copy of said bond duly certified by either of said clerks, shall be *prima facie* evidence of the contents and execution thereof. Each of the justices of the peace elected under the provisions of this act shall have jurisdiction, both civil and criminal, co-extensive within the limits of both of the said counties of Dodge and Fond du Lac, and may issue process, and may do all things in either of said counties that any justice of the peace of such court may lawfully do. But each of said justices shall keep and hold his office in the ward of said city in which he shall reside and have been elected, and not elsewhere: *provided*, that in case of appeal or *certiorari* in civil cases, the papers shall in all cases be transmitted to the county court of the county in which such action was tried: *and, provided, further*, that in case of appeal in criminal cases, or in examinations, and in which the justice has not final jurisdiction, the papers shall be transmitted to the circuit court of the county in which the offense was alleged to have been committed; and all commitments in criminal cases shall be made to the common jail of such county: except as provided in this act: *and, provided, further*, in all cases, if a cause shall be removed from the justice before whom the same was commenced, for prejudice or other cause, the papers shall be transmitted to the other justice in said city, if

he be competent to try the cause, but if there be no such justice, or if he be absent or sick, in such case papers shall, in civil cases, be transmitted to the nearest justice of the peace in the county in which the defendants or either of them was served with process, and in criminal cases the papers shall be transmitted to the nearest justice of the county in which the offense was charged to have been committed, and such nearest justice is hereby authorized to hear, try and determine the same in the manner provided by law. And the justice of the peace elected under the provisions of this act, shall perform the same duties, and shall receive the same fees, and be liable to the same penalties as other justices of the peace in this state.

CHAPTER VI

TAXES AND FINANCE.

SECTION 1. All taxes raised and collected in said **Taxes.** city shall be assessed and collected on the taxable property thereof.

SECTION 2. The common council shall, between **General tax.** the first Monday in May and the first Monday in July in each year, determine the amount of general tax necessary to be assessed and collected the current year for corporation purposes, which shall in no case exceed one and one-half mills (1 1-2 mills) on the dollar of the assessed valuation of said city, except as hereinafter provided for in the levy and collection of special taxes. The maximum rate of taxation fixed in this and the ensuing section shall not be changed during the life of this charter, except upon petition of one-half of all the legal voters in said city.

SECTION 3. The common council shall, between the **Highway tax.** first Monday in May and the first Monday in June of each year, determine the amount of highway tax necessary to be assessed and collected the current year for highway purposes, which shall not be more than two mills on the dollar of the assessed value of said city, and a poll tax of one dollar upon every male person over the age of twenty-one, and under the age of fifty years, residing in said city, which may be paid in labor, materials or money. The said highway tax shall in all instances be assessed upon and collected on the assessment of the previous year of said city, and the same compensation shall be allowed for teams, wagons, carts, plows, scrapers and labor, as is by law allowed.

Restrictions of power.

SECTION 4. The common council of said city shall have no power to borrow money, nor shall said city be liable to pay money borrowed on its account or advanced on its behalf by any of its officers, nor shall any of its money or property be applied to any such purpose, nor shall the common council have power to issue any bonds or other evidence of debt payable at a day subsequent to the day of the issue thereof, nor shall the common council issue in any one year orders upon the city treasurer greater in amount than the amount of taxes which may be levied and collected under this act for such year: *provided*, that when it shall be necessary to build or repair bridges in said city, or to provide for other matters of necessity for the benefit of said city, a special tax may be levied for such purpose by the common council, not exceeding five hundred dollars in any one year; if a sum exceeding five hundred dollars may be required, such special tax may be voted by the qualified voters of said city, but no such vote shall be taken unless such special tax shall be first recommended by the common council, nor unless two-thirds of the qualified voters of said city shall vote in favor of such special tax, nor unless a notice of the same specifying the purpose for which said tax is to be raised, and the time and place of voting be published in the manner in this act providing for giving notice of city elections, which elections shall be conducted in the manner provided for municipal elections under this act.

Claims must be audited.

SECTION 5. No account or claim against said city shall be paid until it shall have been presented to the common council thereof, and audited and allowed by it, and when any such account shall be so audited, the common council so auditing the same shall indorse thereon or annex thereto a certificate subscribed by it of such auditing, and allowing or disallowing the same in which the sum allowed, if any, and the charges for which the same was allowed, shall be specified.

Accounts must be itemized.

SECTION 6. No account or claim shall be allowed by the common council until it shall be made out in items, and shall be accompanied by an affidavit of the person claiming to have done the service or made the disbursements therein charged, that the several items of the account or claim are correct, and that the services therein charged have been rendered, and the disbursements therein charged have been made, and that no part thereof has been paid. Such affidavit shall be indorsed on or annexed to such account or claim, and

presented therewith. Any member of the common council, when such account or claim shall be presented to it, may administer the oath required in this section, and said common council may examine the claimant on oath as to the items in such account or claim.

SECTION 7. Nothing in the last preceding section shall be construed to prevent the common council from allowing any account or claim in whole or in part when so made out and verified, nor from requiring other and further proof of the correctness and reasonableness thereof. Construction of law.

SECTION 8. Every account or claim against said city presented to the common council in any year shall be numbered from one upwards, in the order in which it shall be presented, and a memorandum of the time of presenting the same, the name of the person in whose favor it shall be made out, shall be entered in the record of the proceedings of the common council. Accounts must be numbered.

