

parts of acts, shall not, in any manner affect, injure or invalidate any contracts, claims, penalties or demands, that may have been entered into, performed, commenced, or that may exist under or by virtue, or in pursuance of the said acts, or any former act incorporating the city of Wausau, or any of them; but the same shall exist and be enforced and carried out and completed, as fully and effectually, to all intents and purposes, as if this act had not been passed.

SECTION 175. This act shall take effect and be in force from and after its passage.

Approved March 24, 1883.

[No. 277, A.]

[Published March 28, 1883.]

CHAPTER 152.

AN ACT to revise, consolidate and amend the city charter of the city of Fond du Lac.

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

CHAPTER 1.

CITY AND WARD BOUNDARIES.

SECTION 1. All that district of country included ^{Boundaries,} in the west half ($\frac{1}{2}$) of section two (2), and the west half ($\frac{1}{2}$) of the east half ($\frac{1}{2}$) of section two (2); all of section three (3); the east half ($\frac{1}{2}$) of the east half ($\frac{1}{2}$), and the east half ($\frac{1}{2}$) of the west half ($\frac{1}{2}$) of the east half ($\frac{1}{2}$) of section four (4); the east half ($\frac{1}{2}$) of the east half ($\frac{1}{2}$), and the east half ($\frac{1}{2}$) of the west half ($\frac{1}{2}$) of the east half ($\frac{1}{2}$) of section nine (9); all of section ten (10), and the west half ($\frac{1}{2}$) of section eleven (11); the west half ($\frac{1}{2}$) of the east half ($\frac{1}{2}$) of section eleven (11); the southeast quarter ($\frac{1}{4}$) of the southeast quarter ($\frac{1}{4}$) of section eleven (11); all of sections fourteen (14) and fifteen (15); the east half ($\frac{1}{2}$) of the east half ($\frac{1}{2}$), and the east half ($\frac{1}{2}$) of the west half ($\frac{1}{2}$) of the east half ($\frac{1}{2}$) of section sixteen (16); the north half ($\frac{1}{2}$) of the north half ($\frac{1}{2}$) of the northeast quarter ($\frac{1}{4}$) of the northeast quarter ($\frac{1}{4}$); and the northeast quarter ($\frac{1}{4}$) of the northwest quarter ($\frac{1}{4}$) of the northeast quarter ($\frac{1}{4}$) of section twenty-one (21); the north

half ($\frac{1}{2}$) of the north half ($\frac{1}{2}$) of the north half ($\frac{1}{2}$) of section twenty-two; and the north half ($\frac{1}{2}$) of the north half ($\frac{1}{2}$) of the north half ($\frac{1}{2}$) of section twenty-three (23); all in township fifteen (15) north, of range seventeen (17) east, in the Menasha land district, in the county of Fond du Lac, and state of Wisconsin, shall be known and designated as the city of Fond du Lac.

Ward
boundaries.

SECTION 2. The said city of Fond du Lac shall be and is hereby divided into eight wards, as follows, to wit:

FIRST WARD.

First.

All that portion of said city, described as commencing where the center of Second street intersects the east line of the city limits (being the east line of section fourteen (14), town fifteen (15), range seventeen (17)); thence south along said east line of the city limits, to the quarter ($\frac{1}{4}$) post, on the east line, on said section fourteen (14); thence west, along the quarter ($\frac{1}{4}$) line of said section fourteen (14), and the center of East Eighth street, to a point opposite the east line of out-lot thirty-eight (38), in the west half ($\frac{1}{2}$) of the northwest quarter ($\frac{1}{4}$) of said section fourteen (14); thence north, along the east line of said out-lot thirty-eight (38), to the center of Seventh street; thence west, along the center of Seventh street, to the center of Main street; thence south, along the center of Main street, to a point opposite the south line of lot twelve (12), block one (1), Darling's addition number three (3); thence west, along the south line of lots twelve (12), three (3) and seventeen (17), of said block one (1), to the east branch of the Fond du Lac river; thence westerly and northerly, along the center of said east branch, to the center of Second street; thence east along the center of Second street, to the place of beginning.

SECOND WARD.

Second.

Commencing where the center line of Second street intersects the east line of the city limits; thence running west, along the center of Second street, to the center of the east branch of Fond du Lac river; thence northerly, along the center of said east branch, to the center of Merrill street; thence easterly along the center of Merrill street, and the same line produced to the east line of the city limits; thence south and east, along said line of the city limits, to the place of beginning.

THIRD WARD.

Commencing where the center of Western Avenue intersects the east branch of the Fond du Lac river; thence northerly along the center of said east branch to the center of Merrill street; thence west along the center of Merrill street to the center of Tallmadge street, or Tallmadge street extended; thence north along said Tallmadge street to the center of Russell street, or Russell street extended; thence west along the center line of Russell street and the same line extended to the west line of the city limits; thence south along the said west line of the city limits to a point opposite the center of Western Avenue extended; thence east to Western Avenue and along the same to the place of beginning.

FOURTH WARD.

Commencing where the center of Cotton street intersects the center of the Fond du Lac river; thence southerly along the center of said Fond du Lac river to the center of Russell street; thence east along the center of Russell street, or Russell street extended, to the center of Tallmadge street, or Tallmadge street extended; thence south along said Tallmadge street to the center of Merrill street; thence east along the center of Merrill street and the same line extended to the east line of the city limits; thence north along said east line of the city limits to a point opposite the center of Cotton street; thence west to Cotton street and along the center line of the same to the place of beginning.

FIFTH WARD.

Commencing where the center of Cotton street intersects the center of the Fond du Lac river; thence northerly along the center of said river to lake Winnebago; thence easterly along the shore of said lake Winnebago to the east line of the city limits; thence south along said east line of the city limits to the center line of Cotton street extended; thence west to Cotton street and along the center line of the same to the place of beginning.

SIXTH WARD.

Commencing where the center of Russell street intersects the center of Fond du Lac river; thence

northerly along the center of said river to lake Winnebago; thence westerly along the shore of said lake Winnebago to the north line of the city limits; thence west along said north line of the city limits to the west line of the city limits; thence south along said west line of the city limits, to the center line of Russell street extended; thence east to Russell street and along the center line of the same place to the place of beginning.

SEVENTH WARD.

Seventh. Commencing at the intersection of the center of Western avenue and the center of the east branch of the Fond du Lac river; thence west along the center of Western avenue, and the same extended to the west line of the city limits; thence south along said west line of the city to the south line of the city; thence east along said south line of the city to the north and south quarter line of section twenty-two (22) in said city; thence north along said quarter line and the north and south quarter lines of section fifteen (15), to a point in the center of the east branch of the Fond du Lac river, where the east line of lot five (5), block three (3), Brushes' addition extended, would intersect the same; thence northerly along said east branch to the place of beginning.

EIGHTH WARD.

Eighth. Commencing on the east line of the city at the quarter post in the east line of section fourteen (14), town fifteen (15) north, range seventeen (17) east; thence west along said quarter line and the center line of Eighth street, to the east line of out-lot thirty-eight (38), in the west half ($\frac{1}{2}$), of the northwest quarter ($\frac{1}{4}$), of section fourteen (14); thence north along said east line of out-lot thirty-eight (38), to the center of Seventh street; thence west along the center of Seventh street to the center of Main street; thence south along the center of Main street to a point opposite the south line of lot twelve (12), block one (1), Darling's addition number three (3); thence west along the south line of lots twelve (12), three (3), and seventeen (17), same block, to the east branch of the Fond du Lac river; thence westerly along the center of said east branch to the north and south quarter lines of section fifteen (15); thence south along said quarter line and the quarter line of section

twenty-two (22), to the south line of the city; thence east along said south line of the city to the east line of the city; thence north along said east city line to the place of beginning.

SECTION 3. The common council shall have authority to change, alter or modify and reduce in number the wards, but not to increase the number thereof, provided such change or alteration or reduction of the number thereof, be first authorized by a two-thirds vote of the members of the common council elect, and ratified by the electors of the city by a vote thereon, as provided by section 17, of chapter 18, of this act.

Change of wards.

CHAPTER 2.

CORPORATE NAME AND POWERS.

SECTION 1. The inhabitants now residing, and all who shall hereafter reside, within the district of country described in chapter 1 of this act, shall be a municipal corporation of the name of "the city of Fond du Lac," and shall possess the general powers of municipal corporations at common and statute law, and in addition thereto, shall possess the rights and privileges, and be subjected to the liabilities, rules and regulations hereinafter specifically granted and prescribed.

Corporate authority.

SECTION 2. The authorities of such corporation shall have perpetual succession, and in the name of said corporation may sue, and be sued, complain and defend, in all courts; make and use a common seal, and alter it at pleasure, and may receive, by bequest, gift, grant, devise, and may purchase, hold and convey, contract and be contracted with, all such real and personal estate now, heretofore or hereafter to be owned by said corporation, as the purposes of the corporation may require.

General and special powers.

CHAPTER 3.

CITY AND WARD OFFICERS.

SECTION 1. The officers of said corporation shall consist of a mayor, three aldermen from each ward, president of the council (who shall be elected by and from the members of the common council), city treasurer, city clerk, city attorney, sidewalk superintendent, health commissioner,

City and ward officers.

chief of police, policeman, fire marshal, one or more assistant fire marshals, city surveyor and engineer, sealer of weights and measures, superintendent of poor, purchasing agent, two justices of the peace, two constables, three assessors, and superintendent of schools. There shall also be one school commissioner and one supervisor in each ward of said city, and such other officers and agents as may be provided for by this act, or deemed necessary by the common council of said city.

Elective and appointive.

SECTION 2. The mayor, city treasurer, justices of the peace, assessors and constables shall be elected at the annual municipal election, by the electors at large; the aldermen and supervisors shall be elected by the electors of each ward, for their respective wards, at the time of the annual municipal election. All other officers and agents shall be appointed by the common council, at its meeting on the first Monday after the general municipal election, or at such other time, within two weeks thereafter, as the council may determine, and as often as may be necessary to fill vacancies; provided, that the superintendent of schools shall be elected by the board of education, at the first meeting thereof, in each year, or as soon thereafter as may be prescribed.

Terms of office.

SECTION 3. One alderman shall be elected annually in each ward of said city. They shall hold their office for three years, the last two years of which term they shall serve as members of the common council, and during the last year thereof, they shall be chairman of the board of aldermen of their respective wards. Their term of office, as well as that of the mayor, shall commence on the first Monday after the first Tuesday in April. The aldermen, now in office, shall continue therein during the term for which they have been respectively elected. The school commissioners shall hold their office for two years, and one shall be appointed for each even numbered ward, every even numbered year, and one for each odd numbered ward, every odd numbered year; and those now in office shall continue to hold office during the term for which they have been respectively appointed. The justices of the peace shall hold their offices for two years. All other officers of the city and wards, including that of Mayor, shall hold their offices for one year. And all officers

shall hold office until their successors be elected and qualified, and their term of office, except as herein otherwise provided, shall commence on the first day of May, when not otherwise designated by the council.

SECTION 4. In case of any vacancy, in any of the offices, provided for in this act, the common council may fill the same, for the unexpired term of such office, except that vacancies in the office of justices of the peace, occurring ten days prior to any municipal election, shall be filled at the municipal election next ensuing, and until so filled by election, the common council may appoint a suitable person, temporarily, to such office.

SECTION 5. Every officer, or agent, who shall be appointed by the common council, may be summarily removed, by a vote of two-thirds of all of the members of the common council elect, and the office declared vacant. No other officer shall be removed from office, except for good cause, nor unless furnished with charges, and an opportunity given such officer to be heard in his defense. The common council shall have power to compel any and all persons in said city, to appear before it, and testify in any hearing or proceeding, instituted to remove from office any officer mentioned in this act, or any agent, under said city government, for any violation of duty, or of any provisions of this act, or of any ordinance, resolution, rule, order, regulation, or by-law, of the common council of said city, either of omission, or commission, and such violation shall be cause for removal; and to revoke and vacate any license, granted under this act, and for that purpose, said council may make its order, commanding the person, or persons, therein named, to appear before it and testify, which order shall be certified by the clerk of the said city, under the corporate seal thereof, and personally served on the person, or persons, therein named, by delivering to each a true copy thereof, and for the purpose of compelling such appearance before it, and the giving of the testimony on such hearing, or proceeding, the said common council is hereby vested with the same power and authority, possessed by any court of record in this state, and any violation, or disobedience to the commands, or requirements, of a subpoena, issued out of any court of record in this state. The common council shall proceed to

Vacancies.

Removal from office.

Proceedings in removal.

said hearing, within ten days from the service of the charges upon the officer so charged, and may adjourn from time to time, as may be deemed necessary, and if such officer neglects to appear, and answer to such charges, or if such charges are sustained, then the common council may declare such office vacant. Any officer may be suspended until the disposition of the charges, when so preferred.

Penalty for failure to deliver to successor.

SECTION 6. All city or ward officers, at the expiration of their term of office, or upon their resignation, removal or vacation from office, shall immediately deliver to their successor in office all property, moneys, books, papers and effects of every description in their possession, belonging to the office they may have held. Any person who may have held an office, neglecting or refusing so to do, for twenty-four hours after the presentment, by his successor, of the city clerk's certificate of his successor's election or appointment and qualification to the office, shall forfeit and pay to the use of said city, for every twenty-four hours' refusal, the sum of one hundred dollars (§100), and all damages and costs incurred, either by the said city or his successor, by reason of such neglect or refusal.

Council to fix salaries.

SECTION 7. The common council shall, at its first meeting after the annual municipal election, or as soon as may be thereafter, by resolution, fix the salaries and compensation to be paid to such of the city officers and employes, elected or appointed under the provisions of this act, as are entitled thereto; provided, that no salary or compensation having been once fixed, shall be increased to any officer or employe during his term of [office] or employment, unless by the unanimous consent of all the members of the common council elect.

Salaried officers.

SECTION 8. The compensation to be paid to the city treasurer, city clerk, city attorney, sidewalk superintendent, superintendent of schools, health commissioner, superintendent of poor, shall be established and paid by annual or monthly salaries. All other officers, to whom any compensation is by this act provided to be paid, may be established and paid by the day, week, month or year.

May consolidate supt. of poor and purchasing agent.

SECTION 9. The common council shall, at any time, have the power and authority to consolidate the offices of superintendent of the poor and pur-

chasing agent; and require the duties pertaining to each office, to be performed by the same person, under such title and name as may be designated.

SECTION 10. Whenever any officer of said city has any moneys, or other securities or property in his hands belonging to the city, or to the office he holds, or shall make report of any such moneys or securities, or other property being in his possession, it is hereby made the duty, and express authority is hereby given the common council, or any committee appointed for that purpose, to actually count said moneys or personally examine such securities, or other property belonging to said city, or to any such office, for the purpose of ascertaining the correctness of any statement set forth in any such report, or for the protection of the interests of said city.

Council to
count funds.

CHAPTER 4.

ELIGIBILITY TO OFFICE AND QUALIFICATIONS OF OFFICERS.

SECTION 1. No person shall be eligible to any office of said city unless he shall be a resident elector of said city, nor to any of the ward [offices] unless he be a resident elector and freeholder of the ward for which such officer is to be chosen, and otherwise qualified to perform the duties of the office to which he may be elected or appointed; and whenever any person, elected to any city office, shall remove from the city, or any ward officer shall remove from the ward, in which he holds office, he shall be deemed thereby to have vacated his office.

Residence of
officers.

SECTION 2. Every person elected or appointed to any office of said city, or the wards thereof, shall, before he enters upon the duties thereof, take and subscribe the oath of office prescribed by the constitution of the state, before some proper officer, and file the same with the city clerk, within ten days after notification of election.

Oath of office.

SECTION 3. The city clerk, city treasurer, chief of police, justices of the peace, constables, city attorney, sidewalk superintendent, superintendent of the poor, purchasing agent, and such other officers as the common council may direct, shall severally, before they enter upon the duties of their respective offices, execute to the city of Fond du Lac, a bond, with at least two sufficient sureties,

Who to give
bonds.

Condition of
bonds.

which bond, shall contain such penal sum and such conditions as the common council shall prescribe. Such bonds, together with the affidavits of the sureties hereinafter provided, shall be filed with the city clerk and recorded in books, in his office for that purpose.

Sufficiency of
sureties, etc.

SECTION 4. The sufficiency of the sureties upon bonds, provided for in the next preceding section, may be determined by the affidavits of the sureties, severally taken, in which affidavits, it shall appear that said sureties, in the aggregate, are worth, in property, over and above all debts, exemptions and liabilities, the penal amount of such bond, or the common council may, in any other manner, aside from the affidavits of such sureties, determine their responsibility and sufficiency, and either accept or reject such sureties, or require other or additional sureties.

Council may
require other
bonds.

SECTION 5. The common council shall, at any and all times, have the power to require other or additional official bonds, and other or additional sureties thereon, at any time during the official term of any officer of said city.

Neglect to file
bond.

SECTION 6. Every person elected or appointed to any office in said city, who shall neglect to take and file with the city clerk, his oath of office, as herein required, or neglect to file his official bond as provided by this act, or as may be required by the common council, within fifteen days after notification of election or appointment, such office shall be deemed vacant, and the vacancy shall be filled as provided in this act.

Officers incom-
petent as
sureties.

SECTION 7. No city or ward officer shall be accepted as surety upon any bond, note or obligation made to the city.

Members of
council not to
hold other
offices.

SECTION 8. No aldermen or member of the common council, while holding such office, shall be appointed to, or be competent to hold any office of which the compensation is paid by the city, nor shall he, or any other officer of the city, be interested, either directly or indirectly, in any contract, as principal or as partner with a principal, or as surety or otherwise, the expense or consideration whereof, or any part of the sum, is to be paid by the city.

Discharge or
release from
official bonds.

SECTION 9. No person who may have held a city or ward office, or shall have given an official bond to said city, nor any person who shall have signed such official bond as surety, shall be dis-

charged or released from liability on said bond, until such person who shall give such official bond, shall have secured from his successor in office, and filed the same with the city clerk, an acknowledgment in writing, stating the receipt in cash, of all moneys belonging to the city, as well as all other property of every nature belonging to, or in which the city may be interested, and all books, records, papers and documents belonging, or in anywise appertaining to the office which such person had held, and thereupon the common council may, if such receipt or acknowledgment be correct, grant to such person making application therefor, a release and discharge of himself and his sureties from his official bond; provided, that such release and discharge shall have no force or effect if said person, his successor in office, any surety or sureties, or any other person or persons, have made any misrepresentations, practiced any fraud or deceit in connection therewith.

CHAPTER 5.

ELECTIONS.

SECTION 1. The annual municipal election of said city, shall be held on the first Tuesday of April in each year, for which purpose one place in each ward shall be procured and designated as election polls, by the aldermen of the proper ward, and notice thereof shall be given by the said aldermen for at least ten days prior to said election, by publication in some newspaper printed in said city, and by posting the same in three conspicuous places in each ward, which notices shall be signed by the aldermen of the ward in which the same are to be posted, and shall designate the time and place where the polls will be opened.

Municipal elections, when held.

Notice of.

SECTION 2. The elections in said city, shall be held and conducted by inspectors and clerks, to be appointed as prescribed by the general laws of the state relating to elections, and shall have the same power and authority as therein prescribed.

Manner of conducting.

SECTION 3. Every inhabitant, qualified by law to vote at a general election, and who shall have resided in the city for thirty days next prior thereto, shall be entitled to vote in the ward in which he resides, for all officers provided by this act to be so elected.

Qualified electors.

Polls.

SECTION 4. The polls of election in each ward, shall be kept open from nine o'clock in the morning until five o'clock in the evening, without intermission or adjournment; and when the polls shall have been closed, the inspectors, without adjourning, shall canvass the votes received at such polls, and make returns thereof, in writing, duly signed, stating therein the number of votes received for each person for a designated office, and the whole number of votes received, and such returns shall by them be delivered together, with the oaths of the inspectors and clerks, and the poll lists kept by them, to the city clerk, to be filed in his office within twenty-four hours after closing the polls.

Ballots.

SECTION 5. All elections shall be by ballot; a plurality of votes shall constitute an election; and the names of all officers voted for shall be upon one ballot.

General election laws, when applicable.

SECTION 6. Except as herein otherwise provided, so far as the same are applicable, all of the laws relating to general elections, as to the qualification of electors, the manner in which elections shall be conducted, the qualifications and appointment of inspectors and clerks of election, the making of poll lists and returns, and the punishment of illegal or fraudulent voting, or attempting to vote, and for fraudulent or illegal returns, and any other fraud or wrong designated under the general election laws, shall apply to [all] elections provided for by this act; provided, that the registry law shall not be applicable to elections herein provided for.

Registry law.

First meeting of council.

SECTION 7. On Thursday next after the election herein provided for in each year, at 7:30 o'clock P. M., the common council shall meet at the council rooms in said city, and the returns of the inspectors of the various wards shall be produced by the city clerk, whereupon the common council shall forthwith canvass said returns, and determine and declare, by the greater number of votes appearing by said returns to have been cast at said election, who are elected for each of the city and ward officers as were voted for, or any or either of them, and the council shall thereupon cause a report of such determination to be made and entered upon the minutes of said council. Within twenty-four hours after such determination, the city clerk shall cause certificates of elec-

Who shall canvass votes.

City clerk to notify persons elected.

tion to be served upon the persons so declared to be elected, personally, or by depositing the same, enclosed in an envelope, with the postage paid and properly directed; provided, that the city clerk shall at the same time certify to the clerk of the circuit court, the names of the persons so elected justices of the peace, constables, and all officers authorized to administer oaths and take acknowledgments of instruments in writing, and the terms for which they were respectively elected.

Returns to be certified.

SECTION 8. When two or more candidates for an elective office, shall receive an equal number of votes for the same office, the election shall be determined by casting lots, in the presence of the common council, at such time and in such manner as said council may direct.

In case of tie.

SECTION 9. Every justice of the peace and constable elected or appointed by virtue of this act, shall file such oath of office and bond necessary to qualify, before entering upon the discharge of the duties of such office, as is prescribed by the general statutes for such officers in the several towns.

Oaths and bonds of justices and constables.

SECTION 10. Upon the filing the oath of office and the filing and approval by the common council of any bond by any officer of the city, as in this act required, the city clerk shall, upon demand, execute and deliver to the person so entitled, a certificate of his election and qualification to the office to which he has been elected or appointed.

Certificate.

CHAPTER 6.

POWERS AND DUTIES OF THE COMMON COUNCIL.

SECTION 1. The municipal government of said corporation shall consist of a common council, composed of the mayor and the two senior aldermen from each ward. The common council shall annually meet on the first Monday after the annual municipal election, at 7 o'clock P. M., and at such other times, not less than once in each month, as it shall by resolution appoint. The mayor, or in his absence or inability to act, the president of the council, for any good reason, may call special meetings by notice to each of the members, to be served personally, or left at their usual place of abode. The common council, at any regular or special meeting, shall have power to adjourn the same to such time as it may deem proper.

Who constitute the common council.

Annual meeting.

Special.

- Mayor to preside.** SECTION 2. The mayor, when present, shall preside at all meetings of the common council, and in his absence or inability so to do, the president of the council shall preside. In the proceedings of the common council, each member present shall be entitled to a vote; provided, that the mayor shall be entitled to a vote, only in case of a tie vote by the members present, but no appropriations nor appointments to office, shall be made except by the vote of a majority of all the members elect.
- Tie vote.**
- Council to determine rules.** SECTION 3. The common council shall determine the rules of its proceedings not inconsistent with any of the provisions of this act, and shall be the judges of the election and qualification of its own members. A majority of the members elect shall constitute a quorum for the transaction of business, and may compel the attendance of absent members, and in case of the refusal of absent members to attend for three successive meetings, the common council may declare the office of the member so refusing, vacant.
- Quorum.**
- Ayes and noes.** SECTION 4. If required by one member present at any meeting of the common council, the vote upon any ordinance, resolution or question pending before such meeting, except the appointment of officers, shall, when taken, be taken by the yeas and nays of all the members present, and a record of such votes shall be entered at large in the minutes of the council.
- Further duties.** SECTION 5. The common council shall have the power, from time to time, to require other and further duties to be performed by any officer, whose duties are herein prescribed, and to prescribe the duties of such other officers as may be appointed, whose duties are not herein prescribed, and to fix the compensation, either elected or appointed.
- Council to have charge of city property.** SECTION 6. The common council shall have the general control of all the property, both real and personal, belonging to the city.
- Boards of health.** SECTION 7. The common council shall also have power at, and for such times as may be necessary, to organize a board of health, and to provide measures for the preservation of the health of the inhabitants of said city, and to prevent the spread of infectious or pestilential diseases therein. The board of health shall consist of the junior alderman of each ward, the mayor, who shall be its

president, and the health commissioner; each member of the board of health shall have such powers and perform such duties as the common council, by ordinance or otherwise, shall direct. The city clerk shall be *ex officio* clerk of the board of health. The common council may, by ordinance, authorize the board of health, or any member thereof, to make and enforce such orders, rules and regulations, not inconsistent with the charter or any ordinance of said city, as they shall deem most effectual for the preservation of the public health; but no order, rule or regulation of said board, imposing a penalty, shall take effect and be in force, until the same shall have been published in a newspaper published in said city, as required for the publication of ordinances. Until said board of health shall be appointed and organized, and during the time said board is not in existence, the health commissioner shall exercise and possess all of the powers of said board.

Duties of.

SECTION 8. The common council shall have the power to continue, make, modify and repeal such ordinances, resolutions, regulations or by-laws as may be necessary to carry into full effect all the powers conferred upon it by this act. In every such ordinance, resolutions, regulations or by-law passed by said common council, it may impose such penalty for the violation thereof, or any part thereof, by fine not exceeding two hundred dollars (\$200); and if not paid with the costs, by imprisonment in the county jail of Fond du Lac county, not exceeding six months, or by imprisonment in the police station or other place provided by the common council for the detention or imprisonment and punishment of persons committing offenses, not exceeding three months; and shall have the power by such ordinances, resolutions, regulations or by-laws and with such penalties aforesaid:

How laws and ordinances to be passed.

Penalties.

Enforce by imprisonment.

1st. To preserve peace and good order, and to restrain and prevent vice, immorality, and every kind of fraudulent device and practice.

Preserve peace.

2d. To restrain, prevent and suppress, houses of ill-fame, and all places of prostitution, and disorderly and gaming houses, billiard tables, and all instruments and devices for gaming, and to authorize the destruction and demolition of all instruments and devices, used for the purposes of gaming, and to punish the occupants and fre-

Houses of ill-fame.

quarters of such houses and places, and to prohibit the occupation of any room, building, or any part thereof, within said city, for that purpose.

Vagrants, etc. 3d. To restrain and punish, vagrants, mendicants, street beggars, drunkards, and persons soliciting alms, keepers of houses of ill-fame, common prostitutes, bawds, and disorderly persons, and to prevent drunkenness, and disorderly, and immoral conduct, and obscenity in public places and streets, and to provide for arresting, removing, and punishing, any person, or persons, who may be guilty of the same.

Noise and disturbance. 4th. To prevent any riots, noises, or public disturbances, and all disorderly assemblies.

Intoxicating drinks. 5th. To license, prevent, or regulate, the sale and giving away, of ardent, spirituous wines, malt, fermented and intoxicating liquors, or drinks, within the city.

Taverns, etc. 6th. To license and regulate taverns, saloons, victualing houses, and all persons vending, or dealing in ardent, spirituous, wines, fermented, or intoxicating drinks of any kinds, including ale and beer, and prescribe the amount to be paid for such license, and the time when it shall expire, by limitation, or for a violation thereof; and to revoke any license at pleasure, and require as a condition of granting any license, such bond, and with such conditions, as the common council may direct; provided, that no license shall be granted, in violation of any general law of the state, nor shall the amount of license fixed in any case, be less than the amount required by the general law of the state, in like cases.

Drunkenness. 7th. To restrain drunkards, immoderate drinking, or obscenity of language, or conduct, in the streets, or public places of the city.

Prevent sale to persons designated. 8th. To prevent the sale or giving away of any spirituous, ardent, wines, fermented or intoxicating liquor or drink, including beer and ale, by persons having license for the sale of liquors, to any person whom the council may designate.

Slaughter houses. 9th. To prohibit or regulate the erection or continuance of slaughter houses in said city, and to cause the removal thereof.

Nauseous and unwholesome places. 10th. To compel the owner or occupant of any grocery, meat market, tallow chandler's shop, soap factory, tannery, stable, privy, sewer, drain or other unwholesome or nauseous house or place, to

cleanse, remove or abate the same as often as, and whenever the common council, health commissioner, or board of health, shall deem it necessary for the health, comfort or convenience of the inhabitants of the city, and for the prevention of disease.

11th. To require the removal of any putrid or unwholesome meat, fish, hides or skins, or any decaying substance of any kind, by any person owning or occupying the premises on which the same may be found, and in case of his default to do so, within such time as may be prescribed by the council, to cause the removal thereof, and the expense thereof, shall be a lien upon the lot or premises upon which the same were found, to be enforced, as hereinafter provided. Nuisances.

12th. To prevent, restrain, remove and abate nuisances.

13th. To prevent any and all persons, from casting into the Fond du Lac river, or either branch thereof, within the limits of the city, or leaving upon the bank thereof, any offal, dead animals, filth or rubbish, and to punish any person or persons doing the same. Rivers.

14th. To prevent the digging, excavating or making of holes or places below the natural surface of the ground, wherein stagnant water or other noxious or unwholesome matter may accumulate, and to cause the filling up, cleansing or purifying of any such holes or places, by any person who may have caused, made, or in any way assisted in making the same, and in case of the default in the filling up, cleansing or purifying thereof, within such time as may be prescribed by the common council, to cause the same to be so filled up, cleansed or purified, and the expense thereof shall be a lien upon the lot or premises upon which the same existed, to be enforced as hereinafter provided. Excavations.

15th. To prohibit any person from bringing or depositing within the limits of said city, the dead carcass of any horse or dog, or the putrid carcass of any animal, filth or rubbish, or any unwholesome thing. Carcasses.

16th. To prevent and prohibit the manufacture, keeping or storing of nitro-glycerine, and to regulate the keeping and storing of gunpowder, gun cotton, burning fluids, coal oils and other dangerous explosive materials, in said city, and to pro- Explosives.

vide for the inspection of illuminating oils and fluids.

Fire-arms and
fire crackers.

17th. To prohibit, restrain or regulate the discharge of fire-arms, and the explosion of gunpowder and guncotton, and the firing of firecrackers and fireworks of any kind within the city.

Lights in barns.

18th. To regulate the use of candles and lights, in barns, stables, shops and out-buildings.

Remove snow,
dirt, etc.

19th. To compel all persons to remove the dirt, snow and ice from the sidewalk in front of the premises occupied or owned by them, and to keep the streets swept in front of such premises, and to prevent the encumbering of the streets, sidewalks and crosswalks with carriages, wagons, carts, sleds, sleighs, wheelbarrows, boxes, wood, lumber, timber or other substances or materials whatsoever, and to prohibit excavating on streets, or the raising or lowering the surface of streets, crosswalks or sidewalks, above or below the established grade, or the interference in any manner with the established grade of streets, and to prohibit the raising of any portion of a sidewalk to a higher grade than the portion adjoining, unless with the consent of the common council, and to prohibit injury to sidewalks.

Encumbering
streets.

Unfastened
horses.

20th. To prohibit the leaving of any horse, mule or team on any street without being securely fastened or hitched.

Awnings and
signs.

21st. To regulate and control the erection of awnings and awning posts; to prevent the erection of signs and sign posts in the streets or over the sidewalks; and to provide for and compel the erection and maintenance of safe and convenient hitching posts, and places for fastening teams, at such point or points, as the council may deem necessary.

Hitching posts.

Dogs.

22d. To prevent and regulate the running at large [of] dogs, and to destroy them, and to impose a tax upon the owners or possessors of dogs.

Contagious
diseases.

23d. To require, and cause the removal from thickly inhabited parts of the city, of all persons having contagious diseases.

Exhibitions.

24th. To prohibit, restrain and regulate, all exhibitions of natural or artificial curiosities, caravans of animals, theatrical shows or performances, circuses, and all other public exhibitions or performances for money, and to require, fix the amount, and provide for the collection of license

Fees for any and all such public exhibitions or performances.

25th. To regulate, restrain and prohibit the ringing of bells and the crying of goods, wares and merchandise, or other commodities in the streets of said city. Ringing of bells.

26th. To impose and collect license fees, not exceeding the sum of two hundred dollars (\$200) per annum of each auctioneer, and commissions on the sale of goods, wares, merchandise or other personal property by auction, and to punish any person acting as auctioneer without a license, or refusing to report sales by auction. Auctioneer.

27th. To regulate and restrain hawking and peddling in the streets. Peddlers, etc.

28th. To establish and regulate a market or markets in said city; to restrain and regulate the sale of fresh meats, fish and vegetables, and to select places for the sale of hay, wood, straw, grain, lumber, lime, and all other articles offered for sale from wagons, sleighs, or vehicles, and cause the same to be weighed, measured or inspected, and to establish and collect fees for such weighing, measuring or inspection, and to prohibit under penalties, the sales of all such articles at any other place or places. Markets, etc.

29th. To establish and regulate public pounds. Public pounds.

30th. To restrain and prohibit the running at large of cattle, horses, mules, sheep, swine, geese, and fowls in said city, and to cause such as may be found running at large, to be impounded, and to have a lien thereon for all fines, penalties, costs, poundage and damage done thereby, and to cause the same to be sold, to discharge the said liens, and to punish the owners of such animals and fowls found running at large. Restrain cattle.

31st. To prevent and punish horse racing, and immoderate driving, or riding in the streets or highways; to require all persons driving horses with sleighs or cutters in the streets of said city, to carry bells either upon the horses or other animals, to warn other persons using said streets, and prevent and punish persons playing any game or doing any act having a tendency to frighten horses, or annoy persons passing in, or along the streets or highways, or endanger property. Horse racing.

32d. To compel railroad companies and other corporations and persons, to do all needful and ~~other~~ draining, grading and filling upon the Teams on streets.
Railroads.

lands owned or occupied by them, within the limits of said city; to compel railroad companies to construct and keep in repair, suitable street crossings and carriage ways over their several tracks, and place flagmen at such street crossings, in said city as said council may designate; to regulate and restrain the speed of cars in passing through said city, and to prevent such cars from passing at a greater rate of speed than six miles per hour through said city, and to prevent the obstruction of streets, lanes and highways by the cars of said companies, and to regulate the putting up of all necessary signs to beware of the cars, at railroad and street crossings.

False weights. 33d. To prevent the use of false weights or measures.

Record of mortality. 34th. To direct and require the keeping of records of mortality by physicians, sextons and others, and to prevent all undertakers or other persons from burying any dead without a permit from the health commissioner.

Shade trees. 35th. To protect shade trees and direct and compel and regulate the planting, rearing and preservation of shade or ornamental trees in the streets and public grounds in said city.

Publication of ordinances. SECTION 9. Every ordinance or by-law imposing any penalty or forfeiture, for a violation of its provisions, shall, after the passage thereof, take effect at such time as the common council shall direct, and shall be published once in a weekly newspaper printed and published in said city, or may, if [so] directed by the common council, be published in a daily newspaper printed in said city, and in cases where the common council shall so direct, such by-laws and ordinances shall take effect from the day of the first publication thereof.

SECTION 10. The common council shall have authority, by ordinances, resolutions, or by-laws:

Manage finances. 1st. To manage and regulate the finances, and to regulate, preserve and dispose of the property, real and personal, belonging to the city.

Purchase of real estate. 2d. To purchase all such real estate, or other property, as may be required for the use of such city, for public uses; provided, the cost thereof shall not exceed the amounts previously limited therefor.

Levy taxes. 3d. To adopt all legal and requisite measures for levying taxes and assessments, general and special.

4th. To lay out, establish, open, extend, widen, straighten, improve, alter, close, vacate or abolish highways, streets, avenues, or alleys, in said city, or to authorize and empower any person, or corporation, so desiring, to build and maintain a street-railway, to be operated by horse-power, upon any of such streets, or highways, for a term of years, subject to such restrictions, as the common council may deem for the best interests of the city, and to grant the powers and franchises necessary therefor.

Lay out streets.

Street railways.

5th. To purchase and lay out public parks, or squares, or grounds, and improve the same.

Parks.

6th. To provide for public lighting of said city, and for the lighting of all buildings owned, occupied, or used by said city, by gas, electric light, or other means. To make contracts with persons, or corporations, to supply, or furnish light, for such uses and purposes. To provide and maintain for said purposes, by purchase, lease, or otherwise machines, towers, posts, apparatus, lamps, or either, or any of them, and other materials and supplies, and if necessary for that purpose, to occupy and use such portion of any street, sidewalk, alley, or other property, on which to erect towers, poles, wires, or other apparatus, in connection with such public lighting. To provide, by lease, buildings, rooms, and the motive power for operating such machines and apparatus. To hire, or procure, necessary labor, or services, and to protect and preserve the public lamps, and any, or all of the property aforesaid, and to punish those injuring the same.

Public lighting

Lease buildings for motive power.

7th. To establish, make, regulate, preserve, and protect public reservoirs, pumps, wells, hydrants and fountains in said city, supply them with water, and construct all necessary water works for such purposes, and for the general supply of the inhabitants, and to pay for the same, and to prevent the unnecessary waste of water therefrom, and regulate and control the use thereof.

Fountains

8th. To establish, construct and build all necessary drains, sewers and gutters, and maintain the same.

Sewers and drains.

9th. To fix up, widen, straighten, deepen, drain, dress, or otherwise improve or abate any and all sloughs, ravines, water courses, and wet places in the limits of said city.

Water courses.

Rivers. 10th. To widen, deepen, straighten, dress, cleanse, fill up, or otherwise improve, either or both of the branches of the Fond du Lac river, and any or all the rivers, creeks, streams, ravines, or water courses in any part or parts of the same, within the limits of the city.

SECTION 11. The common council shall have power, by ordinance or resolution:

Fire limits. 1st. To create a fire district, or fire limits within said city, and from time to time alter and enlarge the same, and to prevent the erection of wooden and other combustible buildings or erections within such boundaries, and to prevent any material enlargement of any wooden or other combustible building, or erection, already within such boundaries, whether made under color of repairing the same or otherwise, and to ordain penalties to be incurred for each and every violation of such ordinance or resolution, and to provide, if the council see proper, that each day's labor, or part of a day's labor, on such erection or enlargement, after notice to cease, given by the mayor, any alderman, or by direction of the common council, shall be and constitute a separate violation of such ordinance or resolution.

Thickness of walls. 2d. To control and regulate the manner of erecting brick or stone walls, and the thickness of the same, and to prohibit or require the removal of any such as they may deem dangerous to the life, or injurious to property.

Razing buildings. 3d. To provide for the razing or demolition of any building or erection, which, by reason of fire or any other cause, may become dangerous to life or health, or may tend to extend a conflagration.

Removal from dangerous places. 4th. To prevent or require the removal of, and remove all persons from houses or premises which are dangerous to the health or lives of persons.

Filling up low places. 5th. To provide for the filling up of all wells, fountains, cisterns, reservoirs, and the stopping the flow of any water upon any lot or place which may be found to be unwholesome and dangerous to the health, or life of any person.