SECTION 9. Every warrant drawn by the common council to pay any account or claim shall refer to such account by the number, the name of the person in whose favor it was made out and the time it was presented, and of the amount of the warrant, and a memorandum of such reference shall be entered in such records before such warrant shall be delivered to the claimant. Warrants.

SECTION 10. No alderman shall allow or subscribe a certificate of allowance of any item or any account or claim against said city which said city shall not be legally bound to pay, or for the payment of which it could not lawfully raise money therein by tax, nor shall any alderman sign any warrant for the payment of any such claim or account or any part thereof nor shall any alderman vote in the common council on any matter in which he is interested. Aldermen.

SECTION 11. All moneys raised by virtue of any tax levied upon the property of said city shall be used for the purpose for which such tax was levied and for no other purpose whatever, and any officer misapplying any such money shall be deemed guilty of malfeasance in office, but nothing herein shall be construed to prohibit or prevent the common council from auditing and paying all just demands and claims against said city which it would be legally bound to pay from the corporate fund thereof. Application of funds.

CHAPTER VII

ACTIONS TO RECOVER PENALTIES, ETC.

Penalties.

SECTION 1. In all cases in which, by the provisions of this act, the common council shall have power to enact or pass ordinances, by-laws or regulations, in relation to any subject, it shall have power to prescribe any penalty for the violation or non-observance of such ordinance, by-law or regulation, not exceeding fifty dollars fine or forfeiture for any one offense in violation or non-observance thereof, except as is provided in this act; and it may also provide that, in default of payment of any judgment rendered for such violation or non-observance, the offender may be imprisoned for such term as it may by such ordinance prescribe, not exceeding three months, and for all purposes the said city shall have the use of the county jails of the counties of Dodge and Fond du Lac, for the imprisonment of all persons liable to be imprisoned; and all persons committed to either of said jails by the marshal of said city or other proper officer, shall be under the charge of the sheriff of the county to which he may be sent.

Actions—how brought.

SECTION 2. All actions brought to recover any penalty, fine or forfeiture under this act, or the ordinances, by-laws and regulations made in pursuance thereof, shall be brought in the name and for the benefit of the city of Waupun, and it shall be lawful to declare generally in debt for such penalty, fine or forfeiture, stating the chapter and section of this act, or the section of the ordinance, by-law or regulation under which the penalty, fine or forfeiture is claimed, and to give the especial matter in evidence, and all such actions shall be brought before a justice of the peace of said city, except as is especially provided in this act, or when the penalty sought to be recovered exceeds the jurisdiction of the justice's courts.

Mode of process

SECTION 3. In all prosecutions for any violation of any of the provisions of this act, or of any ordinance, by-law or regulation under this act, or for the non-observance thereof, the first process shall be by summons, unless oath be made for a warrant, as is hereinafter provided.

Summons—form of.

SECTION 4. When such action is commenced by summons, such summons may be substantially in the following form :

COUNTIES OF DODGE AND FOND DU LAC }
 City of Waupun. } ss.

The State of Wisconsin to the sheriff or any constable of either of said counties, or to the marshal of the city of Waupun:

You are hereby commanded to summon ——— if he shall be found within your county, to appear before the undersigned, a justice of the peace in and for the ——— ward of said city, at his office in said ward, in said county of ——— on the ——— day of ——— 18— at ——— o'clock in the ——— noon of said day, to answer to the city of Waupun to the damage of said city two hundred dollars or under.

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

C— D— Justice of the Peace.

SECTION 5. Such summons shall be made returnable and be served in the same manner as is prescribed by the general laws of this state for the commencement of actions before justices of the peace by summons, and all proceedings in such action except as hereinafter provided shall be in accordance with the general laws of the state for the government of civil actions before justices of the peace so far as the same may be applicable. Return of summons.

SECTION 6. When the action is commenced by summons, the complaint may be substantially in the following form: Form of complaint.

THE CITY OF WAUPUN, against A— B—.

In Justice's Court, before C. D., Justice.

The plaintiff complains against the defendant, for that the defendant did, on the ——— day of ———, 18—, in the ——— ward of said city, in ——— county, violate section ——— of an ordinance (or by-law or regulation, describing it by its title) of said city; by which said action hath accrued to the city of Waupun to recover of the defendant the sum of ——— dollars debt. Wherefore, the plaintiff demands judgment against the defendant for the sum aforesaid, and costs of this action.

Such complaint shall be signed by the proper officer or other person, and filed with the justice before whom the action is brought at the time of the issuing of the summons named in this chapter.

SECTION 7. In all cases where oath is made for a warrant, the affidavit of complaint shall be substantially in the following form, and subscribed by the complainant, and no other complaint in such action shall be necessary: Form of affidavit of complaint

THE CITY OF WAUPUN }
 against } In Justice Court.
 A ——— B ——— }

STATE OF WISCONSIN, }
 Counties of Dodge and Fond du Lac, } ss.

———, being duly sworn, complains on oath to ———, a justice of the peace in and for the ——— ward of the city of Waupun, that ——— did on the ——— day of ——— 18—, in the ——— ward of said city, in ——— county, violate section ———, of an ordinance (or by-law, describing it by its title) of the city of Waupun, which said ——— is now in force and effect as the complainant verily believes, and prays that the said ——— may be arrested and held to answer to the said city of Waupun therefor.

Subscribed and sworn to before me this ——— day of ———, 18—.

C ——— D ———,
 Justice of the Peace.