Power and right cumulative to enforce by injunction. **SECTION 12.** The common council shall also have the power and right cumulative, to the remedy given in the last section, to bring suit in the name of the city of Fond du Lac against the owner, or occupant, or contractor violating such ordinance or resolution, as may be enacted under the provisions of the last section, or any or all

of them, to compel them, or either of them, by injunction, to refrain and desist therefrom. And a complaint, duly verified, showing a violation in fact, or a threatened violation of the provisions of any ordinance or resolution, passed or created and in force under the provisions of the preceding section, by the defendant or defendants in such complaint named, shall entitle the complainant to preliminary injunction, as of course.

SECTION 13. The fire district, or fire limits existing in said city, at the time of the passage of this act, with the ordinances and resolutions relating thereto, shall remain and be in force, until changed or abolished by the common council.

Present fire limits.

SECTION 14. The common council shall have power to procure fire engines and other apparatus for the extinguishment and prevention of fires, and have the charge and control of the same; and also, to purchase, lease, erect or provide secure places for the keeping of all fire apparatus and fixtures; also,

To preserve fire apparatus.

1st. To prescribe the duties of the fire marshal and all persons connected with the fire department, and to make rules and regulations for their government, and to impose reasonable fines and forfeitures for a violation of the same.

Prescribe duties of fire marshal, etc.

2d. To employ suitable persons to operate, manage and have the care of such engines and apparatus and property, and fix their compensation; and to purchase or hire teams or tackle for the use and operation of said engines and apparatus.

Firemen.

3d. To provide for the management and protection of the fire engines, hose, hooks, ladders and all the apparatus and fixtures for the extinguishment and prevention of fires, belonging to the city.

Care of engines.

4th. To compel the owners or occupants of houses or other buildings to have scuttles in the roofs, and stairs or ladders leading to the same, and suitable fire escapes therefrom.

Scuttles in roof.

5th. To prevent the deposit of ashes in unsafe places, and to cause all buildings and enclosures, as may be in a dangerous state, to be put in a safe condition.

Ashes.

6th. To regulate and prevent the improper construction and unsafe conditions of chimneys, fire places, hearths, stoves, stove pipes, ovens, boilers and apparatus now in and about any buildings or

Chimneys, etc.

manufactory, and to cause the same to be removed or put in a safe condition.

**Dangerous
manufactories.**

7th. To regulate and prevent the carrying on of manufactories dangerous in causing or promoting fires.

**Suspicious persons
at fires.**

8th. To authorize the mayor, aldermen, police, firemen and other officers of the city to keep away from the vicinity of any fire, all idle and suspicious persons, and to compel all persons in said city to aid in the extinguishment of fires and the protection and preservation of property thereat.

**Examination
of places.**

9th. To authorize and require any person appointed for that purpose to enter all buildings and enclosures at proper times, to ascertain whether the arrangements for fire, or the preservation of ashes are dangerous, and to cause such as are dangerous to be put into a safe condition.

**Contract work
to lowest bidder.**

SECTION 15. The common council shall let by proposals to the lowest bidder and not otherwise, all contracts for services or work, and materials or supplies, and order payment for the same, except as is specifically otherwise provided by this act, and may, from time to time, require any officer to furnish reports, information or estimates and to perform other and further duties than herein prescribed, if the council shall deem that the interests of the city so require. The provisions of this section shall not apply to any purchase or contract made under subdivision 6, of section 10, of this act, except as to the leasing of the motive power for operating any machines or apparatus

Public lighting.

for lighting, and as to the purchase or contracts for the erection of towers, posts, lamps or other contrivances upon which lights are to be elevated or located. But no contract under the provisions of said subdivision 6, shall be made for the purchase, lease or use of any machines, towers, posts, lamps, engines or apparatus for lighting, without a condition in such contract, that the common council may, at its option, at any time within sixty days after the same are fully completed, and after the commencement of the use thereof, in actual lighting, reject such machines, towers, posts, lamps, engines or apparatus, and rescind such contract if not satisfactory to the common council. And no contract for the purchase of any such machines, towers, posts, lamps or apparatus shall be made, or if made, shall be of any

legal validity against the said city, without a condition therein, that no part of the purchase money therefor, shall be paid or be collectible until the vendor to, or contractor with the city, for such machines, towers, posts, lamps or apparatus, shall furnish the city a good and valid bond of indemnity in [a] penal sum of twice the purchase or contract price for such machines, towers, posts, lamps or apparatus, executed by, at least, three sufficient sureties, residents of this state, who shall justify thereon, in the form prescribed, for appeals to the supreme court, in an aggregate sum. of at least, twice the amount of the penal sum named in such bond and approved by the common council, to fully protect the city from all loss, damages, costs, expenses or interruptions in the use of such machines, towers, posts, lamps, or apparatus, occasioned by any suit in law or equity, against the city or its officers, agents, servants or employes, brought by any party who shall have a paramount or prior patent, interest or title which the use of such machines, towers, posts, lamps or apparatus, infringes; provided, that the provisions of this section shall not apply to the repairs to be made to any gas lamps or posts, which may have been erected or placed in position.

SECTION 16. All private, local or general laws heretofore passed, granting to any individuals or corporations the exclusive right and authority to light the streets and public places of said city with gas, or other illuminating light, are hereby repealed, and the said common council shall in no way be restricted in procuring any and all kinds of light, from any and all persons with whom it may make contracts, according to the terms and conditions herein named.

Exclusive right repealed.

SECTION 17. The common council shall have power, by ordinance or resolution, to cause all out and in lots within said city, of less size than ten acres each, that have not been platted and recorded by the owner or owners thereof, as required by law to be platted and recorded, and to tax the charges for the platting and recording thereof, against the lot or lots so platted and recorded, to be collected in the same manner as other special city assessments and taxes.

Platting and recording lots.

SECTION 18. The common council may cause all streets, highways, alleys, lanes, side and crosswalks, culverts, drains, sewers, public places in the

Surveying to be done.

said city, to be surveyed and described, and the established height of all grades of streets or sidewalks, to be recorded in books to be kept by the city clerk for that purpose, and to cause maps to be made and filed with the city clerk. Such records and maps, when so filed, shall be *prima facie* evidence of the facts therein described and portrayed, in all actions and places between the city and other persons, touching their location and the facts therein or thereon represented.

CHAPTER 7.

OFFICERS, THEIR DUTIES AND POWERS.

Duties of mayor.

When may summarily suspend officers.

Suppress riots.

Control police.

SECTION 1. The mayor shall be the chief executive officer of the city. He shall see that all laws relating to the peace and good order of the city, as well as the ordinances of the city, are enforced, and shall exercise a constant supervision over all other officers of the city. He shall receive and examine into all complaints against all subordinate officers for misconduct, inefficiency or neglect of duty, and may, when the interests of the city are in danger of being impaired, summarily suspend such officer until the next meeting of the common council, at which time the mayor shall make report to the common council of his action in writing, setting forth all of the facts and circumstances in relation thereto, and the common council may dispose of the matter in the same manner as hereinbefore provided, for the removal of persons from office. He shall recommend from time to time to the common council, such measures as he shall deem expedient and necessary for the welfare of the city. He shall possess all the power and authority conferred upon mayors of cities, by the general law of this state. He shall have power, with force, if necessary, to suppress all tumults, riots, and unlawful assemblies, all revelling, quarrelling or other disorderly conduct, to the disturbance or annoyance of the peaceable inhabitants of the city. He shall have control, subject at all times to be restricted by the common council, of the chief of police and the entire police force of the city. He shall have power to admit to, or to discharge without bail, any and all persons arrested by the police force of the city, without warrant. He shall have power to administer oaths or affirmations, and to take and certify ac-

knowledgments of deeds, or other instruments in writing authorized to be taken by the laws of this state. He may call special meetings of the common council, by order in writing, to be filed with the city clerk, and when such order is filed, it shall be the duty of the city clerk to serve, or cause to be served, on all of the members of the common council, a copy thereof, personally or by leaving the same at the place of residence, or business of each member to be served. He shall communicate to the common council, as soon as practicable after his election, and as often thereafter as he shall deem expedient, a general statement of the affairs of the city in relation to its finances, government and improvement. He shall possess all such other powers, and perform all such other duties as are incident to, and are necessary for the faithful discharge of his duties under this act.

Communicate
state of city to.

SECTION 2. The president of the council shall possess all of the powers, and perform all of the duties, of the mayor, in his absence or inability to act. He shall be *ex officio*, president of the board of education, he shall attend all meetings of the board of education, and preside thereat, and may act as one of a committee, and participate in the deliberations of the board, but shall not be entitled to vote therein, except in case of a tie vote, when he may give the casting vote.

President of
council, his
duties.

SECTION 3. The city clerk shall attend all the meetings of the common council, and keep a correct record of its proceedings. He shall have custody of the corporate seal, and of all the papers and records of the city, that by provision of law, or by direction of the common council, are required to be kept in his office, or filed by him. He shall see that all ordinances, orders, resolutions, notices and other matters requiring publication, are promptly and correctly published in such paper as the council may have directed, and that due proof thereof be made and recorded, as in this chapter provided. He shall record all papers and proceedings required by any of the provisions of this act, to be recorded in his office. He shall be clerk of the board of education, and serve in the capacity of clerk of all such boards or committees as the common council may direct. He shall attest all orders drawn upon the treasury, and sign all licenses granted by the common

City clerk, his
duties.

council, and keep correct records thereof, in books provided for that purpose, in such manner as may be designated by the common council. He shall keep a detailed account of the financial condition of the city; of the amounts expended through orders drawn upon the treasury; of all balances remaining unexpended; of the condition of any fund or separate appropriation for particular purposes; of the amounts received into the city treasury, as appears by reports of the treasurer, and all other facts desired by the common council, at any regular meeting, or at any other time. He shall do and perform any other or further act or service, in relation to any details in the matter of keeping books of account, records or proceedings, which the common council may, by ordinance or resolution, require. He shall make copies of the assessment roll of the city, as may be required by the law of the state or common council. He shall keep a record in detail of the bonded indebtedness of the city, in such manner as will show the amounts required to be paid each year for interest and principal, or to invest in a sinking fund. He shall, before the levy of any annual tax by the council, make report of all amounts in detail, which the city will be required to pay towards any indebtedness, and such facts and statements of past expenditures, as will enable the council to make proper estimates for tax levies. He shall keep a record of all the proceedings in matters relating to the condemnation of private property for public use, all proceedings in any improvement by which the expense, or any portion thereof, shall be chargeable to any real estate. He shall have power to administer oaths and affirmations, and may, when authorized by the common council, appoint a deputy city clerk, who, when so appointed, shall possess all the powers and authority of city clerk. The city clerk may, in addition to his salary, receive such fees for filing chattel mortgages and making certified copies of the same, or for any service in the connection with his office, not in this act specified, or hereafter required by the common council.

City treasurer,
his duties.

SECTION 4. The city treasurer shall receive, and safely keep until lawfully paid out, all moneys belonging to the city, and keep accurate and detailed accounts thereof, with an accurate account of all disbursements, in such manner as the com-

mon council shall direct. He shall collect all licenses, duties, commissions and moneys due the city, all general and special taxes, and assessments, which may be lawfully charged, levied or assessed upon the real and personal property in this city, and chargeable therewith, and exercise the the same powers, and be subject to the same liabilities, as treasurer of towns, except when a special direction and duty is imposed by this act. He shall pay all orders drawn upon the treasury, by authority of the common council, or as may be required under any special provision of this act. He shall report to the common council, at the end of each month, the actual amount of money in the treasury, together with the amount of money received and paid out. He shall accompany such reports with all orders, redeemed and paid by him, which said account and orders, with any and all other vouchers held by him, shall be delivered over to the city clerk, and filed in his office, after the same shall have been examined by the common council. He shall, at the end of his official term, or oftener, as may be required by the common council, make a detailed report of all the transactions of his office, and at the end of his term of office shall thereupon deliver over to his successor in office, all money or property belonging to the city, as well as all books, records, papers, or documents in any way pertaining or belonging to the office. The treasurer shall, in addition to the duties herein enumerated, do and perform all the duties provided to be done and performed by him in any portion of this act.

SECTION 5. The city attorney shall conduct all the law business of the city, and of every branch thereof, and all other business in which the city shall be interested, and when requested by the common council, or the mayor of the city, shall furnish opinions in writing, upon any question submitted for his consideration. He shall keep an official record of all actions in courts, in which the city shall be a party, which shall show, in brief, every proceeding had in the case, and which shall always be open to the inspection of the mayor, or any committee of the common council. He shall, when required by the mayor or common council, draft all papers, connected with the business of city, all ordinances, resolutions, and notices required by the common council, and do

City attorney,
his duties.

and perform in addition to the duties herein enumerated, all other duties elsewhere prescribed in this act.

Engineer and surveyor, their duties.

SECTION 6. The city engineer and surveyor, shall be a practical engineer and surveyor; he shall keep his office at some convenient place within the city, and the common council shall prescribe his duties by ordinance or resolution. All surveys, plans, profiles and estimates made by him for the city, shall be the property of the city, and shall be carefully preserved in the office of the clerk, and open to the inspection of all parties interested, and all books and papers pertaining to said office, shall be turned over by such officer, at the expiration of the term, to the common council, by deposit in the office of the clerk.

Supervisors, their duties.

SECTION 7. The supervisors elected by this act, shall be members of the county board of supervisors, and as such, shall have the powers of the chairman of the board of supervisors, in the several towns of this state, except as qualified by the provisions of this act, and in case of any vacancy, in either of the wards, in said office, the common council may supply the same by appointment, and the person so appointed, shall have all the powers, and discharge all the duties of the office of supervisor.

Justices of the peace, their duties.

SECTION 8. The justices of the peace elected under this act, shall have the same jurisdiction and perform all the duties of justices of the peace, as provided by the general laws of this state, and in addition thereto, may sentence persons convicted of any violation of the city laws or ordinances, who shall refuse to pay the judgment of the court therefor, to imprisonment in the police station or county jail, as in this act provided.

Assessors.

SECTION 9. The assessors elected under this act shall, in all things pertaining to their offices, be governed by the same laws as assessors under the general laws of this state, and their compensation shall be established by the common council.

Constables.

SECTION 10. The constables elected under this act shall have the same powers, and be subject to the same liabilities, as constables of the several towns of this state, and they shall qualify in like manner.

Aldermen, their duties.

SECTION 11. The aldermen of the wards shall be *ex-officio*, street commissioners in their respective wards. They shall have a general supervision

of the streets and public ways, parks, sidewalks and drains in their respective wards, and shall from time to time, whenever it becomes necessary or expedient, make application to the common council for authority to have constructed, graded, improved and repaired, such streets, public ways, parks, sidewalks, drains, sewers and other public places, except as herein otherwise provided. They shall have the same powers and authority, in respect to the division and line fences between lots and lands in the city, as the fence viewers of towns, provided for by the general laws of this state.

SECTION 12. The sidewalk superintendent shall make constant and careful inspection of the sidewalks, pavements, bridges, culverts, drains and other public ways and places, in all parts of the city, and whenever or wherever he shall find any defect or want of repair therein, he shall make an entry of the fact, together with the extent of such defect or want of repair, in a book for that purpose, and if it be such as is made chargeable to any real estate, to describe in such record the particular description of such real estate, and all other facts which may be necessary to describe the said defect, the particular location thereof, and how, and in what manner such defect or want of repair shall be remedied. If such defect or want of repair be found to exist in a sidewalk, and will not cost to exceed three dollars (\$3.00) to remove or put in repair, he shall forthwith notify in writing, the owner or occupant of the premises adjacent, and to which said sidewalk shall belong, of the said defect or want of repair, and require in said notice, such owner or occupant, to repair or remove the same within twenty-four hours after service of said notice, and if such defect shall not, within said twenty-four hours be repaired or removed, the sidewalk superintendent shall forthwith make, or cause to be made, such repairs, or remove such defect, in as expeditious and economical a manner as may be, without any further notice or proceedings, and the costs and expense thereof, shall be and remain a lien until paid, upon the lot, part of lot or parcel of land in front of, or chargeable with the maintenance of said sidewalk, upon which the defect or want of repair existed. When the same shall be completed, he shall make a bill of the expense thereof, present it to said ad-

Sidewalk superintendent, his powers and duties.

jacent owner or occupant, and receive and receipt the amount thereof, if paid. If not paid, or if such owner be a non-resident of the city, he shall immediately make such affidavits as is required by section 1, of chapter 14, and file the same with the city clerk, as therein provided. He shall keep a strict account of all moneys collected and paid out, all work done and materials furnished by him in the execution of his duties, and report the same at the first of each month, and file such report with the city clerk. He shall, at the same time, pay over to the city treasurer, all money which may be collected by him. If any defect or want of repair shall exist in a bridge, or any obstruction, accumulations of snow, ice, rubbish or dirt, which will impede, interrupt or prevent travel thereon, or tend to injure or impair said bridge, the cost and expense of which, will not exceed three dollars (\$3.00), he shall cause the repair thereof, or removal of such obstructions, as soon possible, and make report thereof. If, in the opinion of said superintendent, the cost thereof shall exceed the sum of three dollars (\$3.00), he shall report the same at once to the city clerk, and the common council shall at once provide for the repairing thereof, or removing such obstructions and accumulations. If any defect or want of repair shall exist in any street, or public way or place other than on sidewalks, he shall at once report the same to the chairman of the board of aldermen of the proper ward. If any sidewalk shall have thereon any accumulation of snow, ice, or any obstruction impeding the use thereof, by persons walking thereon, it shall be the duty of said superintendent to immediately order in writing, the owner or occupant of the premises in front of which said snow, ice or obstruction is found, to remove the same within such reasonable time as said superintendent may prescribe in such order. If the person so ordered shall fail or neglect to obey such order, the said superintendent shall immediately cause the same to be done, and make affidavit as is required by section 1, chapter 14, of this act, and file the same with the city clerk. In case any sidewalk, street, or any part thereof, or other public place in said city, is found by said superintendent to be dangerous to persons passing on or over the same, on foot or in vehicles, it shall be such duty of such superintendent to

cause such dangerous portion of such sidewalk, street or other public place, to be closed or guarded in such manner, as will prevent the use thereof for public purposes, until the same shall be caused to be repaired or rendered in a safe condition.

SECTION 13. The chief of police and policemen shall perform such duties and possess such powers and authority, as is hereinafter provided, in the chapter relating to the police department. Chief of police and policemen.

SECTION 14. The health commissioner shall perform such duties and possess such power and authority as is hereinafter provided, in the chapter relating to the board of health. Health commissioner.

SECTION 15. The superintendent of schools and school commissioners, shall perform such duties and possess such power and authority, as is hereinafter provided in the chapter, relating to the department of education. Superintendent of schools.

SECTION 16. The superintendent of the poor, shall have the general superintendence of the poor in the city, and shall have such general powers and perform such duties as are provided by the general statutes of the state, to be had and performed, by town supervisors as officers of the poor. He shall have power to make contracts for such help and assistance to such poor people as may require the same, with any charitable institution in said city, and cause such amounts to be paid, from moneys provided for that purpose, as may be just and proper. He shall make report to the common council monthly, of the amounts expended for the relief or support of the poor, together with the names and residences, if known, of the persons receiving such relief or support. He shall, when acting as purchasing agent of the city, perform such duties as may be prescribed by the common council. Superintendent of poor.

CHAPTER 8.

ORDINANCES AND RESOLUTIONS.