In either of the forms of complaint named herein, the chapter and section of this act, or the number and section of the ordinance, by-law or regulation under which the action is brought, shall be named, and shall be sufficient. But when such ordinance, by-law or regulation imposes a penalty or forfeiture for several offenses or delinquencies for which the action is brought, and upon the filing of such last named complaint with the justice, he may examine the complainant and such witnesses as he may produce, on oath, as to the facts, and if, upon such examination, it shall appear that such offense has been committed, he shall issue his warrant thereon, which may be substantially in the following form:

Form of warrant.

COUNTIES OF DODGE AND FOND DU LAC—City of Waupun—ss.

The state of Wisconsin to the sheriff or any constable of either of said counties, or to the marshal of the city of Waupun:

Whereas, ——— has this day complained to me in writing, on oath, that ——— did, on the ——— day of ———, 18—, in the ——— ward of the city of Waupun, in ——— county, violate section ——— of an ordinance (or by-law or resolution, describing it by its title), of said city, which said ——— is now in full force, as the complainant believes. Therefore, you are commanded, in the name of the state of Wisconsin, to arrest the said ——— and bring him before me forthwith, at my office in the ——— ward of said city,

in the county of —, to answer to the city of Waupun on the complaint aforesaid.

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

C— D—, Justice of the Peace.

Upon the return of the warrant the justice may proceed summarily with the case, unless it be continued by consent or for cause. If the cause be adjourned, the defendant, if required by the court so to do, shall recognize, with security to be approved by the court, for his or her appearance, in such sum as the court shall direct, or in default thereof may be put in charge of an officer or committed to the lockup of said city, or to the common jail of the county in which the ward is situated where the offense is charged to have been committed. The complaint as aforesaid shall be the only complaint required, and the answer of "not guilty" shall put in issue all subject matter embraced in the action, and the proceedings therein may be such as govern criminal trials before justices.

Action upon return of warrant.

SECTION 8. A printed copy of an ordinance, by-law or regulation passed by the common council and published in a newspaper, or in pamphlet or book form, purporting to be published by authority of the common council, or certified by the clerk of said city to have been so published, shall be *prima facie* evidence of its passage and publication, and shall be received in evidence on the trial of all cases cognizable before any court in this state.

Evidence.

SECTION 9. In all prosecutions and cases under this chapter the defendant may demand a jury after issue joined and before trial. The proper officer whom the justice may direct, shall thereupon make a list of eighteen jurors who shall be qualified to serve as jurors in courts of record in either of the counties of Dodge and Fond du Lac, and the parties shall then alternately strike therefrom, the defendant commencing, so many names as will leave six names remaining. The court shall thereupon issue a venire commanding the officer to summon those six remaining jurors to appear before him at such time as he may direct, to make a jury for the trial of the said action, and the court may compel their attendance by attachment as in other cases. Either party may challenge any juror as in other cases before justices of the peace, under the laws of this state, and vacancies thereby, or by any other cause occasioned shall be supplied by talesmen to be elected and summoned by the officer. If the defendant shall not

demand a jury the city may demand a jury as above provided, and if no jury be demanded it shall be deemed a waiver of a jury trial; if either party decline to strike from the list the names which he is entitled to strike, the court shall strike the same for such party. Each juror shall receive for his services in each trial the sum of fifty cents for each day and part of a day therein employed, and all proceeding shall be as is provided by law for the trial by jury before justices of the peace in criminal cases.

Witnesses shall attend without tender of fees.

SECTION 10. Witnesses and jurors shall attend before the justice court in all the aforesaid cases without the payment of fees in advance, or the tender thereof, upon the process of the court duly served, and in default thereof their attendance may be enforced by attachment, in which case the same proceedings may be had as is provided by law in other cases of contempt before justices of the peace. In case the jury after being kept a reasonable time shall disagree, they shall be discharged without payment of fees, and thereupon the court may adjourn the case to certain a day, and issue a new venire as aforesaid.

Finding of court.

If guilty.

SECTION 11. In city prosecutions the finding of the court or jury shall be either "guilty" or "not guilty." If guilty, the court shall render judgment thereon against the defendant or defendants, or each of them, for the fine, penalty or forfeiture contained in the ordinance, by-law or resolution, for the violation of which the person or persons shall have been adjudged guilty, and the costs of suit; but if not guilty, the costs shall be taxed against the city. Upon conviction and non-payment of such judgment, the court may forthwith issue an execution as in case of tort, in case the action was commenced by summons, or a commitment in case it was commenced by warrant, and shall in either case determine and enter upon his docket the length of time the defendant shall be imprisoned for non-payment, which shall in no case exceed three months, and also insert such time in the execution or commitment; such execution may be substantially in the following form:

Execution and commitment.

COUNTIES OF DODGE AND FOND DU LAC, }
 City of Waupun. } ss.

The state of Wisconsin to the sheriff or any constable of said counties, or to the marshal of the city of Waupun.

Whereas, the said city of Waupun did, on the— day of —, 18—, recover a judgment before the undersigned, one of the justices of the peace in and for

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

Given under my hand this — day of —, 18—,
C. D., Justice of the peace.

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

SECTION 12. The defendant may appeal in the same Appeals. manner as provided by law in cases of an appeal from judgment in courts of justices of the peace in criminal proceedings, in this state, and bonds shall be required of such defendant as is by law required of defendants in criminal cases upon appeal, and the city may also appeal from any judgment, but shall not be required to give any bond upon appeal.

SECTION 13. In the appeal mentioned in the pre- Return of pro-
ceedings. ceding section, the justice before whom the trial shall have been held shall return all the papers in the case, and the proceedings had before him, to the county court of the county where the action shall have been tried, and said appeal shall stand for trial by jury, unless a jury be waived in the manner provided by law, in said circuit court at the next term thereof, after the day said appeal be so taken, and no notice of trial shall be required to be given to or by either party.

SECTION 14. If the judgment of the justice be af- Infliction of
penalty. firmed, or if upon the trial the defendant shall be convicted, the court shall inflict the penalty provided by this act, or the ordinance, by-law or regulation under which he or they are prosecuted, and enter judgment against him or them, and also against their sureties, for such penalty, together with the costs in both courts,

and enforce the same by execution, as in actions of tort, against both the principals and sureties.

Costs.

SECTION 15. The costs in justice's court, the jail fees and officers' fees, on commitment in all the aforesaid cases, shall be audited and allowed by the common council when the same shall not be collected of the defendant before his discharge; and said common council may, by resolution, direct the justice to discharge from jail any person confined on a judgment due said city, but such discharge shall not operate as a release of the judgment unless said common council shall so direct in their resolution. Upon filing with the justice who issued such execution or commitment a certified copy of such resolution, attested by the clerk of said city, such justice shall order the defendant discharged from custody, and shall make an entry of such discharge upon his docket, and no execution in tort shall thereafter be issued in such case; but execution, as in civil actions, upon judgment for debt, may, from time to time, be issued, unless such resolution shall release the judgment.

Not disqualified.

SECTION 16. No person shall be an incompetent judge, justice 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.

Vested rights.

SECTION 17. All actions, rights and penalties, fines and forfeitures in suits or otherwise, which have arisen under the acts consolidated herein, shall be vested in, and may be prosecuted by, the corporation hereby created.

Ordinances to remain in force.

SECTION 18. All ordinances and regulations now in force in the village of Waupun, not inconsistent with this act, shall remain in force under this act until altered, modified or repealed by the common council, and all violations of such ordinances, by-laws and regulations may be prosecuted under the provisions of this chapter.

Fines, etc.

SECTION 19. All penalties, fines, forfeitures and liabilities which may be incurred and arise under and by virtue of this act shall be prosecuted for and recovered in the name of the city of Waupun, and for its use and benefit, and shall be paid into the treasury of said city by the officer collecting the same, and it shall be the duty of the treasurer of said city semi-annually to examine the docket of the justices of the peace of said city, and to receive and receipt for all such sums as shall have been collected as aforesaid.

In case of commitment.

SECTION 20. When judgment is rendered against

any person for the violation or non-observance of any ordinance, by-law or regulation of said city, and such person shall be committed to jail for the non-payment thereof, all subsequent costs and expenses made thereon, including interest and board, shall be added thereto, and which such person shall be required to pay in case of payment of said judgment.

SECTION 21. Any elector of said city may make Complaints the complaint required by this chapter, and it shall be the duty of the mayor to prosecute, in the name of said city, for all violations and non-observances of the ordinances, by-laws and regulations of said city, which may come to his knowledge, and when any person shall inform the mayor of any violation or non-observances of the ordinances of said city, it shall be his duty to take such person before a justice of the peace of said city, and shall, with such justice, inquire into the alleged facts, and may examine on oath such person and the witnesses produced by him, and if the mayor shall deem the action well founded, he shall require such informant to make the complaint required by this chapter, and the mayor shall cause such action to be prosecuted; and it shall be the duty of the street commissioner to report to the mayor all such violations and non-observances as relate to streets and sidewalks which shall come to his knowledge, and by the advice and consent of the mayor, shall prosecute therefor; but nothing herein shall be construed to prevent or prohibit the marshal or his deputies, or any policeman, from bringing before a justice of the peace, without process, any person who may be arrested in the act of violating any of the ordinances as aforesaid, or from making the complaint required by this act. And in case the mayor shall neglect or refuse to prosecute any such alleged violation or non-observance of the city ordinance, by-law or regulation, any elector of said city may make the required complaint and prosecute such action: *provided*, that if any action so prosecuted by an elector shall not be maintained, the defendant shall be immediately discharged, and if the justice before whom the action is had shall certify in his docket that the complaint was willful and malicious and without probable cause, he shall enter a judgment against the complainant to pay all costs which shall have accrued to the court and jury and officers in the proceedings had upon such complaint. The complainant may stay such judgment for thirty days by giving satisfactory security by bond to the city, with one or more

sureties, to be approved by the justice, conditioned for the payment of such judgment at the expiration of thirty days; but if the complainant shall neglect to give such security within twenty-four hours, or shall neglect to pay such costs, then in such case the court before whom the cause is tried may issue execution on said judgment against the person of the complainant, in the same manner and with like effect as is now provided by law in cases where execution may issue against a defendant in actions in tort, and such execution may be in the form provided in this chapter.

Restraint of alleged criminals

SECTION 22. It shall be lawful for the marshal and his deputies, or any policeman or other proper officer, to confine in the lockup of said city, any person who may be arrested charged with the violation or non-observance of any city ordinance, or with the commission of any criminal offense under the laws of this state, and to keep in custody in said lockup such persons while awaiting trial or examination, and at proper times during the continuance thereof.

Commitments.