SECTION 1. Every ordinance or resolution of the common council (except in the special instances in this chapter provided) shall, before it takes effect, be presented, duly attested by the city clerk, to the mayor; if he approves it, he shall sign it, in which case it shall take effect immediately, unless otherwise provided for, in the ordinance or Approval of ordinances of mayor.

resolution. But if the mayor do not approve it, he shall, within three days thereafter, file in the office of the city clerk his reason, in writing, stating why the same should not go into effect; in which case such resolution or ordinance shall not go into effect or have any legal operation, unless at the next regular meeting of the common council it shall be re-passed, by a vote of two-thirds of all the members elect, exclusive of the mayor; and if it be re-passed, or if the mayor omit to file his reasons aforesaid, it shall go into effect according to its terms; provided, no ordinance or resolution shall be in force, until it shall have received, at least, one publication in either a daily or weekly newspaper published in said city, and proof of such publication, by the affidavit of the foreman, printer or publisher of such newspaper, be filed with the city clerk; and the ordinance or resolution, and the proof of the publication thereof, be recorded in books provided for that purpose.

Publication of proof.

Evidence of passage and publication.

SECTION 2. The record of every ordinance or resolution, with the proof of the publication thereof, made as provided in the preceding section, and certified copies of such record, shall be received as evidence in any and all courts of this state, as proof of the proper passage and publication of such ordinance or resolution.

Present ordinances not in conflict, in force.

SECTION 3. All ordinances and resolutions now in force in said city, not conflicting with the provisions of this act, shall continue and remain in full force until repealed, changed, or otherwise altered by the common council.

CHAPTER 9.

PROCEDURE FOR VIOLATIONS OF ORDINANCES, LAWS, ETC.

Actions for penalties.

SECTION 1. The city of Fond du Lac may sue for and recover, any and all penalties, or forfeitures, under the charter of said city, or any amendment thereto, or the ordinances, by-laws, police, or health regulations, made in pursuance thereof, in the corporate name of said city of Fond du Lac, any general law of the state to the contrary notwithstanding, and such action shall be commenced by complaint, substantially in the following form:

Form of warrant.

STATE OF WISCONSIN, }
 City and County of Fond du Lac. } ss

— — — — —, being duly sworn, complains on oath, to — — — — —, that — — — — — did, on

the _____ day of _____, 18—, violate the _____ section of an ordinance, by-law, or resolution (describing it by its title, and briefly setting forth the offense complained of), which said _____ is now in force, as this deponent verily believes, and prays that said _____ may be arrested, and held to answer to the said city of Fond du Lac therefor.

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

It shall be sufficient to give the number of the section or sections, and the chapter, or title, of the ordinance, by-law, regulation, or resolutions, or of the law violated, in such complaint, briefly setting forth the offense complained of, and said complaint may be sworn to, before any officer authorized to administer oaths, in this state. Upon the filing of said complaint with the judge or justice having jurisdiction, a warrant shall issue thereon, substantially as follows:

Statements in complaint

STATE OF WISCONSIN, }
 City and County of Fond du Lac. } ss.

Form of warrant.

The state of Wisconsin, to the sheriff or any constable of said county, or to the chief of police, or any policeman of the city of Fond du Lac, greeting:

Whereas, _____ has this day complained to me, in writing, on oath, that _____ did, on the _____ day of _____, 18—, violate the _____ section, or sections, of an ordinance, by-law, regulation, or law (describing it by its chapter, or title, and briefly setting forth the offense complained of), which said _____ is now in force and effect, as said complainant verily believes. Therefore, in the name of the state of Wisconsin, you are hereby commanded to arrest the body of the said _____, and him forthwith bring before _____, to answer to said city of Fond du Lac, on the complaint aforesaid.

Given under my hand, this _____ day of _____, 18—.

The defendant in any such action, may be arrested upon service of the warrant or process by which the action is commenced. Upon the return of the warrant, the court may proceed summarily with the case, unless it be continued by consent or for cause, as in other cases provided by law. If

Trial and proceedings.

the cause be adjourned, the defendant, if required by the courts so to do, shall recognize with surety for his appearance, in such sum as the court shall direct; or in default thereof, may be put in charge of the officer who made the arrest, or be committed to the common jail of Fond du Lac county or to the city police station. The complaint made aforesaid, shall be the complaint in the action, and the plea of not guilty, shall put in issue all matters of defense in the action.

Printed charter and ordinances in evidence.

SECTION 2. A printed copy of an ordinance, by-law or resolution, passed by the common council, and published in a newspaper, or in pamphlet or book form, shall be *prima facie* evidence of its due passage and publication, and that the same is in force, and may be received in evidence. After issue joined and before trial, in all city cases, the defendant may demand a jury; and if no demand of a jury be made, it shall be deemed a waiver of a jury trial.

Witnesses and jurors to attend without fees advanced.

SECTION 3. Witnesses and jurors shall attend in all city prosecutions, without the payment of fees in advance, upon process of the court, duly served, and in default thereof, their attendance may be enforced by attachment. In case the jury, after being kept a reasonable time, should disagree, they shall be discharged, and thereupon the court shall adjourn the cause to a day certain, and issue a new venire as aforesaid.

Verdict or finding, relating thereto.

SECTION 4. In city prosecutions, the finding of the court or jury shall be, guilty or not guilty. If guilty, the court shall render judgment thereon against the defendant for the fine, penalty or forfeiture, and where the same is not to exceed a certain sum, and not less than a certain other sum, shall fix the amount of such fine, penalty or forfeiture as he shall deem best, within the provisions of such ordinance, by-law or resolution, for the violation of which the person or persons shall have been adjudged guilty, and for the costs of suit. If not guilty, the costs, as in actions in justice's court, shall be taxed against the city, but no attorney's fees shall be taxed for, or against the defendant in any such suit, execution shall issue forthwith upon the rendition of the judgment, unless the same be stayed or appealed as hereinafter provided, and the fine or penalty imposed by the court, may be enforced and collected by levy and sale, on execution, of the property of

the defendant, as provided by law in civil actions before a justice of the peace.

SECTION 5. The execution upon any judgment recovered in any such action, may require that in case nothing shall be found from which the amount can be collected, the defendant shall be taken and imprisoned in the jail of Fond du Lac county, for a term of not exceeding six months, or in the police station, not exceeding three months, unless the judgment be sooner paid, and the term of such imprisonment shall be inserted in the execution and commitment. And said execution and commitment may require the defendant to perform hard labor, during the term of such imprisonment. In case nothing be found from which the amount can be collected, the defendant shall be imprisoned in the jail of Fond du Lac county, or in the police station, according to the terms of the execution. Such execution may be in the following form:

Execution, what to require relating there to.

STATE OF WISCONSIN, }
 City and County of Fond du Lac, } ss.

Form of execution.

The state of Wisconsin, to the sheriff or any constable of said county of Fond du Lac, the chief of police or any policeman of said city, the keeper of the common jail of said county, or the keeper of the police station:

Whereas, the said city of Fond du Lac, on the _____ day of _____, 18—, recovered a judgment before the _____, of said _____, against _____, for the sum of _____ dollars (\$—), together with _____ dollars (\$—), costs of suit, for the violation of (here insert the number of section, chapter or title of the ordinance and offense, as set forth in the complaint). These are therefore, in the name of the state of Wisconsin, to command you to levy distress on the goods and chattels of the said _____, (excepting such as the law exempts), and make sale thereof according to law in such case made and provided, to the amount of said sums, together with your fees, and twenty-five cents (25c) for the execution; and the same return to me within thirty days; to be rendered to the said _____, for said judgment and costs, and for want of such goods and chattels whereon to levy, to take the body of the said _____, and him convey and deliver unto the keeper of the common

jail of said county, or to the keeper of the police station of the city of Fond du Lac, who is hereby commanded to receive and keep the _____, in safe custody, in said _____, and at hard labor for the term of _____, unless the aforesaid sum and all legal expenses, be sooner paid and satisfied, or until he be discharged thence, by due course of law.

Given under my hand, this _____ day of _____, 18—.

Fines when collected to be paid into the treasury.

SECTION 6. All penalties, forfeitures, fines or claims due to said city, when paid to the magistrate authorized to receive the same, shall be paid by him to the city treasurer, within one month after the receipt thereof, by him. Whenever execution shall be issued upon any judgment in favor of the city, the same shall be returned by the officer receiving the same, to the judge or justice who issued it, on or before the return day thereof, and if such officer neglect to return the same, for five days after the return day thereof, the judge or justice, shall report the fact to the city treasurer, who shall cause an action to be brought in the name of the city, against the officer and his sureties for the default.

Appeals, how taken.

SECTION 7. Appeals shall be allowed in all said cases to the county court, and taken in the same manner as appeals from justices of the peace. The defendant in all city prosecutions, may appeal to the county court of Fond du Lac county, by filing an affidavit and bond, and complying with the requirements of appeals in civil cases before justices of the peace; provided, however, that such appeal shall be taken and perfected within forty-eight hours from the time judgment is rendered in the suit. Upon any appeal being taken and allowed the judge or justices shall stay all further proceedings in the case, and the defendant, if in custody, shall be discharged, and the judge or justices shall transmit the papers in the case so appealed, with a transcript of his docket, to the county court, within the time and in the manner prescribed, in cases appealed from justices of the peace.

Officers fees to be paid by city when collected.

SECTION 8. The jail fees, and officer's fees, if any, for commitment on prosecution in behalf of the city, shall be audited and allowed by the common council, when the same cannot be collected of the defendant, before his discharge; and said

common council may by resolution direct the judge or justice, to discharge from the jail or police station any person confined for 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 a certified copy of such resolution, attested by the city clerk, the judge or justice, shall order such defendant discharged from custody, and make an entry of such discharge on his docket; an execution may issue or be renewed by indorsement from time to time, before or after the return day thereof, and before or after the commitment, of the defendant, until the judgment is satisfied or released; but after the defendant shall have been once committed, no execution shall be issued against the body of the defendant in the same action.

CHAPTER 10.

FINANCES AND TAXATION.

SECTION 1. The fiscal year of the city of Fond du Lac, shall commence on the first Monday of April. Fiscal year.

SECTION 2. All moneys, credits and demands belonging to the city of Fond du Lac, shall be kept by and deposited with the city treasurer, and be under control of the common council, and shall only be drawn upon orders signed by the mayor and city clerk, duly authorized by a vote of the common council, and in no other manner; provided, that the school fund may be drawn out, as provided by other provisions of this act, and all resolutions adopted by the common council authorizing the expenditure of moneys, shall appropriately specify the amount to be expended, and no extra or additional compensation shall be allowed or paid on any contract, or on account of any contract, or to any officer, contractor, person or persons, for any service or work done, or material furnished to, or for the city. City funds to be with treasurer.

SECTION 3. No debt shall be contracted against the city, or certificate of indebtedness be drawn upon the city treasury, unless the same shall be authorized by a majority of all the members elect of the common council, and the vote authorizing the same, shall be entered by ayes and nays, upon the journal of the common council, except in No debt to be made unless authorized.

such cases as may be specially provided for in this act.

Dues and licenses to be paid into the treasury.

SECTION 4. All forfeitures and penalties accruing to the city for violation of this act, or of any of the ordinances, by-laws, rules and regulations of the city, and all moneys received for licenses and insurance percentage, and from all other sources, for the city, shall be paid into the city treasury and become part of the general fund; and all moneys received for tuition of scholars under this act, shall be paid into the treasury and become part of the school fund.

Orders, how drawn.

SECTION 5. All orders drawn upon the treasury of the city, shall be made payable to the order of the person in whose favor they may be drawn, and shall be transferred only by indorsement. Each order shall specify upon its face the purpose for which it was drawn, and from which fund the same is to be drawn, and the same shall be payable out of the proper fund, and all such orders shall be received in payment of any municipal tax levied and assessed.

No interest on orders unless authorized.

SECTION 6. No interest shall be allowed or paid, on any city order or certificate of indebtedness, unless the same is expressly authorized by the common council, by a vote of a majority of all the members elect.

Authority to levy a tax.

SECTION 7. For the discharge of any legal debt of the city, or expenditure authorized by the common council, under any of the provisions of this act, or ordinance of the city, to defray the current expenses thereof, the common council shall have power, by ordinance or resolution:

Two and one-half per cent. for general fund.

1st. To annually levy a tax not exceeding two and one-half ($2\frac{1}{2}$) per cent. on the assessed value of all real and personal property in the city, made taxable by the laws of the state, to defray the contingent and other general expenses of the city, which tax shall belong to the "general fund."

Twelve mills for school fund.

2d. To annually levy a tax not exceeding twelve (12) mills on the dollar, on such assessed value aforesaid, to meet the expenses of purchasing grounds for school buildings, building and repairing of school houses, purchasing school apparatus and fixtures, and supporting and maintaining schools within the city, and which shall constitute the "school fund."

3d. To annually levy a tax, on such valuation

aforesaid, of not exceeding one (1) mill on the dollar, which shall constitute the "library fund." One mill for library fund.

4th. To annually levy and collect, a tax of one (1) per cent., on such valuation aforesaid, to pay the interest accruing on the general bonded indebtedness of the city, and to provide a sinking fund to pay the bonds of said city as they mature, and for compromising bonds heretofore issued, and which shall constitute the "bond fund." One per cent. for bond fund.

5th. To annually levy and collect a tax on such valuation aforesaid, not exceeding two (2) mills on the dollar, which constitute the "poor fund" Two mills for poor fund.

SECTION 8. All corporations, companies and associations, by their respective underwriters or agents, engaged in said city in effecting fire insurance, shall account and pay to the city treasurer, the two per cent. upon the amount of all premiums which shall have been received or agreed to be paid for insurance, at the times and in the manner and form prescribed or provided for, by section 1926, revised statutes. Insurance tax two per cent.

SECTION 9. Real estate exempt by the laws of this state from general taxation, shall be subject to special taxes for the building of streets, sewers, sidewalks, repairing and cleaning of sidewalks, removal of nuisances, and such other work and labor for which a special lien is given, and the making of local and general improvements, and all the property of the city shall be subject thereto; provided, that the property of the city shall be exempt from all taxation, except such special tax. All real estate liable to special taxes.

SECTION 10. The assessors of the city shall annually proceed to make an assessment roll, of all the real and personal property liable to taxation therein, keeping the property in each ward separate and distinct from every other, at the times, in the manner, and in all things conforming to the provisions of the general laws of the state, relating to the assessment and collection of taxes. Assessors to make assessment roll annually.

SECTION 11. The common council of said city shall have power to provide, in the manner hereinafter prescribed, for a semi-annual collection of all taxes provided to be raised for municipal purposes which they are authorized to levy, by virtue of this act, except special certificates, delinquent taxes, and taxes levied upon lots, parts of lots or parcels of land upon which any unpaid taxes for Council has power to provide for the semi-annual collection of taxes.

a previous year or years, or part of a year, shall remain unpaid.

Extension of
one-half of mu-
nicipal taxes.

• SECTION 12. All taxes, whether municipal, general or special taxes, shall be due and payable, as provided by the general statutes of this state, but the common council of said city shall have the power and authority to provide, and so embody said provision in the tax warrant to the annual tax roll, that any person, persons or corporations, except non-residents of said city, and persons removing therefrom before the 1st of February in each year, against whom or against whose property, whether real or personal, any tax shall be levied for municipal purposes, except for special tax certificates, who shall pay to the city treasurer of said city, one-half of the taxes so levied and assessed against such person, persons or corporation for municipal purposes of said city, and all state and county taxes, and all liens or assessments for special tax certificates, all taxes, tax certificates and prior assessments or liens for taxes, remaining unpaid or uncanceled on such property, if any such person, persons or corporations so paying aforesaid, on or before the 1st day of February in each year, shall be entitled to an extension of the time, for the payment of the remaining one-half of said municipal taxes, until the first day of August next ensuing, and the treasurer of said city shall be, and he is hereby authorized and empowered, to give receipts to any such person, persons or corporation, so paying as aforesaid, showing the amount so paid; provided, that all persons or corporations who shall pay, or cause to be paid, on or before the first day of February in each year, all taxes and tax liens, special certificates, or any tax or assessment chargeable to, or on any personal or real estate owned by them or either of them, shall be entitled to a discount of three per centum, on the one-half of the said municipal taxes, so provided to be extended.

Failure to pay
taxes.

SECTION 13. If any person, persons or corporation shall fail or neglect to pay, or cause to be paid, one-half of the said municipal taxes so levied and assessed, and fail and neglect to comply with the provisions of the next preceding section, in the manner therein specified, or who shall fail and neglect to pay, or cause to be paid, any of said taxes described and set forth on the said tax roll, within the time specified by the laws of this state,

in which any tax can be paid, the sum shall be collected, and such proceedings had, as is provided by the laws of this state, for the collection of unpaid taxes upon real and personal property.

SECTION 14. No provisions herein contained, shall be so construed as limiting or qualifying the right or authority of the city and county treasurer, to enforce the collection of all unpaid taxes upon both real and personal property, owned by persons who shall fail and neglect to pay, or cause to be paid, the one-half of the municipal taxes as aforesaid, and perform the conditions hereinbefore provided, in the manner prescribed in this chapter.

Powers of treasurer on failure to pay taxes.

SECTION 15. Every person or corporation who shall be entitled to the privilege of an extension payment of one-half of the municipal taxes, as hereinbefore provided, and who shall have paid the said one-half on, or before the said first day of February, who shall fail or neglect to pay the remaining one-half of said municipal taxes, by the first day of August next thereafter, shall be liable to and shall pay, and the said city treasurer shall add to such taxes, ten per centum of the amount thereof as penalty for such non-payment, and if such taxes, together with said penalty, be not paid by the first day of September next thereafter, the said city clerk shall place the same, together with ten per centum aforesaid on the next general tax roll, in a separate column for that purpose, so that the amount of said tax, and said ten per centum shall be separately represented thereon as charged to the same person, or to the same property, as on the previous tax roll, and the same proceedings shall be thereafter had, as is provided by the general statute law of this state, for the collection of taxes.

Failure to pay last half.

SECTION 16. The common council of the city of Fond du Lac is hereby authorized and empowered, by ordinance or resolution, to issue new bonds for readjusting the bonded indebtedness of said city, and retiring all or any portion of its present outstanding bonds, to an amount not exceeding the principal of the outstanding bonds so retired.

Refunding outstanding bonds.

SECTION 17. The bonds issued under this act, shall be in such form, proper to carry out the conditions of the ordinances, or resolutions, under which they shall be issued, as the common council shall prescribe; shall be signed by the mayor

Form and condition of new bonds.

and city clerk, and sealed with the corporate seal; shall bear interest, at the rate of not to exceed six per centum per annum, payable annually, or semi-annually, as the common council shall prescribe; and be made payable, at some stated place, within the state of Wisconsin, in not to exceed twenty years from the date thereof; and shall bear date, and draw interest from the date of the retiring of said outstanding bond, or bonds.

New bonds limited to refunding purposes.

SECTION 18. Such new bonds shall not be issued for any purpose, excepting the special purpose of refunding the present bonded indebtedness of said city; and shall be sold for not less than their face value, and the proceeds shall only be used for the discharge of the principal of any of the outstanding bonds of the city, or they may be exchanged for the principal of any outstanding bonds of the city, at a par value of such new bonds, and in no case shall the bonded indebtedness of said city be increased by said exchange; nor shall any amount of bonds be sold, unless an equal amount of the principal of outstanding bonds shall then be payable, or offered for sale, exchange, or redemption, and be actually and simultaneously exchanged or redeemed.

Provisions of ordinances in relation to taxes therefor.

SECTION 19. Such ordinance, or resolution, shall provide for the collection of a direct annual tax, in addition to all other taxes, sufficient to pay the interest on such bonded debts as it falls due, and also to pay and discharge the principal thereof, at the time of the maturity of said bonds, respectively, and within twenty years from the time of contracting said bonded indebtedness; and every such tax shall be, after the issue of said bonds, irrevocable, and shall be annually levied and collected, and the money raised thereby shall be kept as a separate fund, irrevocably pledged to such purposes, and shall not be expended or appropriated for any other purpose.

Chapter 41, general statutes not applicable.