SECTION 23. All commitments and executions under this act shall be directed to the keeper of the common jail of the county, in which the ward is situated where the action shall have been tried for which such execution or commitment is issued, and such keeper is hereby required to receive and keep in custody all such persons committed under the provisions of this act until such person be discharged by due course of law or by the payment of the penalty, costs and expenses as required by section twenty of this chapter.

Civil actions.

SECTION 24. All actions brought for the recovery of penalties under the provisions of this act shall be deemed civil actions, and all appeals shall be taken to the county court of the county in which the action is tried, but all proceedings before justices of the peace shall be as herein specified.

CHAPTER VIII

IMPROVEMENTS.

Sidewalks.

SECTION 1. Whenever a majority of the resident owners of real estate and lots, bordering on any one side of any street or part of street not less than ten rods in length, or on any block or blocks in said city, shall desire to have a sidewalk built or repaired, they shall make out and sign an application, in writing, to the common council of said city, in which shall be stated the commencement and terminus of said walk, and the

length thereof, also a brief description of the materials of which the same is proposed to be repaired or built, and request that a tax be levied sufficient to build or repair (as the case may be) said sidewalk.

SECTION 2. On the receipt of an application as mentioned in the preceding section, the common council, if they deem the building or repairing of said sidewalk necessary or expedient, shall direct the street commissioner of said city to run the line thereof and to report, within eight days, the cost and expense of building or repairing said sidewalk along the line of each lot or tract of land bounded thereby; and upon the coming in of said report the said common council, having power to alter or correct said report, shall direct the clerk to make out and deliver to the street commissioner such tax on each lot or tract of land as is required to build or repair said sidewalk along the line thereof, giving a list of the owners, if known, and a description of the property taxed; and thereupon the said street commissioner shall notify the persons named in such tax list by delivering to each person (if residing within said city) or leaving at the house or place of business of each person, a written notice requiring such person to build or repair said sidewalk along the line of the lot or land so taxed, within thirty days from the date of said notice, or pay the amount of said tax in money, and in case any person or persons so taxed do not reside within the limits of said city, a similar notice to them shall be posted in three of the most public places in said city.

Duty of street commissioner in premises.

SECTION 3. To any such list issued as aforesaid a warrant shall be annexed, signed by the mayor and countersigned by the clerk, commanding the street commissioner to collect the taxes mentioned in such list in money, if the persons named therein failed to build or repair the sidewalk, for the building or repairing of which said tax was levied, within thirty days after being notified by the street commissioner so to do, and said street commissioner, under said warrant, shall possess all the powers in collecting said taxes that are by statute conferred upon town treasurers in collecting town taxes, and said tax list and warrant shall be returned, within forty days, to the common council, accompanied by a statement of said street commissioner, verified by his affidavit subscribed thereto, showing the amount of tax collected in labor and materials, and the amount collected in money, and the manner in which such money and items of expenditures have

Failure of owner to build.

been made, also the taxes which remain unpaid, and the persons and descriptions of real estate and lots to which such unpaid taxes stand charged.

Completion of sidewalk.

SECTION 4. On the return of the tax list and warrant by the street commissioner if it shall appear that any portion of said tax remains unpaid, the common council may order the street commissioner to complete the building or repairing of said sidewalk, and pay the expenses thereof out of the treasury of said city, in which case the tax, when collected, shall be paid to the treasurer for the use of said city as herein provided.

Collection of tax.

SECTION 5. The clerk, in making out the tax rolls of said city next thereafter, shall enter such unpaid taxes therein in a separate column opposite to the names and descriptions of the property against which the taxes so remain unpaid, and such taxes shall be collected in the same manner by the treasurer of said city as the general taxes are collected.

Repairs.

SECTION 6. Whenever any sidewalk in said city shall be so out of repair that in the opinion of the common council the sidewalk so out of repair should be repaired, or that said walk so out of repair should be replaced with a new walk, the said common council shall have the authority under this act, and they are hereby authorized to cause said walk so out of repair, to be repaired, or to be replaced with a new walk, as the case may be, without petition, as mentioned in section one of chapter —.

CHAPTER IX.

HIGHWAYS, STREETS AND ALLEYS.

Streets, etc.

SECTION 1. The mayor and common council of the city of Waupun shall have power to lay out, open, change, extend and widen public squares, grounds, highways, streets and alleys, as follows: Whenever twelve or more freeholders residing in said city shall by petition represent to the common council of said city, that it is necessary to take certain lands within said city for public use, for the purpose of laying out, opening, changing, extending or widening public squares, grounds, highways, streets or alleys, and shall in such petition specify with reasonable certainty the lots, tracts or parcels of land necessary to be taken for the purposes mentioned in such petition, and the names and residences of the owner or owners thereof so far as the same can be ascertained, the common council shall by resolution to be entered upon its journal, directing

such person as may be designated by such resolution to apply to the county judge or court commissioner of the county where the land so petitioned to be taken is situated, or to a justice of the peace of said city, which county judge, court commissioner or justice of the peace shall be designated by said common council, for the appointment of a jury to ascertain and establish by their verdict the necessity for taking such lands for the purpose specified in such petition. Such resolution shall also designate the time when and place where such application will be made, and if the owner or owners of the whole or any portion of such lands are known and reside in such city, or in either of the counties of Dodge or Fond du Lac, a copy of such resolution shall be served upon such owner or owners personally or by leaving a copy at the usual place of residence of such owner or owners with some person of suitable age and discretion, to whom the nature and contents of such resolution shall be explained, at least six days before the time of making such application. If such owner or owners are not known, or being known, do not reside in such city or in either of the counties of Dodge or Fond du Lac, and their postoffice address can with reasonable diligence be ascertained, a copy of such resolution shall be deposited in the postoffice in said city, postage prepaid, and directed to such owner or owners, and published in some newspaper published in said city, once in each week for three successive weeks before such application shall be made.