SECTION 20. None of the acts or proceedings, required, or provided for, in and by chapter 41, of the revised statutes of Wisconsin, and act, or acts, amendatory thereof, or by any other general law or laws of the state of Wisconsin, shall be necessary or applicable to the issuance, sale or exchange, or other conditions of the bonds herein provided for.

Bonds of city to issue for no other purpose.

SECTION 21. No bonds of said city shall be issued, in any event, for any other purpose what-

ever, except for the readjustment or refunding of the bonds of said city, now outstanding, or for readjusting or refunding such bonds as may be issued, in any such readjustment or refunding.

SECTION 22. The common council shall, at least ten days before the annual election in each year, cause to be published in one or more newspapers in said city, a full and correct statement of the receipts and expenditures from the date of the last annual report, together with the sources from whence the former are derived, and their mode of disbursement, and also a distinct statement of the whole amount assessed, received and expended for the same period, together with such other information as may be necessary to a full understanding of the financial concerns of the city.

Financial condition of city to be annually published.

CHAPTER 11.

IMPROVEMENTS OF STREETS AND HIGHWAYS.

SECTION 1. The common council shall have full control and power over, and management of all streets, alleys, lanes and public grounds in said city, and shall have power to accept, by order or resolution, any street, lane, highway or alley, and public grounds, which may be dedicated thereto, by plat or otherwise, and to establish the grades of all such streets, lanes, highways, alleys, or public grounds; and such acceptance shall, to all intents and purposes, make such street, lane, highway or alley a highway; and until the common council shall have accepted any street, highway or alley, as hereinbefore provided, which has not been improved by order of the common council, the city shall not be liable for any damages resulting from the unimproved condition of said street, lane, highway or alley; and shall have power to improve public squares or grounds, and to lay out, as hereinafter provided in this chapter, streets, alleys, lanes, highways, walks, and to alter, widen, contract, straighten and discontinue the same; provided, that the expense of the improvements herein above mentioned, shall be chargeable to, and payable as hereinafter mentioned in this chapter.

Council, power over streets, etc.

SECTION 2. In any case where the grade of any street or part of street has heretofore been, or shall hereafter be duly established, and the owner or

Damage for raising grade, relating to.

owners of any lot or lots fronting thereon, have made, or shall hereafter make, permanent improvements upon his, her or their said lots, conforming to such grade so established, and the grade of such street or part of street shall thereafter be changed by said common council, and worked to conform to such change, and damage to an amount exceeding one hundred dollars (\$100) shall result therefrom to the owner of any such lot or lots, upon which permanent improvements shall have been made, conforming to the grade theretofore established, in every such case such owner, who shall not have signed the recommendation for such change in grade, and for re-grading required by section 3 of this chapter, shall be entitled to compensation for such actual damages as his said lot or lots may sustain, by reason of such change, beyond the benefits and advantage thereto derived therefrom, and the whole of such damage, if any, when ascertained as hereinafter specified, shall be a lien and charge upon the lots and parcels of land fronting on the entire length of such street, and shall be assessed therein, with the whole or the proportion of the other expenses of such re-grading, in the manner specified in this chapter, and collected therewith, and when collected, be paid to such owner. But no such damage shall be claimed by, or awarded to any such owner, unless he shall have notified said council, in writing, at its next regular meeting succeeding the one at which said recommendation shall have been presented, that he will claim damage, and shall specify the particular lot or lots upon which he shall claim the same. The damage to each several owner entitled thereto hereinunder, shall be determined in the first instance by the arbitrament, and award in writing, of three disinterested freeholders, resident of other wards of said city, than the one in which said street is located, who shall be appointed by the mayor, with the concurrence of said council, and who severally shall, before entering upon the discharge of their duty, take an oath, faithfully and fairly to discharge their duty, and a true award make. All of said arbitrators shall sit and hear the evidence and allegations of the parties in interest, and to that end are hereby empowered and authorized to administer oaths to witnesses. But an award signed by two of them shall be valid

and sufficient. Said arbitrators shall give due notice, by publication or otherwise, to the parties in interest, of the times and places of their meetings, and shall report the testimony taken by them, together with their award or awards, to the common council; and it shall cause the same to be filed with the clerk of said city; and said award or awards so made and filed shall be final and conclusive between all parties in interest, unless appealed from, as hereinafter specified. Any party in interest may appeal from any award so made, to the county court of Fond du Lac county, by notice in writing, served upon said city clerk, specifying the particular award appealed from, and signed by himself or his attorney; provided, said notice be given within twenty days from the time of filing said award; and, provided further, that the person or persons so appealing, shall, within twenty days, make and file with said clerk, an undertaking, with two or more sureties, to be approved by said council, to such person, and conditioned as said council shall direct, by order or ordinance upon the subject. Upon the filing of said bond, its approval, and the serving of said notice within the time aforesaid, said clerk shall thereupon transmit said notice, bond, report of testimony and award to said county court, or to the clerk thereof, and said court shall try the same as other actions at law, upon an issue to be formed under the direction of said court. No contract shall be made by said common council for the re-grading of any street or part of street, upon which damages shall be claimed, until all the damages so claimed shall be determined and finally fixed.

SECTION 3. The common council shall have power to cause any street, highway, lane or alley, or any part of any street, highway, lane or alley in said city, to be graded, worked, graveled, macadamized, paved or repaved, planked or replanked and repaired, and to cause any sidewalks, crosswalks, drains, sewers or culverts to be made therein, as it shall deem necessary, and the same shall be repaired or relaid as may be ordered by said common council; provided, that such power may be delegated to the board of aldermen of the wards in which such work or improvements are to be done, or to any other officer or board appointed for that purpose. And it is further pro-

Power of council to cause streets to be graded.

vided, that no street, highway, lane or alley, or any part thereof, outside of the sidewalks, shall be graded, macadamized, paved or repaved, planked or replanked, without a recommendation in writing, signed by a majority of the resident owners of property which is bounded by such street, highway, lane or alley, in which said work is proposed to be done or improvement made, except as hereinafter provided, which recommendation shall be entered at length by the clerk upon the record of the proceedings of the common council.

Council to determine kind of pavement.

SECTION 4. Whenever the common council shall determine to cause any street, highway, lane or alley, or any part of any street, highway, lane or alley in said city, to be paved or repaved, it may determine the kind of pavement that shall be used in such paving or repaving, and in case it shall determine to use any pavement that has been or may hereafter be patented, it shall have the power and is hereby authorized to purchase and procure of the person or persons owning the same, the right to use and lay such pavement upon such street, highway, lane or alley, or part thereof, and the sum or sums paid therefor shall be added to the expenses of such paving, or repaving, and be apportioned therewith and be paid for and collected in the manner provided in subdivision first, of section five of this chapter.

Specifications of proposed work to be made and filed, relating thereto.

SECTION 5. The common council, prior to ordering by resolution, ordinance or otherwise, any street, highway, lane or alley, or any part thereof, to be graded, macadamized, paved or repaved, planked or replanked, shall cause a plain and accurate specification of the proposed work to be prepared and filed in the office of the clerk of said city. If after the filing and examination of such specifications, said council shall be of opinion that such proposed work should be done, it shall order the same to be done, and shall fix the time within which the same shall be completed. The said council shall then cause to be published in some daily or weekly newspaper published in said city, such specifications, with a notice signed by the clerk, giving notice that on a certain day fixed in said notice, at least eight days after the first publication thereof, the common council will proceed to act in relation to the work mentioned in such specifications; and said notice shall specify

that sealed proposals for the performance of said work will be received by the city clerk, up to the time fixed in said notice for the opening of such proposals, and the time fixed by said council within which said work shall be completed. Upon the day mentioned in the above required notice, all such proposals shall be opened in the presence of the common council, when said common council shall determine which is the most favorable of such proposals, and may, by a vote of the majority of its members, accept such proposal, and authorize and direct the construction of the proposed work, and direct the expense thereof to be assessed, collected and paid as hereinafter specified and provided; provided, however, that the common council is hereby authorized to reject all of such proposals, as in its opinion, it shall deem unreasonable. The common council shall require the person or persons whose proposal or proposals may be accepted, to execute a bond, with one or more sureties, to be approved by said common council, and in such penalty as said council shall fix, conditioned that the person or persons whose proposal had been accepted, shall perform the work mentioned in such proposal within the time fixed by said council, and according to the published plan and specifications, subject to the supervision of the alderman of the ward in which such work is to be done, or of such person or persons, and to the approval of the common council, with such other conditions as said council may prescribe; and if said work shall not be completed within the time fixed by said council for the completion thereof, said council shall have the power to declare the contract for such work at an end, and said bond forfeited, and to proceed by action, in said name of the city, against the sureties therein, for the amount of such penalty.

1st. In case the work shall be the paving, macadamizing or graveling any street, highway, lane, or alley, or any part thereof, the common council shall appoint some competent person to ascertain the front length of each lot and parcel of land on both sides thereof, throughout its whole extent with a correct description thereof, and the name of the owner if known, and also the aggregate front length, of all lots and parcels of land fronting on such street. The said common council

In case of paving, macadamizing or graveling.

shall then determine the expense of the whole work, including the surveying, specifications, advertising, ascertaining the value of existing improvements of the same or a similar kind and character, if any, and preparing the assessment lists, and cause the average expense upon each foot front of lots and parcels of lands on both sides of such street, highway, lane or alley, throughout its whole extent, excluding cross-streets from the computation, to be ascertained; and each lot or parcel of land on both sides of such street, highway, lane or alley, throughout its whole extent, shall be assessed with its proportion of one-third of the whole expense, to be ascertained by multiplying its number of feet front, by the average of said one-third of the whole expense per foot; provided, that when the owner or owners of any lot or lots, parcel or parcels of land, fronting any street, highway, lane or alley, upon which said improvement is proposed to be made, have already made any improvement on said street, highway, lane or alley, in front of his or her said lot or lots, parcel or parcels of land, of the same or of a similar kind and character, as the proposed improvement at the time when the same was made, and shall file with the city clerk, written notice thereof, before the assessment shall be made, stating when, where and by what owner the work was done, and the value thereof; the common council shall ascertain the value of such improvement, and for that purpose shall have power to subpoena witnesses, administer oaths, and take proofs in such manner as it may direct, and two-thirds of the value of such improvement, when so ascertained, shall be added to the expense of the proposed improvement, and assessed therewith upon all the lots fronting upon such highway, lane or alley, in the manner hereinafter specified; and when so assessed, a sum equal to two-thirds of the value of such improvement so made by such owner or owners, as aforesaid, shall be credited on the assessment of his or her said lot or lots, parcel or parcels of land, but the value of such improvement shall be so assessed as aforesaid but once; and in case the value of such improvements shall exceed the amount assessed upon such lot or lots, parcel or parcels of land, such excess shall be paid to such owner or owners who shall have made such improvements as

aforesaid; provided, that any such improvement hereafter so made by such owner or owners, shall not be assessed, credited or paid for, as hereinbefore provided, except the same shall have been made pursuant to a petition, or leave to do the same, by said owner or owners, signed by at least a majority of the resident owners upon such street, highway or alley, or such part thereof, as is proposed to be improved.

2d. In case the work shall be the grading, filling, leveling, planking or curbing any street, highway, lane or alley, or any part thereof, the common council shall appoint some competent person to ascertain the aggregate front length of lots and parcels of land on both sides thereof, limited to the proposed improvement, and bounded thereon, and the front length of each lot or parcel of land bounded on such improvement, with a correct description thereof, and the name of the owner, if known. In case of grading, filling, etc. The said council shall then determine the expense of the whole work, including the surveying, if any, the specifications, advertising and preparing assessment lists, and cause the average expense upon each foot front, of lots and parcels of land on both sides of such street, highway, lane or alley within the limits of such improvement and bounded thereon, excluding cross streets from the computation to be ascertained, and each lot or parcel of land, shall be assessed with its proportion of the expense to be ascertained by multiplying its number of feet front, by the average expense per foot; provided, that whenever the owner or owners of any lot or lots, parcel or parcels of land, fronting any street, highway, lane or alley where such improvement is proposed to be made, and within the limits of said proposed improvements, and bounded thereon, have already made any improvement on such street, highway, lane or alley in front of his or her lot or lots, parcel or parcels of land, within the limits of said proposed improvement, and bounded thereon, of the same or of a similar kind and character, as the proposed improvement, said lot or lots, parcel or parcels of land so improved by such owner or owners, shall be excluded from the computation and assessment; and the whole expense of such improvement to be made, shall in such case be assessed upon the other lot or lots, parcel or parcels of land so fronting on the street, highway, lane or alley

where such improvement is proposed to be made, and within the limits and bounded on said improvement, as heretofore specified; otherwise on all the lots or parcels of land within the bounds of said improvement, in the manner hereinbefore specified.

Crosswalks,
drains, etc.

3d. In case the work shall be the constructing of any crosswalk or drain, across any street, lane or highway, or public ground, or of any culvert in any street, alley, lane, highway or public ground, or the keeping in repair of crosswalks, drains, sewers, culverts, streets, highways, lanes or alleys, after the same have been constructed, graded, graveled, leveled, macadamized, planked or paved, as in this chapter provided, or the cleaning and cleansing of the same, the expense thereof, shall be paid from the city treasury, out of moneys raised for that purpose.

Sidewalks, etc.

4th. In case the work shall be the construction, repairing, relaying or replanking any sidewalk, or the repaving or paving of any surface drain or gutter in any street, alley or lane, each lot or parcel of land fronting thereon, shall be assessed with its just proportion of the whole expense of such work. The work specified in this subdivision may be ordered by the common council, on the written application of the sidewalk superintendent, or of either of the aldermen of the ward in which the proposed work is situated, at any regular meeting of said council, after filing with the clerk a specification of the work proposed. After said work shall have been ordered by said common council, the alderman of the proper ward, or sidewalk superintendent, shall give notice to the resident owner or owners of the several lots or parcels of land fronting thereon, requiring such owner or owners to perform the work proposed, in front of his or their respective lots or parcels of land, according to said specifications, within twenty days from the service of such notice, and in default thereof, that said work will be done by contract, without publication; and in case such owner or owners shall neglect to do said work within said twenty days, said alderman or sidewalk superintendent, shall proceed to have such work done by contract.

Main sewers,
etc. relating
thereto.

5th. In case the work shall be the construction of a main sewer, in any street or public place, or across private property, condemned for that pur-

pose, every lot, part of lot, or parcel of land, to be benefited thereby, shall be assessed with its just proportion of the expense thereof, according to the benefit so to be obtained, compared with the whole cost and expense thereof. The common council shall have authority to construct, or cause to be constructed, such sewers at any time the same may be deemed necessary, and the same proceedings shall be had in relation thereto, so far as the same are applicable, except as to the manner of assessing the expense of such improvement, as provided in so much of section 4, of this chapter, as is not included in the first four subdivisions thereof. In case it shall be necessary to take private property for public use, for the purposes of such sewer, or any part thereof, the same proceedings shall be in relation to such portion of such sewer, so far as the same are applicable, as provided in chapter 13, of this act. In case it shall not be necessary to take private property, as above mentioned, or in case private property shall be taken after the proceedings shall have been had, as above provided, the common council shall then determine the expense of the whole work, including surveying, specifications, advertising, and preparing the assessment lists, and cause the whole expense thereof, to be assessed and collected from all lots, parts of lots, or parcels of lands to be benefited thereby, and the said expense, when so assessed, shall be a lien upon such real estate, to be enforced and collected, as provided in the act for special tax certificates. The amounts for which the several lots, parts of lots, or parcels of land, shall be assessed as benefited by such improvement, and which the owners thereof shall be required to pay, shall be ascertained by three disinterested freeholders, of said city, to be appointed by the mayor, with the concurrence of said council, and who, severally, shall, before entering upon the discharge of their duty, take an oath, faithfully and fairly to discharge their duty and a true assessment make. All of said arbitrators shall, after due notice, by publication, or personal service, or both, to all parties interested, of the time and place of meeting, sit and hear the evidence and allegations of the parties in interest, and to that end, are hereby empowered, and authorized, to administer oaths to witnesses. They shall, when such assessment be made, re-file the

testimony taken by them, together with their assessment, with the city clerk. The common council shall, immediately, confirm such assessment, if the same be proper and just, and when so confirmed, the same shall be *prima facie* evidence of the regularity of all the proceedings, in which the same be made. The compensation of such assessors, as well as all the costs and expenses of such proceedings, and the improvement so provided for, shall be included in the whole amount so assessed against the several lots, parts of lots, or parcels of land, so benefited thereby; upon the confirmation of the council of the said assessment, like proceedings shall be had on the issuance of special tax certificates, and the collection thereof, and such certificates shall have the same effect, as provided by chapter 14, of this act.

Notice of proposals, publication of.

SECTION 6. The notice required by section 4 of this chapter, shall be first published at least eight days before the time therein specified, for opening and acting upon the proposals to be received under it; and in case the common council does not meet on the day mentioned in such notice, the proposals received by the clerk pursuant thereto, shall be opened at the next subsequent meeting of the common council. After opening proposals received pursuant to notice published according to said section, and determining whose is the most favorable, the common council may postpone further action upon the construction of the proposed work, and acceptance of the proposals, from time to time, not to exceed one month from the day specified in the notice, for opening the proposals.

Unreasonable proposals.

SECTION 7. Whenever the proposals received pursuant to such notice, are deemed by the common council to be unreasonable, it may make a contract for the work to be done, according to the published specifications, by such person or persons as it may think proper, at a specified price, which price shall not exceed the lowest sum proposed.

Expense of work, how paid.

SECTION 8. In case the work provided in this chapter to be done, shall be such as is mentioned in subdivision 1st, of section 4 thereof, one-third of the whole expense thereof, including all costs of proceedings in courts, publication, surveying, appraisements, assessments, collection of special tax certificates, material and labor shall be

assessed and taxed to, and be a lien upon the lots, parts of lots or parcels of land fronting or abutting on such street, alley, lane or highway, or such part thereof, upon which such paving, macadamizing or graveling shall be done, and the other two-thirds shall be paid by the city, out of money raised for that purpose. In case the work be such as mentioned in subdivision 2d, of section 4, the whole expense thereof, including all costs of proceedings in courts, publications, surveying, appraisements, assessments, collection of special tax certificates, and work and material, shall be assessed and taxed to, and be a lien upon the lots, parts of lots or parcels of land, fronting or abutting on such street, alley, lane or highway, or such part thereof, upon which the improvement mentioned in said subdivision, shall be done. In case the work be such as mentioned in other subdivisions of said section, to be paid for as therein specified; provided, that the common council shall have the power and authority, without the necessity of any petitions or other proceeding, except a two-thirds vote of all the members elect, authorizing the same, to gravel the following streets or portion thereof, and cause to be paid the whole expense thereof, from the city treasury, from moneys raised for that purpose to-wit: Fourth street, from Everette street east to the city limits; Division street, from De Nevue creek east to the city limits; Scott street, from the Fond du Lac river west to the city limits; Eleventh street, from Ellis to Main; Military street, from Western avenue to Superior street; First street, from Brook street west to the city limits; Johnson street and Rosendale avenue, from Brook street west to city limits.

SECTION 9. Any person taking contracts with the city, and who agrees to be paid in part, or in whole, from special assessments, according to the nature of the work contracted to be done, shall have no claim upon the city in any court, over and above the proportion, if any, which may be chargeable to the city, and payable out of any of the funds thereof, except from the collection of special tax certificates issued against lots, parts of lots or parcels of land, for the work, or proportion of the work so done; and no work to be paid for in part by special tax certificates, shall be let

Contractors
taking special
assessments.

except to a contractor or contractors, who will so stipulate and agree.

Assessment of special liens.

SECTION 10. Whenever any work shall be done or completed by virtue of this chapter, and the whole, or any portion of the expense thereof, shall be a lien upon, or chargeable to any lot, part of lot or parcel of land, or liable to any assessment by virtue of this chapter, when no other provision is therein made, the alderman of the ward in which such work shall be done, or any three persons, residents of the city, such as the common council may appoint, who shall not be interested in said work or the property chargeable therewith, shall make such assessment, which, when completed, shall represent in detail, the cost of such improvement, the description in detail, the lots, parts of lots or parcels of land chargeable with the whole, or a proportion of the expense of the improvement, the owners of such lots, parts of lots or parcels of land, the amount which is herein provided shall be paid by the city, if it shall be an improvement, a portion of which it is herein provided the city shall pay, and such other details and facts as may be necessary; and such assessment shall have attached thereto an affidavit, signed by the said persons so making the same, of its correctness, and when so made, the same shall be filed with the city clerk.

Filing with city clerk, plans, etc.

SECTION 11. No plan of any sidewalk, crosswalk, paving or planking, need be published under said section 4 of this chapter, and when a plan of any work is required, it shall be sufficient publication thereof, to file the same with the clerk, and refer thereto intelligibly, in the published notice.

Separate works may be in one notice.

SECTION 12. When practicable, several separate works may, by notice, be ordered, and assessments made at the same time, and all the expenses of advertising and assessment be considered as one work. When such expenses are paid in common by more than one work, each work shall be assessed with its just proportion thereof.

Resident owners refusing council to compel dangerous street to be repaired.

SECTION 13. Whenever it shall appear to the common council, by affidavit or petition duly verified, and the safety of the public require that any street, highway, lane or alley, or any part thereof, in said city, should be graded, graveled, macadamized, paved, repaved, planked or replanked, and that a majority of the resident owners of property bounded by such street, highway,

lane or alley refuse to sign the recommendation mentioned in section 4 of this chapter, the common council shall have power to appoint a committee, consisting of one alderman from each ward of said city, to make an examination of such street, highway, lane or alley mentioned in such petition, and to report to the common council the condition of such street, highway, lane or alley, and whether in their opinion the same should be graded, macadamized, graveled, paved or repaved, planked or replanked, and upon receiving the report of such committee, the said common council shall have the power to order such street, highway, lane or alley to be graded, macadamized, graveled, paved or repaved, planked or replanked, in the same manner, and with the same effect, as though a recommendation, signed as required by said section 23, had been presented to said council.

SECTION 14. The common council may order the repair, cleaning and cleansing of any street, alley, lane, highway, sidewalk, crosswalk, drain, culvert or sewer, when it shall be necessary; and when, in its opinion, its repairs cannot be judiciously let upon contract when the same shall be completed, cause the expense thereof to be paid out of the moneys in the city treasury raised for that purpose.

Council may order repairs in streets.

SECTION 15. The cost and expense of removing snow, ice, obstruction or any other matter or thing which will obstruct or impede persons in the use of said walks, for walking thereon, shall be a lien upon the lot or lots, parts of lots or parcel of land upon the site of which, or in front of which, said sidewalk is built or laid, or which said walk belongs.

Removal of ice and snow to be lien on the lots.

CHAPTER 12.

VACATING STREETS AND PUBLIC GROUNDS.

SECTION 1. The common council may discontinue or vacate any street, alley, lane, highway or public square in said city, by a vote of two-thirds of the members elect of said council, upon the petition of two-thirds of the owners of lots abutting on any such street, alley, lane or highway in the manner hereinafter prescribed.

Petition of two-thirds of owners.

SECTION 2. Whenever any such petition, signed as in the last section provided, shall be presented to the common council, accompanied by a bond to

Petition and bond.

the city with good and sufficient surety, to be approved by the mayor, conditioned to pay all the expenses attendant upon the proceedings incident to the vacating of streets, and to indemnify and save the city harmless of, and from all costs, expenses and damages incident to, or which may grow out of the proceedings sought to be instituted by such petition, the council may consider the same, and if by a vote of two-thirds of the members elect, it shall declare that the prayer of the petitioners ought to be granted, then it shall be the duty of the city attorney to publish in the official newspaper printed in the said city, a notice specifying that a petition has been filed with the common council, praying the vacation or discontinuance of such street, alley, lane or highway in said city, specifying which, or if only a part thereof, specifying what part, and that the common council has declared such vacation or discontinuance was expedient, and that the owners of property and all others interested have until a day in such notice named, not exceeding ten days from the date thereof, in which to file claims for damages or compensation growing out of the proposed vacation or discontinuances, if granted, with the city clerk.

If no claims for damages are filed.

SECTION 3. The notice required in the last section, shall receive at least two publications before the day limiting the time for filing claims, and if, at the expiration of the time so fixed, no claims for damages or compensation shall have been filed, on proof of the publication of the notice aforesaid, the common council, by an order in writing entered in the minutes, by vote of two-thirds of the members elect as aforesaid, may vacate or discontinue such street, alley, lane, highway, or any part thereof, as prayed; and the failure to file any claim for damages or compensation by any person or persons, shall be in all courts and places, a waiver on the part of such person or persons of any such claim.

Claims for damages.

SECTION 4. If any claim shall be filed, it shall then be the duty of the city attorney to file the petition, and a copy of the minutes of the action of the common council therein, certified by the city clerk, and also the claims for damages filed with the city clerk, in the county court of Fond du Lac county, and give notice in writing to the persons filing such claims, that on some day in

the notice mentioned, not less than three days from the date thereof, application will be made to the judge of said court for the appointment of three commissioners to hear, try and determine the claim or claims, and fix and assess the amount of damages and compensation, if any, that any and every claimant is entitled to receive, and apportion the same upon the property to be benefited by reason of the vacation or discontinuance. And all proceedings thereafter shall conform to and be governed by, the provisions of chapter eleven of this act, so far as the same relates to the appointment of persons to assess damages and benefits, and proceedings thereafter to the final confirmation of the assessment, and the proceedings to collect the same, all inclusive.

SECTION 5. It shall be the duty of the common council to pay or cause to be paid to the parties claiming such damages and compensation, as shall be awarded by the said persons as confirmed, within ninety days, after the order of final confirmation, and immediately thereafter by "an order in writing," passed by the vote of two-thirds of the members elect of said common council, may vacate or discontinue such street, alley, lane or highway, or any part thereof, as prayed.

SECTION 6. The order of the common council, vacating or discontinuing any street, alley, lane or highway or any part thereof, may be recorded in the office of the register of deeds of Fond du Lac county, and shall have the same force and effect, as a release of title or a quit-claim deed from the city of Fond du Lac.

SECTION 7. The costs and expenses of this proceeding shall be paid in the first instance out of the city treasury; but if the same is not re-imbursed to the city of Fond du Lac, within thirty days after payment, it shall be deemed a breach of the condition of the bond, and an action will lie on behalf of the city against the obligees, until full indemnity is obtained.

SECTION 8. None of the provisions of the preceding sections of this chapter shall apply in the vacation of the public squares, hereinafter mentioned, but the provisions of section 9 of this chapter, shall be the only provision applicable thereto.

SECTION 9. Upon a petition signed by two-thirds of the resident owners of all lots, parts of

Damages,
when paid.

Recording order.

Costs and expenses.

Not to apply to certain public squares.

Vacation of squares in certain blocks.

lots and parcels of land, upon which any public square fronts or adjoins within the original plat of the town of Fond du Lac, as recorded August 23, 1836, of transcribed records from Brown county to Fond du Lac county, on pages 55, 56 and 57, in the register office of Fond du Lac county, and which petitions must show all of the lots to be affected thereby, the common council of said city may, after one month's publication of a notice of the intention so to vacate such public square or squares, in such newspaper printed in said city as the common council may designate, proceed to vacate such public squares by a resolution adopted by two-thirds of all the members elect of said common council, and thereafter the city of Fond du Lac shall be absolved from the trust, duty, and obligation created by the act of recording said plat, and all the rights heretofore created in favor of said city therein, shall vest in the owners of the lots, or parts of lots, fronting on said squares, subject to the rights of way for streets and alleys, as now laid down on said plat. The resolution hereinbefore provided, shall specify the size and extent of the public square which may thereby be vacated, each and every owner in whom the rights of the city to said squares shall rest, and the extent thereof. A certified copy made by the city clerk shall be entitled to be recorded in the office of the register of deeds of said county. No other or further proceedings on the part of said common council, than herein above mentioned, shall be necessary to render an effectual vacation of said public squares.

CHAPTER 13.

TAKING PRIVATE PROPERTY FOR PUBLIC USE.

SECTION 1. Whenever the common council shall intend to lay out, alter or widen any street, highway, lane, alley or public square or ground, it shall cause a notice of such intention to be published, for at least eight days in some daily or weekly newspaper, printed and published in said city, stating the day upon which it will act thereupon, which day shall be at least eight days subsequent to the first publication of the notice.

If no property is to be taken.

SECTION 2. In case it shall not be necessary to appropriate, for the purposes contemplated in section 1, of this chapter, any real estate which shall

not belong to the city, or which shall not be given to the city for the purpose, the common council, upon the day fixed in the notice, may proceed to lay out, alter or widen such street, highway, lane, alley or public square or ground mentioned in the notice.

SECTION 3. In case it shall be necessary to appropriate for any street, highway, lane, alley or public square or ground, any real estate not belonging to the city, or which the city may not be permitted by the owner, freely to appropriate, the common council, before it shall determine to make such improvement, shall make an order appointing some discreet person, or directing some officer of said city, to ascertain and report a description of the real estate required to be appropriated, with the names of the owners; what the whole expense of the improvement would amount to; whether any, and if any, what part thereof ought to be borne by the city; and whether any, and if any, what real estate would be immediately benefited by the improvement requiring the appropriation of such real estate, specifying the same in parcels described with certainty, with the names of the owners, if they can be ascertained. It shall cause a notice to be published in some weekly or daily newspaper published in said city, for three weeks, specifying the proposed improvement, the estimated expense thereof, and the real estate in said city to be assessed therefor, and shall require all persons interested in the subject matter of such improvement to attend the common council, or a committee thereof, appointed for that purpose, at a time and place, in such notice to be specified. At the time and place so stated, the common council shall proceed to hear the allegations of the owners and occupants of the houses, lots and parcels of land required, and the real estate to be assessed for such improvement so specified as aforesaid, and after hearing the same shall make such further order in respect to such improvement, as it shall deem proper.

SECTION 4. If the common council shall, after hearing the parties interested, or after the report of such committee as aforesaid, determine to make any of the improvements in this chapter specified, and that the lands of any person will be necessary for the purpose, it shall enter in its minutes a resolution, declaring such determina-

Taking property, proceedings.

Proceedings on report of commissioner.

tion, and containing a brief description of the lands so deemed necessary, and also of the real estate deemed benefited by such improvement. The common council may purchase the land so deemed necessary, of the owner or owners thereof, upon such terms, and for such compensation as it shall judge reasonable, and thereupon receive a conveyance thereof to the city, and thereupon proceed as provided in this chapter, to cause the price paid for such land, except such portion thereof, if any, as the common council shall have determined, ought to be borne by the city, to be assessed upon, and collected out of the real estate benefited thereby, as described in the report of the person appointed by the common council, or officer mentioned in section 3, of this chapter, as nearly as may be, in proportion to the amount of benefit which each shall be deemed to receive from said improvement.

In case no purchase can be made.

SECTION 5. In case no agreement for such purchase can be made, the common council shall, by resolution, declare their purpose to take the same, and therein describe, by metes and bounds, or otherwise, definitely, the location of the proposed improvement, and the land proposed to be taken therefor, defining separately each parcel, and the amount thereof, owned by a distinct owner, mentioning the names of the owners, or occupants, so far as known, and therein fix a day, hour and place, when and where it will apply to the county judge, or a justice of the peace, resident in said city, for a jury to condemn and appraise the same. The common council shall immediately cause such resolution to be published in some daily or weekly newspaper, published in said city.

Notice of application for jury.

SECTION 6. The common council shall thereupon, cause to be made, by the clerk, a notice of the adoption of such resolution, embracing a copy thereof, and notifying all parties interested, that the city will, at the time and place named, apply to the judge, or justice named, for the appointment of a jury, to condemn and appraise such lands. A copy of such notice shall be served by the chief of police, or any policeman, on the owner of each such parcel of land to be taken, if known, and resident within the county; such service to be made in the manner prescribed for serving a summons in an action in the circuit court, and the return of the officer shall be conclusive evi-

dence of the facts stated therein. If the notice cannot be so given as to all the parcels, then the same shall be also published, once in each week, for three successive weeks, in a newspaper published in said city, and the affidavit of the printer or foreman of such newspaper shall be conclusive evidence of such publication. Such notice shall be served, and the first publication made three weeks before the time fixed therein for such application. If any any person so served with notice be a minor, or of unsound mind, the judge or justice, before proceeding, shall, on the day fixed for the hearing of such application, appoint for him a guardian for the purposes of such proceeding, who shall give security to the satisfaction of the magistrate, if required, and act for such ward.

SECTION 7. At the time and place fixed for such hearing, the application, accompanied by a copy of such resolution and a survey of such proposed improvements, and by proof of service of the notice, as provided in the last section, shall be filed with the judge or justice, who shall thereupon make a list of twenty-four competent jurors not interested; but residents of the city shall not be disqualified. He shall hear and decide any challenges for cause or favor made to any one, and if sustained shall replace his name with an objectionable juror, until the list shall be perfected. Thereupon, under direction of such magistrate, each party, the common council by its representatives on the one side, and the owners of land or their agents present, or if none be present, or they disagree, a disinterested person appointed by the judge or justice, on the other, shall challenge six names, one at a time, alternately, the common council beginning. To the twelve jurors remaining such judge or justice shall issue a precept, requiring them at an hour on a day named, not more than ten, nor less than three days thereafter, to appear before him, to be sworn and serve as a jury to view lands and appraise damages, and at the same time shall publicly adjourn the proceedings to the time and place so named; such precept shall be served by the chief of police or any policeman of said city, at least one day before such appointed time, by reading the same to each such juror, or by leaving a copy at his usual place

Jury, how drawn.

of abode, in the presence of a member of his family.

Meeting of jury. SECTION 8. The jurors summoned shall appear at the time and place named, and if any be excused by the judge or justice, or fail to attend, he shall direct other disinterested persons to be forthwith summoned in their stead, until twelve be obtained. The magistrate shall then administer to them an oath, that they shall well and truly inquire into and determine the necessity for taking the lands mentioned in the resolution, and if found necessary, the damages occasioned thereby, and faithfully discharge their duties as jurors according to law.

Jury to view lands.

SECTION 9. Under the direction of such magistrate, the jury shall view the lands to be taken, and shall then sit before him to hear such competent evidence as shall be produced by any party, and for such purpose, such magistrate shall possess the same powers as a court in session with a jury, and if there be necessity, may adjourn the sitting from day to day. The jury shall render a separate, unanimous verdict in writing, signed by them, in which they shall find whether it be necessary to take such lands, or any part thereof, for such purposes, describing such as they find necessary to be taken; and if any be found necessary to be taken, then a separate verdict of appraisement of damages, specifying therein the damages of each owner, and separately the value of the land taken from each, and the damage otherwise sustained by each, by reason of the taking thereof, in estimating which they shall deduct therefrom, any special benefit, if any, to be enjoyed by each from such improvement, and a majority of such jury may render such verdict or appraisement of damages, and shall sign the same. Any technical error in such verdict may be immediately corrected with the assent of the jury, and they shall be thereupon discharged, and their verdict filed with the magistrate. In case the jury shall fail to find a verdict, another jury shall be selected, summoned, sworn and proceed in the same manner. The said jurors shall be entitled to the sum of one dollar and fifty cents (\$1.50) each, as their compensation, for each day actually and necessarily spent by them as jurors.

Appeal from verdict.

SECTION 10. Within ten days after such verdict, any land owner whose land has been found

necessary to be taken, may appeal from the award of damages to him in such verdict, to the county court, and said city may likewise appeal from the award of damages to any owner, by filing with such magistrate a notice of appeal, specifying whether the appeal is from the whole award to him, or a part, and, if a part, what part, and therewith an undertaking with two sufficient sureties, to be approved by the magistrate, to pay all costs that may be awarded against such appellant on the appeal, and paying the magistrate for his return thereof. Any party not so appealing shall be forever concluded by such verdict or appraisal. Upon an appeal being taken the magistrate shall transmit to the county court, within ten days, the notice of appeal and undertaking, and thereto annex a copy of all the papers and proceedings before him, with his certificate thereof. The clerk of said court shall, after the time for the appealing has expired, file with the city clerk all the original papers, including the verdict, with his certificate thereof, stating in such certificate, whether or not any appeal has been taken from such verdict.

SECTION 11. Upon filing such transcript in the county court, the appeal shall be considered an action pending in such court, and be so entered, the land owner as plaintiff, the city as defendant, and be subject to a change of place of trial and appeal to the supreme court. The appeal shall be tried by a jury, unless waived, and the costs shall be awarded against the appellant, if a more favorable verdict be not obtained; otherwise, against the respondent. Upon entry of judgment the clerk of the county court shall transmit a certified copy thereof, to the city clerk. The costs of said proceedings shall be paid by the city, except when it recovers costs in the county court.

Appeal to be entered as action.

SECTION 12. Within thirty days after the rendition of such verdict, or after the final determination of any appeal, if any shall be taken as herein provided, the common council shall cause an order to be entered in its proceedings, authorizing and directing the appropriation of the said real estate and the making of said improvement. The common council shall thereupon appoint three respectable freeholders of said city, not interested in any of the real estate to be taken or

Proceedings after determination of appeal.

assessed therefor, nor of kin to any person or persons interested therein, who shall proceed to apportion and assess the whole amount of such damage and value so reported by the jury, together with all the costs and expenses of such improvements (except such portion thereof, if any, as the common council shall have determined ought to be borne by the city) if any, upon the real estate benefited thereby, as described in the report of the person appointed by the common council, or officer mentioned in section 3, of this chapter, as nearly as may be, in proportion to the amount of benefit which each shall be deemed to receive from the said improvement. The said freeholders shall be sworn by some person competent to administer oaths, faithfully and impartially to discharge their duties according to the best of their ability. The said freeholders shall examine the said lands, deemed necessary to be taken for such improvement, and the lands and real estate deemed to be benefited thereby, and may hear the statements of the parties interested, and shall make their assessment. The said freeholders shall, as speedily as may be, make their report and file the same with the city clerk in the form of an assessment list, in which they shall specify and set down in separate columns, an accurate description of each parcel of real estate assessed, the name of the owner or occupant, if known, the amount assessed upon each parcel, the amount of compensation, if any, to which each owner or occupant is entitled by the verdict of the jury, and the amount to be collected of each. Two copies thereof, shall be made and signed by the mayor or presiding officer of the common council and clerk, one of which shall be filed with the clerk, and the clerk shall deliver the other to the treasurer.

Upon filing assessment, clerk to give notice.

SECTION 13. Upon the filing of the said assessment with the city clerk, he shall immediately publish in a daily or weekly newspaper printed in said city, for at least two weeks, a notice describing the lots, parts of lots, or parcel of land mentioned in said assessment, together with names of the owners thereof, if known, otherwise to describe such owners as unknown, the amounts assessed upon each lot, part of lot or parcel of land described in such assessment, and requiring that such owner or owners, or unknown owners of such lots, parts of lots or parcel of land, show

cause before the common council at the next regular meeting thereof, why such assessment should not be confirmed, and if at the meeting of the common council mentioned in said notice, or at any other time the council may designate, cause be not shown satisfactory to the common council, it may confirm the same, and upon such confirmation, the city clerk shall issue to the city of Fond du Lac, special tax certificates bearing the same interest and of similar form, as mentioned in chapter 14, of this act, and the same proceedings relating to the payment and collection of such certificates, and the same form and effect shall be given to such certificates, when so issued, as are given to certificates mentioned in said chapter 14, of this act.