SECTION 2. Upon presentation of such application and proof of due service of such resolution, as prescribed in section one of this chapter, at the time and place appointed therein for that purpose, the said judge, court commissioner or justice of the peace, as the case may be, shall appoint twelve respectable and disinterested freeholders of said city, who shall constitute a jury to ascertain and establish the necessity for taking such lands for the purposes specified in such petition. The said judge, court commissioner or justice of the peace, shall thereupon issue his precept, directed to the marshal of said city or his deputy, requiring him to summon said jurors to meet at a time and place to be specified in such precept, to be not more than five days from the date thereof, to view the lands proposed to be taken, and to decide upon the necessity for taking them for such purposes, and to make due return of their verdict to the said common council of said city within three days from the time appointed for such meeting.

Appointment
of jurors.

Vacancy.

SECTION 3. In case any of the jurors shall fail to attend at the time and place appointed in the precept, the said judge, commissioner or justice of the peace, shall appoint other jurors who are duly qualified, as hereinbefore specified, in place of those so failing to attend, which appointment shall be annexed to or indorsed upon such precept. When such jurors are all present, they shall be sworn or affirmed by said judge, commissioner or justice of the peace, or some other person authorized to administer oaths, faithfully and honestly to discharge the duties required of them by such precept, and the officer administering the oath shall certify the fact, which certificate shall be indorsed upon or annexed to such precept.

Duty of Jurors.

SECTION 4. After the jury is sworn, it shall proceed to examine the lands proposed to be taken, and to inquire into the necessity for taking the same for the purposes specified in the petition, and shall return its verdict in writing, signed by each juror, to the marshal or his deputy, by whom it was summoned, who shall immediately deliver the same, together with said precept and all the papers relating to such proceedings, to the city clerk, and the same shall be laid by the clerk before the common council at its next meeting. In case such jury fail to agree, it shall so report to the judge, commissioner or justice of the peace by whom it was appointed, who shall thereupon appoint another jury, and such second jury shall be selected, summoned and sworn, and proceed in the same manner above prescribed for the first jury. The county judge, court commissioner or justice of the peace shall be entitled to one dollar, the marshal or his deputy to two dollars, for each case, and each juror one dollar per day for all services rendered by them respectively, in each of such proceedings under this act.

Survey.

SECTION 5. If the verdict of the jury shall be that it is necessary to take the said land, or any part thereof, for the purposes specified in such petition, the said common council shall proceed to lay out, open, change, extend, or widen such public squares, grounds, highways, streets or alleys, and cause the damages and benefits resulting from the same to be assessed, collected and paid, and said public squares, grounds, highways, streets or alleys to be widened, opened, laid out or extended in the manner prescribed by this act; they shall cause an accurate survey thereof to be made when necessary, and shall cause an order containing their decision upon the petition and survey, to be entered in their journal,

and shall cause a copy of such order and a plat of the street or alley to be filed in the office of the register of the county where the land so taken is situated.

SECTION 6. The assessment of all benefits and damages which may arise or accrue from laying out, opening, changing, extending or widening any public squares, grounds, highways, streets or alleys, under the provisions of this act, shall be made by the common council of said city. It shall be its duty to assess the same as follows: To each lot or tract injured thereby, or of which the whole or any part thereof must be taken therefor, the said common council shall assess so much of the damages as it shall deem just; to each lot or tract which will be benefited thereby, it shall assess the whole amount of such benefit, and shall determine what portion of such damages shall be paid by the city at large, from the general fund of the corporation. Its assessment and determination shall be in writing, signed by them, or a majority of them, and filed with the city clerk. The assessment of benefits as made by the common council, or in case of appeals as hereinafter provided, by the verdict of a jury, shall be a lien upon the several lots or tracts upon which they may be assessed, from the time of the filing thereof, and the collection thereof shall be enforced in the same manner as other taxes assessed against such lands. Assessments.

SECTION 7. Any person whose property is taken, or against whose property an assessment of benefits is made, as hereinbefore provided, may within ten days, and not afterwards, appeal from such assessment of damages or benefits to the circuit court of the county in which the land is situated, upon which such assessments are made, by filing a notice of such appeal, with his reasons therefor, with the clerk of said city. Such appeal shall be tried by the court and jury, as in ordinary cases, upon receiving notice of such appeal. The clerk of said city shall transmit to the clerk of the circuit court of the proper county, a certified copy of all the proceedings relating to the matter in controversy. The verdict of the jury, when rendered, shall be certified by the clerk of the circuit court, to the clerk of said city, together with a statement of the costs on appeal in the appellate court. If the appellant gain nothing in increase of damages or reduction of benefits by the verdict of the jury on appeal, he shall pay the costs of appeal, and judgment shall be entered against him for such costs, otherwise the costs shall be paid by the city, and judgment shall be entered against the city therefor. Appeals.

Tender of damages.