SECTION 14. In case the common council shall, Subsequent assessment. at any time, ascertain that the expense of any public improvement cannot be defrayed by the moneys raised upon the assessment list, provided therefor, it may cause the deficiency to be assessed upon the real estate described therein, in sums proportioned to the former assessment; and all the provisions of this chapter relative to the assessment lists therein mentioned, to the assessments therein and the collection and payment of the moneys thereon, shall be applicable to the second assessment list in this section provided.

SECTION 15. The county court of Fond du Lac county, shall be taken and deemed to be always open for the proceedings provided in this chapter, and there is hereby conferred upon the said court and the judge thereof, special jurisdiction to do and perform all the acts and duties of this chapter, directed to be done by the said court and the judge thereof. County court always open for proceedings.

SECTION 16. No real estate shall be appropriated by said city, under any of the provisions of this chapter for any street, highway, lane, alley or public square or ground, without the leave of the owner, until the recompense reported by the jury to be proper therefor, be paid or tendered to such owner, or deposited to his or her use or credit, in one of the banks in said city, to be designated by the common council of said city for that purpose. Upon such payment, tender or deposit, the same may be appropriated and taken for such purpose. But the foregoing provisions are not intended and shall not be construed as No property to be taken unless paid for.

prohibiting said city, by its officers, agents and employes, or the jury aforesaid, from entering upon such real estate, and making all the necessary examinations and surveys thereof, for the purposes aforesaid.

Payments of damages.

SECTION 17. The common council shall, within ninety days after the final confirmation of the condemnation proceedings and assessment of benefits, pay or tender to the respective persons entitled thereto, the several amounts awarded by the report of the jury, as confirmed, or elected as above provided for, to be paid by the common council, less the amount assessed to such persons respectively for benefits; provided, however, that every person claiming damages for the taking of land, shall, before he or she shall be entitled to receive any pay for the same, present to and leave with the city attorney, for the use of the city and subject to his approval, an abstract of title of the premises taken, and in which damages may have been awarded, showing as estate in fee simple in the said claimant.

Deposits of amount in bank.

SECTION 18. But in case no person shall make the proper proof of title, as provided in the last section, the common council may deposit the amount in one of the banks of said city, as above provided, subject to the order of the person or persons entitled thereto, on proper proof made, and upon such payment, tender or deposit, the city may enter upon, take possession of and convert the property and premises so condemned as aforesaid, for the use and purpose for which it was condemned.

Cancellation of mortgage etc., liens.

SECTION 19. In all cases where any real estate, subject to any mortgage, lien, lease or agreement shall be taken as aforesaid, all the covenants and stipulations thereof, so far as they relate to the lands taken, shall cease, determine and be discharged upon the final confirmation of the condemnation proceedings. And upon application of the city attorney, the person holding the same shall release the land taken, from the effect of such mortgage, lien, lease or agreement, by an instrument in writing, executed and acknowledged so as to be entitled to record, according to the laws of the state.

Dispute of owner.

SECTION 20. If in any case there shall be any doubt as to who is entitled to damages or compensation for land or property taken, the city

may require of the claimant a bond, with good and sufficient sureties, to hold said city harmless from all loss, costs and expenses, in case any other person should claim said damages or compensation.

SECTION 21. Whenever the common council shall decide to make any public improvement under this chapter, or any other chapter of the charter, such common council, after having let the contract therefor, shall have the power and authority to appoint a superintendent of the work of making such improvement, prescribe his powers and duties and fix the compensation to be paid him for his services. Superintendent of work.

SECTION 22. Any portion of the proceedings, so provided herein, after confirmation by the common council, when certified to by the city clerk and mayor, shall be entitled to be recorded in the register's office of Fond du Lac, and when so recorded shall be notice to all persons of the rights of the public in the property so described therein, for the purposes named. Record of assessment.

CHAPTER 14.

SPECIAL ASSESSMENTS AND LIENS.

SECTION 1. Wherever by this act it is provided that the city, or any person or persons shall make an assessment upon or against, or have a lien on any lot part of lot or parcel of land, for the doing or performance of any work or labor in the construction, repairs, cleaning or removing of obstruction or other thing, from streets or sidewalks, or from any public place, or the expense and costs of removing or abating nuisances or cleansing noxious places, or the cost or expense of any act, work or labor, any proportion or part thereof, which is in this act provided, shall be a lien upon any real estate; when no other provision is in this act made therefor, such lien shall be perfected and such proceedings had for the collection thereof, as follows: Lien upon lots for any work.

1st. An affidavit of the person or officer authorized to cause, or having in charge such work, labor, costs and expense to be done or incurred, setting forth the order, the proof of the service of such order upon the person or persons required to perform, neglect of such person or persons to obey the order made within the time prescribed, and the cost and expense thereof; and when the work Proof of labor, etc.

done or expense made, is done by contract, either by the letting by proposals to bidders or otherwise; all of the proceedings up to the completion of contract and acceptance of work, together with the amount of such contract, expense and the cost of the proceedings thereon, when the work done or the expense incurred, is not done under contract, proof of the expense, and costs thereof; provided, that in case of improvements, wherein this act is provided that an assessment shall be made upon lots, parts of lots, or parcels of lands, such assessments, when so duly made, shall dispense with the necessity of the affidavit as provided in this section.

Filing same
with city clerk.

2d. Upon the filing with the city clerk, the affidavit or assessment specified in the next preceding sub-division, he shall present the same to the common council, and shall immediately thereafter give notice to owner or owners of such lot, part of lots or parcels of lands upon which the same are a lien, either by personal service for four days or by publication for eight days, in a daily or weekly paper in said city, previous to the next, or any specified meeting of the council, that such owner or owners, or any other person interested therein, show cause before said council why the said costs and expenses, or said assessments, should not be allowed or confirmed, and be collected in the manner provided by law. If no cause or no sufficient cause be shown, at the time specified in said notice, or at such other time as the council may designate, and if the same be not theretofore paid, the council may confirm such costs and charges, and such assessments, and direct the city clerk to, and he shall thereupon issue special tax certificates therefor, in the form substantially as hereinafter provided, and such confirmations shall be *prima facie* evidence of the regularity of the proceedings theretofore had therein. If such costs or expenses, or such assessments be found just and proper, the common council may order that the same be paid from the moneys in the treasury, raised for that purpose, or such part thereof as may be chargeable to the city; provided, that when the said costs and expenses, or any portion thereof, by the provisions of this act, made a lien upon any lot, part of lots or parcels of land, the payment of the same by the city, shall not release the lien in favor of the city, but the lien shall

continue until the actual payment thereof, by the owner of said lot, part of lots or parcel of lands, or be collected in the same manner in which other taxes are collected; provided, that the said common council shall have no authority to audit and pay any such liens, except such as are incurred by and under, and in accordance with the provisions of this act.

3d. The special tax certificates herein or elsewhere in this act, provided to be issued, shall draw interest at the rate of ten per centum from the date of issue, may be substantially in the following form, to wit:

STATE OF WISCONSIN,)
 City of Fond du Lac.) SS.

Form of special
 tax certificate.

This is to certify that _____ (naming party entitled to same) has a lien upon _____ (description of property) _____ for (designating work, etc., for which the lien has accrued) _____ to the extent of _____ dollars (stating amount of lien) _____. That the same has been allowed and confirmed by the common council of said city. Now, therefore, if the said amount be not paid before the next levy of general city taxes, together with interest at the rate of — per cent. per annum, the same together with such interest will be entered on the next general tax roll for said city, and be collected in the same manner as other city taxes.

Dated, _____

_____, City Clerk.

and when so issued, the same may be deposited with the city treasurer, where the same may be paid, and canceled when collected.

4th. In case the said certificate be not paid before the time for the next lev. of general city taxes, the city clerk shall enter the amount thereof, on the tax roll, for that year, in a separate column showing the amount and date thereof, and said amount so entered on said tax roll, shall draw interest at the rate specified, in such certificate, until actual payment thereof, with accumulated interest, or until the land, upon which the same is a lien, is sold for the non-payment of taxes, as provided in the laws relating to the sale of lands for taxes, but no longer.

Certificate not
 paid, to be en-
 tered on tax
 roll.

SECTION 2. All amounts collected by any county treasurer from the sale of any lands, for the payment of such certificates and accumulated interest thereon, shall be paid into the city treasury,

Amounts so
 collected, kept
 in separate
 fund.

and all amounts received by the city treasurer, for the payment of such certificates and interest, shall be kept by him as a special fund and shall be applied for no other purpose than the taking up and cancellation of such certificates; proper reports of all payments of such certificates shall be included in the monthly report of the city treasurer.

Priority of such liens.

SECTION 3. Every lien, assessment or special tax certificate, and all taxes for municipal purposes, which by this act is provided shall exist, accrued, or be made through the enforcement or operation of the provisions of this act, or of any of the ordinances of the said city, shall have priority over all other existing liens, incumbrances, by mortgage or otherwise, except prior tax liens, from the time any act is done, for which such lien accrues or such assessment or special tax certificate is made.

Certificate prima facie evidence, etc.

SECTION 4. Whenever a special tax certificate shall be issued as herein provided, it shall be *prima facie* evidence of a lien upon the land therein described, for the amount and interest therein specified, and no error, informality or defect in the proceedings had before or in the issuance thereof, shall impair or vitiate the right of the person or city, to recover the amount of such lien, in subsequent proceedings.

CHAPTER 15.

DEPARTMENT OF EDUCATION.

Board of education.

SECTION 1. The board of education shall consist of one school commissioner from each ward, and the president of the council.

General powers of board.

SECTION 2. The board of education may make all necessary rules and regulations for its government and proceedings, and, in the absence of the president of the council, may elect from its own number, a presiding officer *pro tempore*; and in the absence of the city clerk, may elect from its number a clerk *pro tempore*.

Meetings and quorum.

SECTION 3. The board may meet from time to time, and at such place in the city as it may designate, and a majority of the commissioners shall always be required to constitute a quorum.

Record of proceedings.

SECTION 4. The clerk of the board, shall keep a record of the proceedings of the board, in a book to be provided for that purpose, and shall record

copies of all official reports made by the board, or the superintendent of schools. He shall also, under the direction of the board, take the annual enumeration of scholars residing in the city at the time prescribed by law, and shall keep and preserve all books, records, papers or other property belonging to his office, and deliver the same to his successor in office.

SECTION 5. The board of education shall have power:

1st. To organize and establish such and so many schools in the city, and in the several wards, as it may deem necessary, and required for the public good, and alter or discontinue the same at pleasure. Establish schools, etc.

2d. To have the custody and safe keeping of the school buildings and lots, the books, furniture, school apparatus and appendages, and all the property belonging to the schools. Custody of school property.

3d. To contract with and employ, in behalf of the city, all teachers in the schools of said city, under the direction of said board, and who shall have been licensed, and at its pleasure remove them. Employ teachers.

4th. To hire buildings suitable for school houses, and lease sites for the same, and to purchase necessary fixtures, furniture and apparatus for the schools of the city; but only with the consent of the common council as hereinafter provided. Hire buildings.

SECTION 6. It shall be the duty of the board of education, before the commencement of the school year, annually to determine the amount of salaries or wages to be paid to the teachers in the several schools and grades respectively, for the year then next ensuing, and report the same to the common council for its action. If the superintendent of schools concurs with the estimate and report of the board, he shall endorse his approval thereon; otherwise he shall make and submit an independent report to the common council. Estimate of teachers' wages

SECTION 7. The common council shall consider the report or reports so made, and shall act thereon, and by resolution fix the salaries or wages to be paid to the teachers in the several schools respectively, according to grades, which resolution shall be certified by the city clerk to the board of education, and thereafter such board shall not contract for the payment of any salary or wages greater than the sum fixed in said resolution, ex- Council to act on report.

cept by the special order of the common council.

Estimates of
repairs, etc.

SECTION 8. The board of education shall also, annually, before the close of the school year, make estimates of the expenses for necessary repairs to school buildings, furniture, apparatus, school-room fixtures, incidentals, fuel, cleaning and care of rooms and rent of buildings, necessary to be incurred in the then next ensuing year, and file the same with the city clerk; if the superintendent concurs in such estimate, he shall approve the same, otherwise he shall submit an independent estimate in accordance with his views.

Superintendent
of schools, his
duties, etc.

SECTION 9. The superintendent of schools shall be the chief executive officer of the department of education in the city. He shall examine the estimate made by the board of education for teachers' wages and salaries, and expenses for schools, which are in this act, hereinbefore required to be made, and if he concur in the correctness and necessity thereof, he shall approve the same, otherwise he shall submit estimates of his own, as is hereinbefore provided. He shall examine all persons seeking employment as teachers in any of the school departments of the city, in the presence of the board of education, and shall give his advice to the board upon the fitness and qualification of each candidate. He shall visit all the schools as often as his duties will permit. He shall pay special attention to the classification of the pupils and to the assignment of studies to the several classes. He shall see that each teacher maintains proper discipline, and shall carefully watch and study the capacity of each teacher to impart knowledge, preserve order and command the respect and obedience of the pupils, and shall report to the board of education, from time to time, concerning such teachers and the discipline, government and progress of the pupils in the several schools. He shall see that the orders and regulations of the board of education are executed; shall attend the meetings of the board when required, and shall advise the board in all matters relating to the schools and school property, and in all things exert himself to promote the interests and welfare of the pupils and teachers, and advance the efficiency of schools in the city.

SECTION 10. The board of education shall, from

time to time, make such rules and regulations for the government and organization of schools, for the reception and instruction of pupils, and their transfer from one school to another, and for the promotion and good order and discipline in schools, as to it shall seem expedient, and also for the care and management of the several school rooms, fixtures, furniture, and apparatus in the city, and shall establish the text books to be used therein.

Rules for government of schools, etc.

SECTION 11. The board of education shall have power to allow the children of persons not resident in said city, to attend any of the schools therein, upon such terms as the board shall, by resolution, prescribe, fixing the tuition therefor; provided, that no such pupil shall be received, until he or she shall have paid into the city treasury in advance for the current term, the amount of tuition fixed by said board to be paid therefor.

Non-resident children.

SECTION 12. It shall be the duty of the board of education to report to the common council, on the first Monday of August in each year, the condition of the several schools in said city, the average number of pupils in attendance, the names and rate of compensation of the several teachers, the cost of supporting each, and all of said schools, since its previous report, and also to do and perform all other duties that may be required by any general law of this state, to entitle the schools of said city to participate in, and enjoy the benefit of school money, or school fund apportioned among the schools of the state.

Annual report of council.

SECTION 13. Teachers' wages, superintendents' salary, and all moneys due upon contract under this chapter, shall be audited by the board of education, and paid by an order on the treasury signed by the president of the board and the city clerk, and specifying on its face, the purpose for which it was drawn.

Moneys in contract, how paid.

SECTION 14. All the supplies of the several school houses, and schools, so far as practicable, shall be furnished by contract let to the lowest bidder, by the board of education, subject to the approval of the common council.

Supplies to be in contract.

SECTION 15. The rules governing the letting of contracts, as in this act provided, shall, so far as the same may be applicable, govern and apply to the advertising for, and letting of contracts by the board of education.

Rules, governing letting of contract.

Expenses of schools, how allowed.

SECTION 16. The common council shall, from time to time, as necessity may require, appropriate such sum or sums as it may deem requisite to meet the contingent and incidental expenses of the school board, not otherwise provided for, which shall be paid out under the direction of the board, without being first allowed by the common council, by order, specifying the purpose for which it is drawn, such order being first signed by the president of the board and city clerk, but no appropriation after the first, shall be made until the board report, in detail, the items of expenditure by it made of the previous appropriation, and the same shall be approved by the common council; provided, that the total to be expended in each year shall not exceed the amount raised by tax for that purpose.

Shall incur no debt.

SECTION 17. The board of education shall have no authority to incur any debt or liability, except as herein provided.

CHAPTER 16.

POLICE DEPARTMENT.

Mayor at head of police.

SECTION 1. The mayor, *ex-officio*, shall be the head of the police department of the city, and shall have the general supervision, management and control of all members of the police force, including the chief of police, and of the police-station and lock-ups belonging to the city, and may suspend any or either of them summarily, for any neglect or improper discharge of duty, or for any misconduct or disobedience of orders.

Duties of chief of police.

SECTION 2. The chief of police, under the mayor, shall be the chief executive officer of the police department; he shall have the custody of the police stations, city pound, and the general supervision and direction of the police force of the city. He may apprehend, without process, any person or persons while offending within his views, against any law of this state, or against the laws, ordinances, by-laws, regulations of the city, and bring the person or persons so offending before one of the justices of the peace of said city having jurisdiction, and enter the proper complaint against him or them, for trial. He shall have power to commit, for safe keeping, and detain in the police station, every person so arrested, until he can be arraigned before a justice of the peace, or shall be

discharged on bail or upon the written order of the mayor; but he shall in no case commit a prisoner to the police station, when the arrest was made in the day time and before six o'clock in the evening, and a justice of the peace can be found, before whom to arraign the prisoner, and lodge a complaint against him. He shall possess the power of constables at common and statute law, so far as serving process within the city, or writs in criminal actions; but shall receive no fees for serving any process, making any arrest, or performing any duty, from the city, except the salary provided for him, and he shall, in addition, perform all duties that may be prescribed by any ordinance, by-law, regulation or direction of the common council. He shall repair to fires, all riots and tumultuous assemblies, take charge of the police present, protect property, preserve peace, disperse mobs, and arrest all persons who are disorderly and engaged in the disturbance of the peace. He shall report all complaints against policemen for misconduct, improper discharge of, or delinquency in duty, and shall cause to be obeyed all the rules and regulations, provided for the police department. He shall have charge of all the prisoners committed to the police station under sentence, and shall faithfully see that all of the directions of the common council in relation to the manner of punishment of criminals, is carried out. He shall receive as compensation for his services, such salary as the common council may prescribe, and no other.

SECTION 3. Every policeman shall have the same power of arrest and commitment, and under the same restrictions as the chief of police. They shall perform the duties of night watchmen for the city, and any other duties which may be imposed upon or prescribed for them, by the common council. They shall, in all respects, obey the orders of their superiors in the department, and be at all times subject to the orders thereof. They shall receive such compensation for their services, as the common council may allow and determine, and no other.

Policeman, general powers and duties.

SECTION 4. It shall be the duty of the chief of police and every policeman appointed under this act, to arrest and bring to trial all offenders against the ordinances, by-laws and regulations of the city, or service and return all civil process

Duties of chief and policeman continued.

in suits of the city against such offenders. They, or each of them, shall have authority to enter any house, store, saloon, building or place, when any offender against any city ordinance, by-law or regulation is harbored, or secreted, or where any person has in their hearing or presence committed any breach of the peace, or violation of any city ordinance, by-law or regulation, or when any riot, disorderly conduct, unlawful assemblies, noise, outcry, alarm or other disturbance shall be made; and any person or persons, who shall obstruct any such officer or officers in the lawful discharge of his or their duty, shall, upon conviction, before any court having jurisdiction, be fined in the sum of not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00), or by imprisonment in the police station or county jail of Fond du Lac county, not less than one month nor more than six months, in the discretion of the court.

Special police.

SECTION 5. The common council may authorize the mayor, in case of emergency or when it may deem proper, to appoint in addition to the police force hereinbefore provided, as many special police for temporary purposes, as may be deemed necessary, and each policeman so appointed, during the time of his appointment, shall have all the powers and discharge all the duties, and be subject to all the liabilities and regulations of regular policemen, appointed by the common council under this act.

Calling upon by-standers.

SECTION 6. The mayor, chief of police, or any policeman, may, in case of necessity, call upon any bystander or other citizen, to assist in arresting or carrying to prison any offender; and any and every person who shall refuse to aid such officer, when lawfully called upon, shall, upon conviction thereof, before any court having jurisdiction, be fined in a sum not exceeding twenty-five dollars (\$25.00).