SECTION 8. No public grounds, squares, highways, streets or alleys laid out, widened or extended under the provisions of this act, shall be opened, widened or extended until the damages for taking the lands therefor, as assessed by the common council, or in cases of appeal by the verdict of the jury, shall have been paid or tendered to the owner or owners, or his or their agent, or in case the owner or agent cannot be found, or is unknown, deposited to his credit in some safe and convenient place of deposit. After such payment, tender or deposit, such grounds, squares, highways, streets or alleys shall be subject to all laws and ordinances of said city in like manner as public grounds, squares, highways, streets and alleys heretofore laid out and opened. If such payment, tender or deposit shall not be made as aforesaid, to all the owners whose lands are required to be taken in the laying out, widening or extending of any public grounds, squares, highways, streets or alleys within one year after the assessment of damages as hereinbefore provided, the proceedings in laying out, widening or extending such public grounds, squares, highways, streets or alleys, and all assessments thereon, shall be void, and any money paid into the treasury on account of benefits to any lot or tract of land assessed in such proceedings shall be refunded to the person entitled thereto.

Ineligible.

SECTION 9. No person shall be eligible as juror to determine the necessity of taking any lands for the purposes mentioned in the first section of this act, whose name appears upon the petition mentioned in said first section.

Surety for costs

SECTION 10. Any person who shall appeal from the assessment of damages, or benefits, or both, which shall be included in the same action, shall be required at the time of making such appeal, to give and file with the clerk of the court to which he appeals, an undertaking signed by one or more sureties, to be approved by the clerk of said court in the sum of two hundred dollars, conditioned to pay all costs which shall be awarded against him on such appeal.

CHAPTER X.

MISCELLANEOUS.

Out-lots.

SECTION 1. It shall be the duty of the common council of said city, to cause all lots, pieces or parcels of land situate within the limits of said corporation, and not included in any recorded plat or addition to said

city, to be numbered, giving a particular description to each number, and such lots, parcels or subdivisions of land shall be numbered from one upwards, upon each forty acres, according to government survey, so far as the same shall be practicable, and such lots, pieces and parcels of land when so numbered, shall be known as out-lots for all the uses and purposes of said corporation. The common council shall then cause the description and number by which each lot, piece or parcel of land so numbered and described shall be known, to be recorded in the office of the register of deeds of the county in which such lot, piece and parcel of land is situated, and all lots, pieces or parcels of land so described which may be sold for taxes, the description shall be as valid as if described by metes and bounds, and whenever any subsequent subdivision shall occur, the common council shall direct the clerk to number and describe such subdivision, and cause a record of the same to be made as aforesaid.

SECTION 2. All bridges within said city shall be erected, maintained and kept in repair at the expense of the corporation. Bridges.

SECTION 3. The common council shall have power to appoint and at its pleasure to remove the following officers, to-wit: One chief engineer of the fire department, two fire wardens, and as many assistant fire wardens as it may from time to time deem necessary, one surveyor, one sealer of weights and measures, one city attorney, and one health officer, and prescribe their duties and fix their compensation under the provisions of this act, and to impose and enforce in law such penalties, as to the said common council may seem proper for any malfeasance or any improper conduct of any of said officers, and to require bonds for the faithful discharge of the duties of any such of them as may be deemed expedient and necessary by the said common council. Fire department.

SECTION 4. If the first or any annual election provided for in this act shall for any cause not be held, it shall not be considered a sufficient reason for arresting, suspending or absolving the said corporation, but such election may be held at any time thereafter by order of the common council, or by order of any five freeholders of said city, of which time ten days' public notice shall be given by posting up a notice in three public places in each ward of said city; and further, if any of the duties enjoined by this act, at a time herein specified by any ordinance of said city, are not then Not absolved by reason of failure to hold election

done, the common council may appoint another time in which the said duties may be performed: *provided*, that the officer or officers so failing to execute such duties at the time required shall be liable to the same actions, fines, and penalties as they would have been had not said power been conferred upon or exercised by said common council.

Vacancies.

SECTION 5. In case the common council shall remove any officer elected or appointed by it under the provisions of this act, the said common council shall have power to fill the vacancy caused by such removal, at any time, by election or appointment.

Lien.

SECTION 6. A transcript of a judgment for more than ten (10) dollars, exclusive of costs, rendered by any justice of the peace of said corporation, may be filed in either of the counties of Dodge or Fond du Lac, and shall be a lien upon the real estate of the defendant therein, and execution may issue thereon as in other cases made and provided in relation to the filing of transcripts of justices' judgments.

Justices.

SECTION 7. Each justice of the peace of the village of Waupun whose term of office shall not have expired at the time this act shall take effect, may hold and exercise the duties of his office for the residue of the term for which he was elected, and shall exercise and possess the jurisdiction and power conferred by this act. And no justice of the peace for said city shall be elected under the provision of this act until the second municipal election held pursuant thereof, except in case of vacancy, in which case such vacancy shall be filled as herein provided.

Service of process.

SECTION 8. When any suit or action shall be commenced against said city, the service thereof may be made by leaving a copy of the process by the proper officer with the mayor, and it shall be the duty of the mayor forthwith to inform the common council, or to take such other proceeding as by ordinance or resolution of said council may in such case be provided.

Exempt from seizure.

SECTION 9. No real or personal property of any inhabitant of said city, or of any individual or corporation shall be levied upon or sold by virtue of any execution issued to satisfy any judgment rendered against said city.

Regulations relating to paupers.

SECTION 10. Such regulations in regard to paupers as now are, or shall be adopted by either of the counties of Dodge or Fond du Lac, shall apply to the ward of said city within such county, and the common council shall have power to raise by tax a separate fund

called a poor fund, in either ward of said city to carry out such regulations.

SECTION 11. The mayor and aldermen shall each receive for his services for each day actually and necessarily employed in the discharge of his official duty, the sum of two dollars, and at the same rate for portions of a day. Excepting for such services as can or shall be performed in council meetings, for which services no compensation shall be allowed, and all accounts against the city for their services shall be rendered under oath as other accounts against the city are required to be rendered, after the term of office of such mayor or alderman shall have expired, and not sooner, and shall be audited and allowed as are other accounts against the city, and said mayor and alderman or either of them are hereby prohibited from being in any manner interested in any job or contract made by the authority of said city. Compensation.

SECTION 12. Any officer of said city who shall willfully neglect or violate any of the duties enjoined upon him by this act, or by any ordinance of said city, or who shall be guilty of other malfeasance in office, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall forfeit and pay a sum not exceeding two hundred dollars. Penalty of officers.

SECTION 13. In all actions or proceedings, commenced before justices of the peace of said city, the summons, complaint, warrant or other process, may be entitled and directed substantially as is prescribed in this act for processes in violation of city ordinances, and it shall be sufficient if such summons, complaint, warrant or other process shall, in the body thereof, indicate or recite the county in which such justice shall hold his office. Direction of process.

SECTION 14. This act shall be considered a public act, and shall be construed favorably in all courts and places, and no general law of this state, contravening the provisions thereof, shall be construed as repealing, annulling or modifying the same, unless such purpose be expressly set forth in such law as an amendment to this charter. Construction of act.

SECTION 15. The common council shall have authority by ordinance to provide that any and all persons who shall be found guilty of the violation of any city ordinance for drunkenness, vagrancy, mendicancy, street begging, or for being an inmate or frequenter of a house of ill-fame, or for disorderly conduct, and shall neglect or omit to pay any fine or costs imposed there- Labor penalty.

for, that such person or persons shall work out such fine and costs upon the public streets of said city, or shall do any other work that such city may have or wish to be done, and the compensation therefor to be fixed by the common council, shall be deducted from such fine and costs thereon; and the common council may pass the necessary ordinances to carry out the provisions of this section.

Printing.

SECTION 16. It shall be the duty of the common council to let the printing for said city to the lowest responsible bidder. It shall also be its duty to cause the proceedings of the common council to be published from time to time, and at the end of its official year to cause an itemized statement to be published, in which shall appear the amount of money paid into the treasury of said city during their official year, and from what source received; and also the amount for which orders have been drawn, to whom, the amount to each person, and for what purpose, and shall also cause to be published the annual report of the street commissioner.

Surrender of office.

SECTION 17. All city officers shall, at the termination of their office, or upon removal, immediately deliver to their successors in office all property, money, books, papers and effects of every description in their possession belonging to the city or pertaining to the office they may have held: and any officer willfully neglecting or refusing so to do, shall be deemed guilty of a misdemeanor, and shall forfeit and pay a sum not exceeding two hundred dollars, and shall be liable to the city in a civil action for all damages caused by such neglect or refusal.

Village officers.

SECTION 18. All officers of the village of Waupun now in office shall hold their respective offices until their successors shall be elected or appointed and qualified under this act, and the term of every officer elected or appointed under this act shall commence on the second Tuesday of April of the year for which he was elected, except as is provided in this act.

License moneys

SECTION 19. All moneys derived from licenses issued by authority of the common council of said city under the provisions of this act or of the excise law of the state of Wisconsin, shall be paid into the treasury of said city for its benefit as a part of the general fund.

Power to remit tax.

SECTION 20. The common council shall have power to remit the tax upon any property illegally assessed, and shall also have power to remit any highway tax improperly levied.

SECTION 21. Every practicing physician in said city ^{Physicians.} who shall have a patient laboring under any malignant or infectious or pestilential disease shall forthwith make report thereof to the mayor of said city, and for neglecting so to do shall be considered guilty of a misdemeanor, and upon conviction thereof shall forfeit and pay a sum of fifty dollars, to be recovered for the benefit of said city.

SECTION 22. All acts and parts of acts conflicting with ^{Repealed.} or in any manner inconsistent with the provisions of this act, and chapter three hundred and eighty-one of the private and local laws of 1871, entitled An act to consolidate and amend chapter two hundred and seventy-seven of the private and local laws of 1857, entitled An act to incorporate the the village of Waupun and the several acts amendatory thereto, together with the original acts of which the said act was amendatory, are hereby repealed.

SECTION 23. This act shall take effect and be in force from and after its passage.

Approved March 15, 1878.

[No. 348, A.]

[Published March 16, 1878.]

CHAPTER 196.

AN ACT to provide for the improvement of streets by the common council of the city of Milwaukee.

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

SECTION 1. Whenever any remonstrance shall be presented to the common council of the city of Milwaukee, as provided in section thirty of chapter one hundred and forty-four, laws of Wisconsin for 1875, no action shall be taken by said council upon the resolution to which such remonstrance shall relate, unless within two weeks after the presentation of such remonstrance a majority of all the residents of said city owning lots or parts of lots fronting on the improvement proposed to be ordered, shall petition for the adoption of said resolution, and unless all the aldermen representing the ward or wards in which such improvement is proposed to be made shall concur in such petition, and shall certify that the public interest requires such improvement to be made, in which case said common

^{Mode of action upon remonstrances.}