Justices of the peace under this chapter.

SECTION 7. The justices of the peace elected under this act are authorized and empowered, and jurisdiction is hereby conferred upon them, to hear, try and determine all the offenses arising under this act, and in cases where a person be committed to the county jail of Fond du Lac county, or to the police station of said city, for a special term of imprisonment for the non-payment of any penalty and costs, for violating the ordinances of said city, the said justices of the peace

are hereby authorized and empowered, to direct in the warrant of commitment or execution requiring imprisonment, that the person so to be detained by virtue of such commitment or execution, be required to perform hard labor during the term of such imprisonment.

SECTION 8. Whenever any person is committed to the police station for the non-payment of any penalty, together with costs, for the violation of any provisions of this act, or of any of the ordinances, rules or regulations of said city, and it be directed in said warrant of commitment, or execution, that the person therein charged be required to perform hard labor during the term of imprisonment, the chief of police, or such person as the common council shall appoint, shall faithfully see that said conditions and requirements of said commitment or execution, be complied with and faithfully observed, and to that end, the common council is authorized and empowered to require all such persons, so committed to work or labor, or do any kind of labor in said city, which the common council may see fit to designate; provided, that no such prisoner, during the term of his imprisonment or detention, shall remain away from the police station during the night time.

Chief, to have charge of prisoners convicted.

SECTION 9. Every alderman, every member of the board of health, the health commissioner, and sidewalk superintendent, are hereby constituted policemen, for the purpose of keeping order in, and in enforcing the laws and ordinances of said city, and shall have the power and authority to summarily arrest all persons, whom they or either of them, shall find engaged in the act of violating any of the provisions of this charter, or the ordinances, rules and regulations of said city, and such persons, when so arrested, shall be dealt with, in the same manner as if any policeman had made the arrest.

Officers of city, general powers of police.

SECTION 10. The chief of police, or any policeman, shall hold no other offices, or be competent, or have the authority to exercise the duties pertaining to any other office than that of policeman of the city of Fond du Lac, except as herein provided.

Chief of police to hold no other office.

CHAPTER 17.

BOARD OF HEALTH.

SECTION 1. The health commissioner shall, whenever occasion requires, investigate and ascer-

Duties of health commissioner.

tain causes tending to create sickness, and make diligent inquiry with respect to all matters affecting the health of the city. He shall cause all nuisances to be abated by removal and otherwise; he shall take such measures as may from time to time, be necessary to prevent the spread of pestilential or infectious diseases, to see that suitable provisions are made for the accommodation of such sick persons as properly come under the care of the city. He shall keep a record of the mortality of the city; he shall have power to enter any building, house, store or stable, and to cause the floors to be raised, if it shall be deemed necessary, for a proper examination of cellars, vaults, sinks, drains or low ground, to enter upon all lots or grounds, and to cause all stagnant waters to be drained off, and all pools, sinks, vaults, drains or low grounds to be cleansed, filled up or otherwise improved or changed, to cause all privies to be cleansed and kept in good condition. It shall be his duty to make complaint to any justice of the peace, for any violation of the provisions of this charter, or ordinances of the city, in any way relating to the functions of this office, or to the health or sanitary condition of the city.

**Powers of
board of health.**

SECTION 2. Whenever a board of health shall be appointed by the common council, each member thereof, shall have and possess, all of the powers and rights, and be under the same responsibilities, and perform the same duties in their respective wards, as herein given and specified in this act, relating to the powers, duties and responsibilities of the health commissioner, except that the members of such board when duly organized, shall be governed by such rules and regulations, not inconsistent with this act or the ordinances and resolutions of the common council, as may be adopted by said board.

To cause removal of nuisances.

SECTION 3. The health commissioner, and when in existence, every member of the board of health within the ward where he resides, shall have power to direct or cause the removal or purification of all filthy or nauseous places or substances, producing disagreeable smell or tending to produce disease, or in case the owner or occupant of the premises in which such places or substances may be, shall neglect or refuse to purify or remove the same, when ordered by said board, or any member thereof, such person shall be liable

to a penalty of not less than three (3) nor more than fifty (50) dollars.

SECTION 4. The costs and expenses of removing all nuisances and nauseous substances, and of purifying filthy or nauseous places, shall be, and remain a charge against the person whose duty it should have been to remove or purify the same, and may be collected by suit for and in behalf of the city, in the same manner as other demands are sued for and collected; and in case the owner of any lot or parcel of land shall have been the cause of any such nuisance, or whose duty it should have been to remove or purify the same, the same shall be a lien upon the lot, parts of lots or parcels of land from which such nuisances or filth shall have been removed, and also upon all non-resident lots from which such nuisances or filth shall have been removed.

Costs of removing nuisances.

SECTION 5. In order to carry out the provisions of the preceding sections, it shall be the duty of the health commissioner or board of health, when in existence, or any member thereof, to serve a notice in print or writing, or partly in print or writing, upon the owner or occupant or agent of any lot, building or premises, in or upon which, any nuisance may be found, or who may be the owner, or cause of any nuisance, requiring him to abate the same, or to do any other act authorized by this chapter, in such manner and in such reasonable time as such officers shall prescribe.

Notice to remove nuisances.

SECTION 6. The common council shall have power from time to time, to pass and enforce such laws, rules and regulations for the board of health or health commissioner, and provide for the necessary expenses of such board, or any member thereof, as they may deem expedient, for preserving the health of the city and for the prevention of disease and sickness, and enforce them by fines, penalties and imprisonment.

Laws and rules.

SECTION 7. No claim or demand for services, with labor, necessaries, medical treatment or medicines, shall be allowed or paid by said common council or treasurer of said city, unless the person or physician rendering such service or furnishing such necessaries, shall have been previously employed by the health commissioner or by the board of health of said city in writing.

Claims and demands.

SECTION 8. Every practicing physician in said city, who shall have a patient laboring under any

Reports of physicians.

malignant fever or other infectious or pestilential disease, shall forthwith, after the existence of any such disease be by him discovered, report the same to the health commissioner of the city, or if the board is organized, to the member in whose ward such patients shall be, and any practicing physician who shall neglect to do so, shall be subject to a fine of not less than ten dollars (\$10), nor more than twenty-five dollars (\$25), in the discretion of the court trying the same.

Penalty for bringing in pestilence.

SECTION 9. Any person who shall knowingly and designedly bring or cause to be brought into said city, any person not a resident therein, who shall, at the time, be affected with small-pox or any infectious or pestilential disease, shall, upon conviction thereof, pay a fine of not less than fifty dollars (\$50) nor more than one hundred dollars (\$100), in the discretion of the court.

Lien for removing nuisance, proceedings.

SECTION 10. Whenever the costs and expenses of removing nuisances, or of purifying filthy or nauseous places, by virtue of this act, or which may be provided for, by any ordinance of the city, shall become a lien upon any lot, part of lot or parcels of land as herein provided, and proper proof of the service of notice to so remove or purify, upon the owner of said lot, part of lot or parcels of land, in case the said owner was, by the provisions of this act required so to remove or purify, shall have been made by the health commissioner, or any member of the board of health, and filed with the city clerk, together with a verified account, showing the items of such costs and expense, the common council may thereupon audit and cause to be paid such expense, from the funds of the city; whether the same be so paid or not, the city clerk shall, within thirty days after the said proof of notice and account shall have been filed with him, give notice to the owners of said lot, part of lots or parcel of land, by causing personal service of the same for one week, or, if the owner be a non-resident of the city, by publishing the same, for two weeks in a daily or weekly paper printed in said city, to the effect that if the said costs and expense, together with the costs of publication, be not paid within thirty days from the date of said notice, a special certificate will be issued upon said lot, part of lots or parcel of land, for the amount of such costs, expenses, publication and interest, which may become

due on such certificate at the time the same be entered on the tax roll, and if the terms of such notice be not complied with, within the time so limited, the city clerk shall thereupon issue a special tax certificate in favor of the city, which shall, in form and substance be, and have the same form and effect, as elsewhere provided in this act for special tax certificates.

CHAPTER 18.

MISCELLANEOUS PROVISIONS.

SECTION 1. Every corporation, association, or society, owning, and each and every owner of any lot, part of lot, or parcel of land, in said city, upon, along, in front of, or adjoining, which there shall have been or shall hereafter be placed, constructed, or laid, any walk, or sidewalk, for the use or accommodation of the public to walk upon, shall at all times keep and maintain said walk, or sidewalk, or cause the same to be kept and maintained in a safe, convenient and effective condition, for the use of any person or persons desirous to walk thereon; and any person who may have been, or shall hereafter be injured by reason of the unsafe or defective condition of such walk or sidewalk, shall have the right to maintain an action in any court of record against such owner or owners, for all damages or injury of every nature, resulting to such person or persons by reason of the neglect of such owner to maintain, or caused or cause to be maintained, such walk or sidewalk in a safe, convenient and effective condition; provided, that no action shall be maintained against such owner, unless the same be commenced within one year from the time, such injury shall have happened to the person so claiming such damages.

Liability of owners for damages on sidewalks.

SECTION 2. It is hereby declared to be the true meaning and intent of this act, in the provisions relating thereto, that the said city of Fond du Lac, shall not, in any case, be liable to any person or persons, for damages resulting from the defective, unsafe or dangerous condition of any walk or sidewalk, mentioned in the foregoing section, or for any neglect in the keeping and maintaining of the walk or sidewalk of said city in a safe, convenient or effective condition, and the only cause of action to which the said city of Fond du Lac shall be liable, or which shall be maintained in any

Liability under general laws in this respect qualified and repealed.

court against said city, in connection with, or relation to damages resulting from the failure to keep the walks or sidewalks in said city, in a safe, convenient or effective condition, shall be by reason of the failure of any person or persons to collect a judgment recovered against such owner, or owners, or corporation or society, for any such damages, resulting from such injuries, as hereinbefore stated.

On return of execution on judgment against owner, city liable.

SECTION 3. Whenever an execution upon any judgment recorded by any person or persons, against any such owner or owners of any lot, part of lot or parcel of land mentioned in the next two preceding sections, for damages resulting from the unsafe, defective or dangerous condition of any walk or sidewalk, shall have been returned, as provided by law, unsatisfied, and no fraud, collusion or misrepresentations shall have been practiced by any of the parties thereto, or for and on their behalf, an action may then be commenced in any court of record against said city for the said damages resulting from the unsafe, defective or dangerous condition of such walk or sidewalk, and said city may interpose a defense to the merits of said cause of action, in the same manner as said owner or owners shall have made, or may have made, or any other defense which may be sufficient in law or equity to defeat said claim; and the said judgment against said owner or owners, shall in no way be effectual or operate as a bar to any defense the said city may interpose; provided, that it shall be a sufficient and complete defense to any such action commenced against said city to maintain collusion, fraud or misrepresentation by any of the parties to said judgment, or by any person or persons for and on their behalf; and, provided further, that no such action shall be maintained against said city unless commenced within six months after the return of execution unsatisfied, or within one year after the recovery of such judgment against such owner or owners; nor shall such action in any event be maintained, unless the person or persons claiming such damages, shall have in the first instance filed with the city clerk, a statement of the claim, together with the name of the person or persons against whom the claim is made, and the circumstances out of which it arose, duly verified on the oath of the claimant or claimants, within sixty days after the

happening of the occurrence by which the injury was done and damage resulted.

SECTION 4. In case of injury or damage by reason of insufficient, defective or dangerous condition of drains, sewers, gutters or ditches, bridges, and such portions of streets as are not included in sidewalks, produced or caused by the wrong, neglect of duty, default or negligence of any person or corporation, such person or corporation shall be primarily liable for all damages for such injury, in suit for the recovery thereof, by the person sustaining such damages, and the city shall not be liable therefor, until all legal remedies shall have been exhausted, to collect such damages from such person or corporation; provided, that this section shall apply to and hold as liable, all persons who may have produced or caused such wrong, neglect of duty, default or negligence, while holding contract relations with said city, or any department therein, as well as all persons who at the time shall not hold contract relations with said city.

Injuries resulting from neglect of persons.

SECTION 5. No action shall lie or be maintained against the city of Fond du Lac on contract, until the claimant shall have presented to the common council, a statement of the claim and the amount thereof, and the circumstances out of which it arose, duly verified on the oath of the claimant, and the council shall have allowed a regular meeting to have passed without an adjustment with the claimant of such claim or demand.

Notice of claim to be filed.

SECTION 6. No action in tort, other than is hereinbefore provided, shall lie or be maintained against the city of Fond du Lac, unless a statement in writing, signed by the person injured or claiming to be injured, of the wrong and circumstances thereof, and amount of damages claimed, shall be presented to the common council within sixty days after the occurring or happening of the tort alleged; provided, that this section shall not apply or qualify any of the provisions of sections 1, 2, 3, of this chapter.

Notice for claim for return in tort.

SECTION 7. Neither the common council, nor any person or persons, nor any corporation or company, within or without the said city of Fond du Lac, shall hereafter have the right or authority to impose upon, ask for, or receive, or collect, any toll for, or other consideration of, or from any person or persons for traveling upon any of the

Toll upon streets.

streets, roads, highways or turnpikes, in person or with animals, vehicles, or any other manner, within the limits of said city, and all of the streets, roads, highways, or turnpikes or any part or parts thereof, now within the limits of said city of Fond du Lac, upon which any toll or other compensation is asked, required, imposed or collected, as a condition for, or for traveling in any manner thereon, shall hereafter be free highways. All private or public acts of this state, and all rights and privileges heretofore granted to any person, persons or corporation, by any private or local laws of this state, which conflict in any manner or way with the provisions of this section, or which prevents, or tends to prevent, the carrying out of the provisions of this section, are hereby repealed.

Exemption from execution.

SECTION 8. All property, real, personal and mixed, belonging to, or which may hereafter belong to the city of Fond du Lac, and held by it for municipal purposes, shall be, and is exempt by law from execution, or any process to compel the collection of any debt or demand against the city.

No execution to issue.

SECTION 9. No execution shall ever issue upon any judgment against said city, but all judgments shall be collected and enforced in the same manner as judgments against towns, and not otherwise.

Competency of citizens for jurors.

SECTION 10. No person shall be an incompetent judge, witness or juror in any proceeding or action in which the city shall be a party in interest, by reason of being an inhabitant or tax payer in said city.

Rewards.

SECTION 11. Whenever any grave or heinous crime shall have been committed in said city against life or property, the mayor, with the concurrence of the common council, may offer a reward for the arrest and conviction of either of the perpetrators of such crime; provided, that such reward shall in no case exceed five hundred dollars (\$500).

Justices docket.

SECTION 12. The justice or justices of the peace who may have in his custody the dockets of the heretofore municipal judges of the city, may issue execution upon any judgment appearing upon said dockets, in the same manner and with like effect as if such judgment had been rendered by him.

SECTION 13. All ordinances, orders, resolutions, regulations and by-laws now in force in said city of Fond du Lac, and not inconsistent with this act, shall remain in force under this act until altered, modified or repealed by the common council.

Ordinances
now in force.

SECTION 14. No general law of this state contravening the provisions of this act, shall be considered as repealing, amending or modifying the same, unless such purpose be expressly set forth in said law, and all general laws which are in conflict or inconsistent with the provisions of this act, are hereby repealed, so far as the same applies to the city of Fond du Lac.

Repealing laws

SECTION 15. This act shall be deemed a public act, and may be read in evidence without further proof, and judicial notice thereof, shall be taken in all courts and places; and all ordinances, orders, rules, resolutions or regulations and by-laws of said city, when printed and published, as in this act provided, with a certified copy of the resolution of the common council adopting such book or pamphlet, attaching to the cover thereof, shall be received and read in evidence in all courts and places without further proof. Also the book in which the ordinances of said city are recorded at length by the city clerk, shall be received and read in evidence, in all courts and places without further proof.

This act a public act.

SECTION 16. The common council may, at any time, publish in book or pamphlet form, all ordinances, by-laws, rules, regulations, and all by-laws, rules and regulations of the board of education, board of health, or of any other body or board, authorized by this act to be elected or appointed, and may, in the same book, publish this act, and embody any subsequent amendment to this act duly made therewith, and such book, when so published, and, by resolution, duly passed by the common council, adopted as the charter, ordinances, by-laws, rules and regulations of said city; such publication in book or pamphlet form, shall be deemed and held to be a legal and sufficient publication of said ordinances, by laws, rules and regulations.

Charter and ordinances in book form.

SECTION 17. The manner of submitting any question to the electors of said city, hereinbefore required by the provisions of this act to be so submitted, shall be as follows: The common coun-

Popular vote in special subjects.

cil shall cause a notice to be prepared, which shall be signed by the mayor and clerk and be published in some daily, if any, and, if not, then in some weekly newspaper printed in said city, the first publication to be at least thirty days previous to the holding of any annual municipal election. Said notice shall particularly set forth the question to be determined at such election, the form of the ballot to be used by such electors as may vote in favor, or against the proposition submitted, and that the same will be submitted at the next annual municipal election, at the same place in each ward for the holding of the polls of each municipal election. All votes thereon shall be received and recorded, and such returns thereof be made and canvassed, and the result thereof declared, in like manner as annual elections are under this act required to be conducted, and the returns thereof made, canvassed and declared. But any question so submitted shall be declared lost, unless it shall appear on such canvass that a majority, or more, of all the legal votes so cast thereon, shall be in favor thereof.

Not repealed.

SECTION 18. No general law of this state shall be construed or taken to amend, modify, alter or repeal this act or any provision thereof, unless such purpose be set out in such law.

Altering or repealing this act.

SECTION 19. This act, nor any part thereof, nor any act in any way affecting the municipal government of the city, or any part thereof, shall be altered, amended, repealed or passed, unless the same shall be recommended by a majority of all the members of the common council.

Pending proceedings.

SECTION 20. No proceedings heretofore had, which are not determined under and by virtue of the chapter or ordinances of said city, in force before the passage of this act, in the matter of any public improvement, or the improvement of streets, sidewalks or any other work, shall in any way be invalidated by the passage of this act, but all further proceedings, so far as the provisions of this act shall be applicable, shall be had under this act.

Repealing clause.

SECTION 21. Chapter 240, of the laws of 1879, chapters 12 and 227, of the laws of 1880, chapter 148, of the laws of 1881, chapters 31 and 126, of the laws of 1882, and all acts heretofore passed relating to the charter of the city of Fond du Lac, are hereby repealed.

SECTION 22. This act shall be considered a public act, and shall be in force and take effect from and after its passage and publication.

Approved March 24, 1883.

[No. 94, S.]

[Published March 30, 1883.]

CHAPTER 174.

AN ACT to incorporate the city of De Pere.

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

CHAPTER 1.

CORPORATE POWERS.

SECTION 1. From and after the first Tuesday of April, 1883, the district of country in the county of Brown, contained within the limits and boundaries hereinafter described, shall be a city by the name of De Pere, and the people now inhabiting, and those who shall hereinafter inhabit the district of country herein described, shall be a municipal corporation by the name of the city of De Pere, and shall have the general powers possessed by municipal corporations at common law, and under the revised statutes, and in addition thereto, shall have and possess the powers hereinafter specifically granted, and the authorities thereof, shall have perpetual succession; shall be capable of contracting and being contracted with; suing and being sued; pleading and being impleaded in all courts of law and equity; and shall have a common seal, and may change and alter the same at pleasure.

Corporate name and powers.

SECTION 2. The territory lying in the county of Brown, and within the following limits and boundaries, to-wit: Commencing at the middle of the channel of Fox river, where the north line of private claim number twenty-nine (29), on the east side of Fox river, intersects, or, if extended, would intersect said channel, running thence easterly along said north line of private claim number twenty-nine (29), on the east side of Fox river, to a point eighty-three (83) rods beyond its crossing of the highway known as the "New Ridge Road;" running thence in a straight line at right

City boundaries.